

SEANAD ÉIREANN

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Déardaoin, 29 Aibreán 2004.
Thursday, 29 April 2004.

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 Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.
Prayer.

Business of Seanad.

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

The need for the Minister for Justice, Equality and Law Reform to report on the work done to date by his Department and by the Office of Public Works in seeking an alternative and more suitable location for the provision of a probation and welfare service in Blanchardstown, Dublin 15.

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

The need for the Minister for Education and Science to indicate when schools that applied for resource hours and special needs assistants between February and August 2003 will be notified of the decisions already taken by his Department; and when a decision will be made regarding temporary accommodation for primary schools.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, An Bord Bia (Amendment) Bill 2003 — Report and Final Stages, to be taken at the conclusion of the Order of Business and to conclude not later than 11.30 a.m.; No. 2, Tribunals of Inquiry (Evidence) (Amendment) Bill 2003 — Report and Final Stages, to be taken at 11.30 a.m. and to conclude not later than 12.30 p.m.; No. 3, Transfer of Execution of Sentences Bill 2003 — Committee Stage, to be taken immediately at the conclusion of No. 2 until 1 p.m.; and No. 4, statements on road safety with particular reference to the penalty points system, to be taken at 2.30 p.m. and to conclude not later than 4.30 p.m., with the contributions of spokespersons

not to exceed 15 minutes, those of all other Senators not to exceed ten minutes and the Minister to be called upon to reply not later than five minutes before the conclusion of the statements. There will be a sos from 1 p.m. to 2.30 p.m.

Mr. Finucane: At the recent annual conference of the Irish Medical Organisation in Killarney it was stated that doctors were concerned that many people were no longer availing of health care. This is especially the case for people who are just above the income limit for medical cards and who cannot afford to visit the doctor or to pay prescription charges. IMO delegates expressed concern about the long-term welfare of this category of people.

The Government health strategy document includes a pledge to increase the eligibility limit to give those on low incomes the chance to obtain a medical card. The Government gave a commitment to provide 200,000 extra medical cards during its term in office, yet, according to a statement this week, the number of medical cards has fallen by almost 100,000 because people are slipping outside the income eligibility limit. The Leader should state what the Government intends to do about this matter.

In her recently published annual report, the Ombudsman, Ms Emily O'Reilly, stated that the largest category of complaints received concerned planning permission decisions. Ms O'Reilly particularly voiced her concern about the lack of enforcement orders being carried out by local authorities regarding breaches of planning guidelines. She stated that she will take more forceful action in this area within the ambit of her office.

A recent "Prime Time" programme broadcast graphic examples of abuse in the planning system. In that context, the Leader should arrange for the Minister for the Environment, Heritage and Local Government, Deputy Cullen, to attend the House to discuss planning enforcement and the draft guidelines on one-off rural housing. This is an issue which impacts on most public representatives and causes the greatest public concern and grief.

Mr. O'Toole: Yesterday, I sought the Leader's advice on how she would deal with the question of impeachment were it to arise in the House. I look forward to receiving the Leader's advice on this matter and we should certainly have it by early next week. I am particularly concerned that we should have some way of approaching the issue of impeachment. The Leader should indicate the rules we will have to observe if we go through with it. The Constitution merely states that impeachment should be undertaken for "stated misbehaviour". This means that we are required to come to a conclusion on that matter, which means that we must have something in

[Mr. O'Toole.]
front of us. I am sure the Cathaoirleach would agree with me in this regard.

I promise I will not mention the actual case but I ask the Leader that, as regards any case with which we might have to deal, the pleadings and the book of evidence, which are with the DPP at this point, should be made available to every Member of both Houses who will have to reach a conclusion. We should also have the Garda Síochána report on the case in addition to the Government's position. There must also be some way to recognise the tenets of natural justice to the extent that the person involved would have an opportunity to make a case in his defence, although I am not sure how that would happen. I do not want a situation where the Government makes a decision on Monday and we are faced with having to do something about that three days later. In the last three days I have raised this in a way which is amenable to the Chair's ruling. I have not made and will not make any comment on the case. However, we must recognise our constitutional responsibility to come to a conclusion on this matter, if that arises, and we must have a basis for coming to that conclusion.

In any situation like this, it would be appalling if a whip were applied. In all such cases of impeachment there should be an absolutely free vote. This is not a party issue and people should come to a conclusion themselves by assessing the information they have in front of them.

Aspects of this matter were dealt with by the All-Party Committee on the Constitution, possibly in its fourth report, when it outlined how an impeachment might be dealt with. There may be issues involved which would require constitutional change and with which we cannot deal, but we could receive clear guidelines on other matters. We should keep all of that in mind before going further. I would also like to hear the views of the Cathaoirleach, sooner rather than later.

We recently dealt with the Personal Injuries Assessment Board Bill and Members on both sides were very concerned about issues such as presenting cases and the protection of people's rights. It has not received much publicity but the Human Rights Commission also dealt with this Bill, because it was referred to that body by the Law Society, which was opposed to the legislation. The Human Rights Commission has come down very firmly in favour of the Bill, stating that it is quite in order. The commission also raised a number of issues which were raised by Senators and it has also advised the PIAB that those matters should be looked at very carefully in the implementation of the Bill. Members' contributions were heard and there can be progress on this matter.

An Cathaoirleach: I will speak to the Senator in my office if he is happy with that.

Mr. O'Toole: Thank you.

Ms O'Meara: Clarification on how the House would deal with impeachment would be welcomed by all parties. Although we are only in the realm of speculation at this stage, such clarification would be useful to all parties.

I agree with Senator Finucane's comments on the planning issue, which has been dealt with recently by the media. There is a perception among people that only big, well-connected developers have real access to planners and the planning process, while the ordinary person in the street feels his or her case is not being heard. That is a matter of concern because it is inaccurate, but that perception is abroad and should be addressed. It is seriously undermining any sense that the planning process is independent and above reproach.

Implementation is very important in this area, particularly in light of the comments of the Ombudsman, but there is a resource issue involved here. Most local authorities do not have the resources to put in place an entire network of personnel to ensure planning conditions are enforced. This is a very labour intensive and time consuming area which needs more attention and resources. The Leader should ask the Minister for the Environment, Heritage and Local Government to inform the House specifically of his plans to ensure local authorities can carry out their duty to ensure planning conditions are implemented and to ensure people have confidence in the planning process.

I ask the Leader to provide time for a debate on the failure of the Government to implement the recommendations of the task force report on child care. Some of those recommendations, such as the establishment of county child care committees and so on, have been put in place, although implementation has been laborious and tedious.

There is a range of recommendations in that report on the provision of child care, particularly for working parents, the resources needed to ensure standards are upheld and that everyone who needs access to child care gets it. That is still not the case. I ask the Leader to put this important matter on her list for a debate. Many thousands of children are in pre-school and other child care facilities every day of the week throughout the country and, as legislators, we need to pay attention to standards and how that area is regulated.

An Cathaoirleach: On a point of information, the Chair can give no formal ruling at this time on the matter raised by either Senators O'Meara or O'Toole but is willing to meet Members in their private offices to discuss the matter.

Mr. Glynn: I raised the matter of jaywalking here previously, a practice that is increasing and

is extremely dangerous. It is grossly unfair to motorists——

Mr. Ross: Who is jaywalking?

Ms O'Meara: Does it concern me by any chance?

Mr. Glynn: That is the term that——

Ms Terry: Does it carry a health warning?

An Cathaoirleach: Order please. Allow Senator Glynn to continue without interruption.

Mr. Glynn: It is an extremely dangerous practice and grossly unfair to motorists.

An Cathaoirleach: Is the Senator serious?

Mr. Glynn: I am serious. It is a dangerous practice that is on the increase and much concern has been expressed about it.

I strongly support the remarks made by Senator O'Meara and others on the planning issues raised. All local authorities that have responsibility for planning should review their county development plans. The question of local need is being interpreted in a particular way by a significant number of planners. That people who have a long association with an area are not getting planning permission is a disgrace.

On the matter raised by Senator Finucane, he will be aware the Government has created a number of jobs. As the provision of medical cards is income related, it would be reasonable to assume that given the increase in employment, there would be a reduction in the number of medical cards.

Mr. U. Burke: It is easily known there is an election in the offing.

Mr. Glynn: In any event, where genuine financial hardships are incurred as a result of a medical condition there is a process whereby that can be addressed.

Mr. U. Burke: I ask the Leader to ask the Tánaiste to come to the House to debate the question of food costs, particularly the charging mechanisms of the major supermarket groupings. Last week, a representative of Tesco said it had the highest profits in the world from its Irish outlets. Yesterday, Londis said it had 10% gross profit from its outlets here. All of these profits are made on the backs of Irish consumers. It is of the utmost importance that the Minister shows concern about the escalating costs and profits of all the supermarkets. Many of those supermarket chains make their profits at the expense of small Irish business people who have had to carry the can in the past. When times were bad, many of those gave credit. There is no such thing as credit

in the major supermarkets and no recognition of the customer's identity or importance. Will the Tánaiste come before the House and make a decision on what can be done about our label as having the dearest foods in Europe at a time when we can produce so many quality products? The consumer is being completely ripped off.

As we approach the local elections, most local authorities have ceased to operate the disabled person's maintenance grant because of a shortage of funding. Of all the groups and areas where funding is required, this is one that any Government and any Minister with responsibility for the provision of funding for any scheme operated by local authorities cannot allow to stagnate and die. There are thousands of applications waiting from all over the country. Many of the applications for very basic requirements are being denied. I ask the Leader to ask the Minister for the Environment, Heritage and Local Government to make funding available.

In view of yesterday's announcements, I ask the Leader if there will be new seating realignments on the other side of the House for voting and identification purposes.

Ms O'Rourke: We will all vote together.

Labhrás Ó Murchú: On a previous occasion I raised the case of the young Tipperary man who is serving a life sentence in an English jail, the champion jockey, Christy McGrath from Carrick-on-Suir. There is a growing body of evidence that this is another miscarriage of justice. Within the last year, a man from Clonmel who had served 25 years was released and it was accepted that there had been a miscarriage of justice.

I attended a meeting in the House of Commons last Tuesday which was hosted by one of the local MPs. Mr. McGrath's family, the Tipperary Association and various bodies were present. They are demanding an appeal hearing for this young man. The Minister for Foreign Affairs has met the family. A petition stating there are serious doubts in this case has been signed by 48 MPs and I believe that number will rise to 100 MPs. Mr. McGrath has been in prison for four years and it should not take another 20 or 25 years to resolve his case. I ask the Leader to ask the Minister for Foreign Affairs to update the House on the case. It is vital that urgent action is taken by the House. This young man is now in a very serious state of ill-health and is not receiving the required medical attention.

Mr. Ross: I ask the Leader to invite the appropriate Minister to the House to discuss an issue which arose as a result of a court case yesterday. I am aware the Cathaoirleach does not wish me to mention the specific court case and I do not wish to do so, except to raise the issue around which it revolves, which is banking, non-resident accounts, people not paying the correct

[Mr. Ross.]

amount of tax in that regard and people inducing others not to pay the correct amount of tax. I do not want a debate on that particular case but on why it is that there are so many individuals who are victims of the issue of non-payment of DIRT and so many bankers have got clean away.

Where there are guilty parties and individuals who have done things which were against the law, some of the banks have solved their little problem by paying €30 million in one case and €90 million in the case of AIB using shareholders' money for crimes for which their employees were guilty. There are also very high profile cases where people who were involved have paid an extremely high penalty for things which they were under pressure from their superiors to do.

On the issue of costs, individuals, whether they are guilty or innocent, have to pay millions to try to clear their names or to prove themselves innocent in these areas. Some of them make serious mistakes in taking cases. The banks, however, when forced to defend this practice, do so with other people's money. We are seeing a series of cases where individuals have paid a heavy price for fairly minor offences, while banks hide behind the guise of anonymity and pay no price.

An Cathaoirleach: Is the Senator seeking a debate?

Mr. Ross: Yes, this is an issue the House could usefully debate. We should ask why guilty people are getting away while relatively innocent people are paying a heavy price.

Mr. MacSharry: I join Senator Ross in calling for a debate on this serious matter. Many people are paying a high cost as a result of the circumstances surrounding non-resident accounts and DIRT, whereas faceless institutions, namely, banks, are paying a marginal penalty. Where were the corporate policy executives who designed the products employees were forced by their superiors to sell to individuals? Every Member of the House probably knows ten widows or other citizens who had to pay thousands of euro in penalties because they cashed in accounts worth a few thousand euro to invest in non-resident accounts on the advice of bank managers who were under pressure from higher authorities which nobody, it appears, is in a position to name. The account holders were ignorant of the implications, legal or otherwise, and did not know they were doing anything wrong.

On the issue of planning, I agree with calls to invite the Minister for the Environment, Heritage and Local Government before the House to debate local government funding and ensure local authorities are adequately resourced. While the Minister has taken important steps to address

rural planning guidelines, the gross inconsistencies in the approach of An Bord Pleanála need to be urgently addressed. We have seen cases of its local inspectors, who are familiar with the sites in question, recommending a decision on an application which is then overturned by the board.

Such a debate should also address the right to object to planning applications because it is unacceptable that a person from Dublin with a summer house in County Sligo is in a position to impede others building a home in which they need to live.

Ms Terry: Pension provision has, correctly, been widely discussed in recent years. Occasionally, however, the pensions industry produces a crazy idea to encourage people to take out pensions. In recent days, the craziest proposal of all emerged from the Irish Insurance Federation. I understand the federation has met or will meet the Minister for Social and Family Affairs this week to discuss its idea of pensions for babies which would entail encouraging parents and grandparents to take out and fund pensions for babies within a few weeks of birth.

On several occasions, I asked the Minister the reason she has not addressed the inadequate pensions of many people who have reached or are about to reach pension age and whose pensions have been eroded and mismanaged by pension fund companies.

An Cathaoirleach: Is the Senator seeking a debate?

Ms Terry: Yes. The Minister should dismiss the proposal for parents to fund their babies' pensions at a time when they are trying to pay a mortgage and numerous other expenses and perhaps fund education, or grandparents funding their grandchildren's pensions when their own pensions are inadequate due to mismanagement.

An Cathaoirleach: The Senator has made her point.

Mr. Leyden: That is Labour Party policy.

An Cathaoirleach: Order, please.

Mr. Hanafin: I welcome the call for a debate on DIRT evasion and would like to see a holistic approach taken to such a debate. I remember a time when people queued to collect their interest, as it was so significant. There are no queues today but the past is a different place. We should look at the reasons people were tempted to obtain a non-resident account. At that time, vast sums of money were leaving the country. I do not wish to excuse anybody, but was there a failure to provide an instrument whereby people could obtain tax-free or low tax interest? It should have been at a rate which did not create a temptation

to go abroad. That incentive was not there. People paid tax at the top marginal rate at that time and on interest. The high interest rate they were getting was therefore of no real value to them.

Mr. U. Burke: Is the Senator trying to justify the practice?

An Cathaoirleach: We will be having a debate on it.

Mr. Hanafin: Although I do not usually respond to heckling, I made it clear at the outset that I do not justify it. I asked for a holistic approach to the debate.

Mr. Coghlan: I support Senator Finucane's call for an urgent review of the income guidelines for medical cards. At the recent conference in Killarney, doctors were unanimous in their concern that many patients on low incomes who deserved medical cards did not have them. There are not enough medical cards and the Government does not seem to care. The failure to increase these income guidelines is akin to another stealth tax.

There are problems throughout Ireland with enforcement orders for planning permission. A lackadaisical approach is adopted by staff in some local authorities, although I appreciate there are severe staffing problems that must also be rectified. The Minister for the Environment, Heritage and Local Government should come before this House for a debate on the issue. People are losing confidence in the planning process.

An Cathaoirleach: We will not debate that now.

Mr. Coghlan: I support Senator O'Toole's call that constitutional requirements are fully met if the House has to deal with impeachment in due course following a Government decision. My final question relates to the future of Aer Rianta and the Great Southern Hotel group and I know the Leader would like to oblige me and the House by answering.

An Cathaoirleach: Ask the question.

Mr. Coghlan: Will they be sold collectively or will there be a cherry picking sale?

Mr. J. Phelan: I agree with what the previous speakers said about the income limits for medical cards. It was one of the promises made during the last general election and has not been delivered on. This is having a detrimental effect on many families and should be reviewed as soon as possible.

Senator Ross expressed what has been on many people's minds for a long time. There is a

perception that the leading financial institutions got away scot free on the issue of DIRT evasion. That needs to be rectified.

The Minister for Arts, Sport and Tourism should come into the House to discuss the future of the national theatre and the provision of a new site. We have the playwrights and the actors and the interest in theatre but there is a question mark over the facilities.

Mr. Bradford: The local elections will take place in approximately six weeks. Two or three days after the 1999 local elections, I and a Fianna Fáil Deputy, who is now the Chief Whip, raised with the then Minister, Deputy Noel Dempsey, the need to put measures in place to encourage voter turnout. In 1999, only a little over half the electorate voted in the local elections and this was regarded as a problem. The Minister promised us he would put in place plans and initiatives to improve voter turnout. Sadly, nothing appears to have happened. Will the Leader take steps, even at this late stage, to make some effort to encourage the public to participate in the local and European elections and at least ensure that 50% of the electorate vote? From our perspective, it will be a failure on our part if there is a lower turnout than 50%.

The electronic voting roadshow, which we are told is up and running, is not proving successful to date.

Mr. J. Walsh: It was on the radio this morning.

Mr. Bradford: There was a major campaign in the three constituencies in which electronic voting was to take place for four or five months before the 2002 general election. There has been no effort to sell electronic voting in the vast majority of towns and villages throughout the country although the local elections are only six weeks away. I do not know whether the Government is expecting that we will not have electronic voting on the day or whether it is awaiting the report of the commission. If voting is to be by electronic means, we have a duty to ensure the public knows about the system. We are told tens of millions of euro are to be spent on the campaign. Where is the campaign? Literature has not been provided to any house in the country.

An Cathaoirleach: The Senator has made his point adequately.

Mr. Bradford: This needs to be addressed immediately.

Ms O'Rourke: Senator Finucane, acting leader of the Opposition, referred to the recent IMI conference in Killarney, which debated the medical card—

Mr. Finucane: IMO.

Mr. Coghlan: Not the IMI.

Ms O'Rourke: The IMO.

An Cathaoirleach: The Leader, without interruption. Everybody understands what she is saying.

Ms O'Rourke: Senator Finucane pointed out that the Government promised to issue 200,000 medical cards during its lifetime, but that the number of medical cards has fallen. However, as Senator Glynn pointed out, this is because more people are employed and have better salaries. However, I take the point about incomes being just above the eligibility limit. Not a weekend goes by during which we do not encounter cases of individuals who are just €10 or €20 above the limit. This is such a minimal amount to warrant depriving one of a very good support. We will endeavour to invite the Minister to the House to discuss the matter.

Senator Finucane also referred to the Ombudsman and planning complaints. We all received copies of the Ombudsman's report and we hope to debate it the week after next. We cannot discuss it next week because we have to deal with Bills.

Senator O'Toole asked how the House would deal with a question of impeachment were it to arise. I feel very strongly that, irrespective of whether there is an immediate case, as parliamentarians we should know our rights and duties and how we should go about them. It is such an enormous constitutional matter and we are empowered by the Constitution to deal with it. I am glad the Cathaoirleach is meeting people, but everybody is a little in the dark because I believe the question of impeachment has never arisen. We need to know how we should carry out our duties and we require some clarity in this regard.

The Senator also said the Human Rights Commission has come out in favour of some of the points raised about the PIAB. I am glad this has happened.

Senator O'Meara referred to the need to clarify certain planning matters and also the need for more resources for compliance. County councils often tell one that they need more resources for compliance but I wonder if they could try harder. However, that is my just my view.

The Senator also referred to the failure to implement the child care recommendations. We should have a debate on the guidelines on child care. When a case arises which gives cause for much concern, people ask about the guidelines and about what was supposed to be done. We will endeavour to arrange this debate.

Senator Glynn is worried about jaywalking, a matter he raised before. I suppose pedestrians would say they are hard done by. I walk to and from the House on good days. I am afraid I am a great jaywalker if I get the chance because one

must wait for traffic lights for what seems like a never-ending length of time. When I am driving I do not like people jaywalking but when I am walking, I do it myself. When in cities in the UK, Europe or elsewhere, I can never get over people's total obedience to traffic lights.

Mr. O'Toole: They have laws against jaywalking but we do not.

Ms O'Rourke: Are we to have a garda at every traffic light?

Mr. O'Toole: In Ireland one has the right to be on the road. One needs a licence to be in a car.

An Cathaoirleach: The Leader without interruption.

Ms O'Rourke: I agree it is prevalent; I just feel the need for a confession. The Senator also raised planning and the need for a debate on that matter.

Senator Ulick Burke called for the Tánaiste and Minister for Enterprise, Trade and Employment to come to the House. Tesco's admission that its mark-up is higher here than in any other country is remarkable. All of us who flock to Tesco and other stores to do our shopping do so in the belief that we are getting food cheaper. It comes back to the old adage which the Tánaiste has repeated frequently that one should shop around. Time, more than anything else, stops people going from one place to another. The Tánaiste is good at coming to the House when required so we will ask her to deal with that issue.

I share the concern about the disabled person's grant. I do not know what is happening in other counties, but the money has dried up in my county and in the town council area. It must be money which is ring-fenced and there can be no spill over from another area. I will seek to have the matter addressed in the House and to get answers.

I was asked if there would be new seating and voting arrangements. There will not, but Senator Brennan is a good person, a fine public representative.

An Cathaoirleach: I do not think that is relevant to the Order of Business.

Ms O'Rourke: I know that. He is a fine public representative and we will continue to enjoy his company on this side of the House.

Mr. O'Toole: For as long as he stays over there.

Ms O'Rourke: Senator Ó Murchú raised the case of Christy McGrath in the UK and the possibility of it being a miscarriage of justice. I know he has spoken to the Minister for Foreign

Affairs. It is a worthy case and I am glad the Tipperary Association is taking up the matter.

The issue raised by Senator Ross is not a new one for him. He has spoken and written frequently about how the main culprits in fraudulent non-payment of tax are higher up people who remain faceless and nameless. It is a disgrace. Nobody condones anyone selling a product which is not correct or which carries with it the whiff of tax evasion, but there are bigger culprits. The Senator has sought a debate on finance and he is right. He has written correctly and strongly on that issue.

The issue was taken up with great passion by Senator MacSharry. He expressed the need for justice in all areas in that regard. I do not know how this can be done, but a debate on finance would be of benefit. Senator MacSharry also talked about planning and local authority funding, in particular. He spoke about people who do not live in an area making pious objections to an individual's right to build a house.

Senator Terry spoke about pensions for babies. I am not laughing; I just think it is so inappropriate. I know the Labour Party had a worthy idea, which the Labour Party in the UK had as well, namely, a bonus for those reaching 18 years of age.

Ms Terry: It is different. It is not to be confused with pensions.

Ms O'Rourke: It is a completely different matter. The reason I say it is that people think it is the same but it is not. That is a type of savings scheme which is a different issue. The Irish Insurance Federation has apparently come up with this wonderful idea. I will ask the Minister for Social and Family Affairs to come to the House to discuss it.

Senator Hanafin called for a debate on banking. There was enormous taxation at the time referred to but that does not excuse what happened. The holding of offshore accounts was illegal and wrong. Senator Hanafin's point was that any debate on the matter should be holistic.

Senator Coghlan called for a review of the medical card scheme. How can we solve the problem of people being just over the limit? No matter how high the limit, someone will always be just above it. He also raised the question of the Great Southern Hotels. If the hotels are sold, I assume they will be sold individually and not as a group.

Senator John Paul Phelan echoed Senator Coghlan's concern regarding medical cards. I had hoped the Minister for Arts, Sport and Tourism would come to the House to discuss the national theatre, which Senator Phelan has raised on previous occasions. However, he is busy with EU and other tourism duties this week. I hope we will have that debate the week after next.

Senator Bradford raised the matter of voter turnout and electronic voting. The great and the good, the members of the commission established to review electronic voting, are due to report tomorrow. The Government has undertaken to go along with what the commission puts forward. We must await that report.

Order of Business agreed to.

An Bord Bia (Amendment) Bill 2003 [*Seanad Bill amended by the Dáil*]: **Report and Final Stages.**

An Cathaoirleach: This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 103, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question "That the Bill be received for final consideration", the Minister may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad.

For the convenience of Senators I have arranged for the printing and circulation to them of those amendments. The Minister will deal separately with the subject matter of each related group of amendments. I have also circulated the proposed grouping in the House. The first grouping of amendments consists of amendments Nos. 1, 4, 5 and 6. A Senator may contribute once on each grouping. I remind Senators that the only matters which may be discussed are the amendments made by the Dáil.

Question proposed: "That the Bill be received for final consideration."

Minister of State at the Department of Agriculture and Food (Mr. Treacy): Is cúis áthais dom a bheith ar ais sa tSeanad chun deireadh a chur leis an mBille an-thábhachtach seo. I thank you, a Chathaoirligh, and the House for receiving me again. I will speak to amendments Nos. 1, 4, 5 and 6.

These amendments relate to the inclusion of a new Part 4 to the Bill to provide for amendment of the Registration of Potato Growers and Potato Packers Act 1984. The Collective Citation and the Long Title have also been amended consequent on the introduction of this new Part 4. Part 4 amends sections 2 and 3 of the Registration of Potato Growers and Potato Packers Act 1984. The registration number of the grower and the registration number of the packer will now be required to be displayed on packaged potatoes.

The amendment to section 3 is to reflect current demands and expectations regarding the traceability of food. The purpose of this amendment is provide full traceability of the potato pack to the primary producer.

[Mr. Treacy.]

Currently, the potato packers' number is shown on the package in the majority of sales at retail level. While traceability is available to the Department of Agriculture and Food via the packers' number, as matters stand it is not immediately obvious to the consumer. Today's consumers want this information readily available and will often purchase food on the basis of knowledge of the origin of the product. Traceability, quality control and food safety have become a feature of retail sales due to the various health scares and a comprehensive traceability system provides assurance for everybody, buyers and sellers.

The amendment of section 2 will facilitate the updating of the register and allow for the deletion of entries in the register, which clearly do not reflect current reality given the consolidation in the numbers of growers and packers. I am also making provision for inspection of the register to ensure the traceability route is fully in place and I will make the necessary arrangements to have the register available for inspection via the website of the Department of Agriculture and Food.

The Act applies only to potatoes grown in the State and will not affect imports. Imports into Ireland are required to have a plant passport label issued by an official body in the country of origin. This label may show either the official registered grower number or the official packer number in accordance with European Union regulations. These changes are in the interests of producers, consumers and Ireland incorporated, and in the common interest of assuring the provision of quality product and broader macro-consumer opportunity. I hope the amendments are acceptable to the House.

Mr. U. Burke: I welcome the Minister of State. The measure is disappointing in its treatment of Irish producers and packers of potatoes. Growers and packers already have licence numbers and their products are quality guaranteed. No matter how the Department legislates for the identification of imported foreign products, we cannot have the same confidence in such products. In the next few weeks, imports of new potatoes will begin coming into the country yet it is not possible to discover their origin. Given that Irish products must compete side by side with such imports, it is unfair that the same standards do not apply to both sets of products.

Traceability is the key, as the Minister of State pointed out. When the Minister was in the House at an earlier Stage of the Bill, I questioned him about the traceability of beef. I highlighted a case known to the Minister of State, Deputy Treacy, of a restaurant owner who produced beef in the fields outside his restaurant in County Galway. He was approached by what I will call a certifying agent on behalf of Bia Linn, and told his premises

could be certified if he purchased beef through a particular agent. The owner told the agent he did not want certification of this kind because he had his own supply of beef, the traceability of which was beyond doubt, and he wanted to keep that supply.

The officer said it could not be done. The owner decided not to follow that direction because he said the agent nominated to give certification had imported from South America substantial amounts of beef for the Irish market and the catering industry. This appears to suggest that traceability means nothing. There should be legitimate statutory certification of a situation which is totally out of control and about which something needs to be done. The Minister for Agriculture and Food said he would deal with the matter in the legislation but he has not done so. We are talking about potatoes in this instance. It is difficult to understand why we are in this situation. It is important to have traceability in respect of quality Irish products, whether they are potatoes, vegetables or other produce. However, imported products do not and cannot have the same traceability.

An Cathaoirleach: The Order of Business lays down that this item must conclude at 11.30 a.m.

Mr. U. Burke: That is a pity. There is no indication that we have the capacity or willingness to scrutinise the origins and traceability of imported products, particularly food products, with which we are competing and probably will have to compete with to a greater degree in the future.

Minister of State at the Department of Agriculture and Food (Mr. Treacy): I note that Senator Burke has moved from a potato dish to a beef dish. We are discussing the potato situation. We are bringing forward proposals, and we have already brought forward secondary legislation, to protect, guarantee and support indigenous production in this country for the farmers of the nation.

Mr. U. Burke: The Government is not doing so.

Mr. Treacy: We certainly have done so and I have been involved in it. There is an outstanding division in the Department of Agriculture and Food which has done an outstanding job at inspectorate, management and administration level. Huge progress has been made and the IFA and farming organisations, particularly the growers, are very pleased with it. We are copperfastening what we are doing in this primary legislation.

I made it clear in my contribution that the situation pertaining to imports is that they must have a plant passport label, issued by an official body in the country of origin. The label must show either the official registered grower number

or the official packer number in accordance with European Union regulations. There is an absolute guarantee of identity and traceability in regard to from where the product is coming. Imports are subject to EU law and, therefore, there is traceability on imports. We have our inspectors, as have Customs and Excise. Therefore, there is a double opportunity for Ireland to pursue very rigorous inspections to protect that traceability and provide a guarantee of quality. I emphasise that imports must have either a producer's or packer's number which is officially controlled in the country of origin.

Ms O'Rourke: I do not wish to interrupt the debate which appears riveting. We are tied to 11.30 a.m. which should not be the case because there will be time at the other end. I propose a change to the Order of Business to extend the time for this debate by 15 minutes.

An Cathaoirleach: Is that agreed? Agreed.

Mr. Treacy: I thank the Leader for giving us that flexibility. In response to Senator Burke, the Minister, Deputy Walsh, wrote to the Senator following the last Seanad debate outlining the position in regard to Féile Bia. Féile Bia requires that suppliers must sign up for the product they supply under the Féile Bia logo. It does not suit all suppliers to sign up and, consequently, they will not do so.

Mr. U. Burke: Féile Bia was pushed into it. The Minister of State is misrepresenting what happened.

Mr. Treacy: I am not misrepresenting what happened but the Senator is confusing the situation. Perhaps the Senator can persuade the supplier of the product to stop doing so.

Mr. U. Burke: What chance do I have?

Mr. Treacy: If the Senator has *de facto* information about misappropriation in any system and he tells us who did it, where it was done and how it happened, we will have it followed up and pursued. The Minister for Agriculture and Food responded to the Senator specifically on this issue and made the position quite clear. I expect that the Senator will respect and accept what he said about our being here to work in the interests of Ireland, its people and its products and will continue to do so.

Amendment No. 2 is a technical amendment which rectifies a typographical error from "2001" to "2003". Amendment No. 3 is another amendment which originated in this House, when Senator Quinn suggested — and it has been accepted — that the term "not fewer" is more appropriate than "not less" in reference to people. While the term "no fewer" might be equally appropriate, the term "not fewer" already

appears in the principal Act and has been adopted on that basis to maintain consistency.

Question put and agreed to.

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

Minister of State at the Department of Agriculture and Food (Mr. Treacy): I thank the Cathaoirleach and his colleagues for their tremendous co-operation and the positive attitude which has always been adopted in this House in respect of legislation. I thank Senators for their very personal and collective contributions to successive Bills in this House. Seanad Éireann has played a huge role over the years in contributing to quality legislation for which I thank Members.

Mr. J. Phelan: I thank the Minister of State for coming before the House. I note that he took on board at least one of the amendments proposed by the Seanad.

Mr. Treacy: Two were accepted.

Mr. Callanan: I am delighted to see the Minister of State in the House and welcome the speedy and successful resolution he has brought to this Bill, including grammatical corrections and dates which are important to the future. I thank the Minister of State and my colleagues.

Question put and agreed to.

Tribunals of Inquiry (Evidence) (Amendment) Bill 2003 [*Seanad Bill amended by the Dáil*]: **Report and Final Stages**

Acting Chairman (Mr. U. Burke): This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 103, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question "That the Bill be received for final consideration", the Minister may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. The only matters, therefore, which may be discussed are the amendments made by the Dáil. For Senators' convenience, I have arranged for the printing and circulation of the amendments. Senators may speak only once on Report Stage.

Question proposed: "That the Bill be received for final consideration."

Minister of State at the Department of Education and Science (Mr. B. Lenihan): This Bill passed All Stages in Seanad Éireann on 9 December 2003. The Bill now returns to this

[Mr. B. Lenihan.]

House for a report from Dáil Éireann, having been amended in the Dáil where it was passed on 27 April. The Bill has been the subject of short but important amendments in the Dáil. As Senators will recall, the primary purpose of this Bill is to ensure that Judge Mahon, as chairperson of the Tribunal to Inquire into Certain Planning Matters and Payments, previously chaired by Mr. Justice Flood, can make orders on applications for costs incurred during the tenure of the previous chairperson. The issue became apparent following the resignation in June 2003 of Mr. Justice Flood as chairperson of the tribunal.

More specifically, the issue arises in the determination of costs concerned with certain modules dealt with in the already published interim reports of the Flood tribunal. These modules were dealt with at a time when Mr. Justice Flood was the sole member of that tribunal and the reports were accordingly prepared by him. The determination of costs had not been made at the time of Mr. Justice Flood's resignation.

The key provision in the Bill is section 2. This section provides, by way of an amendment of section 6 of the Tribunals of Inquiry Act 1979, as amended by the similarly titled 1997 Act, for the insertion of a new subsection (1A) under which the sole member of a tribunal, or the chairperson, if there is more than one member, may make an order on any costs that were incurred before his or her appointment and that have not already been determined. In exercising this power, the sole member, or chairperson, must have regard to any report of the tribunal relating to its proceedings in the period before his or her appointment. The Bill makes clear that the new provisions will apply to tribunals appointed and costs incurred before or after the passing of the legislation.

Since the Bill was passed by the Seanad on 9 December 2003, it was considered necessary to insert a new subsection in order to ensure that paragraph (b) of subsection (1A) cannot have the result of limiting the effect of the amended section 6(1) on matters which can be taken into account by the chairperson when making determinations on costs. Thus two amendments to section 2 of the Bill were passed by the Dáil. The first amendment was in page 3, subsection (1) line 16, where the word "subsection" was deleted and substituted by "subsections". This amendment was essentially a drafting point, necessary to be consistent with the proposed second amendment of section 2.

The more critical amendment to section 2 was in page 3, between lines 27 and 28, which inserted the following subsection: "(1B) Paragraph (b) of subsection (1A) shall not be taken to limit the matters to which regard is to be had under subsection (1).".

This amendment arose following further contact with the Attorney General, and both he and the Minister for Justice, Equality and Law Reform, are of the belief that this amendment will bring an extra degree of certainty to the powers provided to a chairperson of a tribunal under section 2 of the Bill.

I commend the amendments to the House.

Ms Terry: I welcome the Minister of State, Deputy Brian Lenihan. I welcomed the Bill when it was first published and welcome its return to the Seanad. I have no difficulty with the amendments outlined today.

At the time of Mr. Justice Flood's resignation, the leader of the Fine Gael Party, Deputy Kenny, asked that this Bill be brought forward. It is regrettable that it took the Government six months to bring it forward and a further five months for its passage through the Oireachtas.

Two very important Bills are being rushed through, the Electoral (Amendment) Bill, dealing with electronic voting and the Twenty-seventh Amendment of the Constitution Bill, dealing with citizenship. When it wants, the Government can ensure a Bill has a speedy passage through the Oireachtas. This Bill, however, was a case of the Government dragging its feet.

This very important Bill has the support of the Opposition. I look forward to the legislation being enacted so that the tribunals will be able to adjudicate on costs and also that separate divisions will be able to investigate certain matters. The tribunal, in investigating allegations of corruption, does very important work. I look forward to seeing the results when the tribunal draws its conclusions. We all suffer from the allegations of corruption in politics and want to see politics cleaned up in the quickest possible time.

I want to see the tribunal continuing its work and this Bill, when enacted, will help it to do that.

Ms O'Meara: I, too, welcome the Minister of State and echo Senator Terry's sentiments that the amendments are clearly designed to give greater certainty to the purpose of the Bill, which is obviously necessary. I echo the sentiments of Senator Terry on the need for the tribunal to complete its work, but obviously that is not in our hands. We have given the members of the tribunal the latitude that is required to explore the modules, but there is public concern and frustration at the length of time it will take to complete the work. Unfortunately, the lengthy process undermines to some extent public confidence in the process. That should not be seen as a criticism of the work, as it is very important that these matters are explored in great detail and reported on. Very good work has been done in putting into the public domain rumours which previously were matters of speculation, talked about behind closed doors. In spite of the

fact that this has the effect of undermining constitutional politics, it needs to be done.

Obviously it is important that the issue that became apparent following the resignation of Mr. Justice Flood is clarified and, as Senator Terry said, “let us get on with it.”

Mr. J. Walsh: I join in welcoming the Minister of State and I welcome these amendments that will bring clarity to the intent of the Bill.

I fully subscribe to everything Senator O’Meara has said, as I think she has put the case very well. The tribunals are inquiring into issues that are matters of public concern and which needed to be inquired into and one looks forward to their ultimate determination. The cost issue, which this Bill addresses, being apportioned among those who may not have fully co-operated with the tribunal, has become a matter of serious public concern. I am not sure if I subscribe fully to the point made by Senator O’Meara, that the Houses of the Oireachtas set up these tribunals and should let them get on with it. I am not sure that what passes for good drama on the “Vincent Browne Show” is the best way of dealing with these issues. While Senator Terry was critical, I welcome the publication of the commissions of inquiry Bill, which will streamline and deal in a more efficient way with these issues.

Legal costs have become a major public concern, one which successive Governments have failed to tackle. Recently a barrister pointed out that the biggest culprit in establishing headline charges per day is the State. In some instances, the tribunals probably agreed under duress, but it is fair to say that the issue of cost should be addressed. In a discussion of some high profile cases on radio this morning, the point was made that access to the court can result a person’s financial ruin. That should not be the case. In a republic, the courts should be accessible to the people at large to vindicate their rights and the costs should not be prohibitive so that this becomes the prerogative of the rich. I would like to think the Government might take up this challenge in order to address the unsustainable level of fees charged in the Law Library. I have referred to this matter before. The Law Library and the judicial system generally are open to serious challenge regarding competition. Competition should be ensured within all strata of the economy, yet within the legal sector, the essence and purpose of competition law does not seem to be operating at all. Costs are apportioned but they should be reasonable. If the pursuance of a case in the Circuit Court, the High Court or the Supreme Court leads to inordinate delays, judicial discretion can be exercised for some such costs, even if one indicates they are not to be allowed. In this instance, however, I am not sure what discretion will be applied. Some of the tribunals may well have extended into areas which may have added nothing to determining

the issues before them. There is a real issue to be examined in that regard, although it may not be politically correct for us to urge that it should be examined. The operation of the tribunals should be effective and efficient, so there is an onus on us to inject that efficiency if it is lacking.

Some controversial comments have been made about one of the tribunals to the effect that people will have to wait ten or 15 years for a final determination of the issues. That defies all logic and common sense. The Houses of the Oireachtas, rather than the Government, should examine these issues to see where the broad remit of some tribunals could be refocused so the original intention of the Oireachtas to get to the truth in certain instances is pursued much more effectively. In that way, we would not end up in ten or 15 years’ time with tribunals still running and their costs escalating. I may have moved away from the Bill in making these comments but the distribution and allocation of costs relate to the overall operation and efficiency of the tribunals.

Mr. B. Lenihan: I thank Senators for their co-operation and assistance in dealing with this legislation which was initiated in this House. Senator Terry mentioned the delay in introducing this measure. Mr. Justice Flood resigned last summer and there is no doubt that an unprecedented situation was created by his resignation. It was necessary for the Government to obtain detailed legal advice on this measure. The Bill once enacted must be a very robust vehicle. In all probability, Judge Mahon, the current chairman of the tribunal, will deal with the matter, but I do not want to pre-empt anything that happens in tribunals — one must be so careful. Whoever decides to deal with the matter, however, will have to make determinations under the terms of the legislation. Of course, his determination can be subject to judicial challenge also. It is well established that the tribunals are subject to the operation of judicial review and this has frequently occurred.

In preparing this legislation, the Government was very conscious that a robust vehicle had to be designed. The fact that the Attorney General came back to us, even after the measure had been given detailed consideration in this House, with further suggestions for improvement in the robust character of the vehicle, brings home the reason for the delay. Although there has been some delay, this House completed its work on the legislation late last year, while the Lower House has now completed its consideration of the matter. Considering the amount of parliamentary time available in Dáil Éireann, the delay does not represent an exceptionally long period for the enactment of legislation. Contrast was made with certain other measures but everybody was well aware of the position relating to electronic voting. Indeed, Senator Terry is well aware of the

[Mr. B. Lenihan.]
position since she ran in the last general election in a constituency where electronic voting was in operation.

Ms Terry: We now find that there were flaws in it.

Mr. B. Lenihan: We will not go into that now but we were well aware of the position, which was advertised for a long time before this essentially politically-motivated argument began in recent months. Equally, the question of the referendum will be dealt with in the Seanad next week, so I do not want to anticipate the matter and thus preempt the Seanad's constitutional role. I am sure the matter will be dealt with in some detail.

Separate divisions of the tribunal will be possible under this legislation. The Government is pleased the Oireachtas will soon enact a clear and simple mechanism, of which the chairperson of a multi-member tribunal may wish to avail, in order for the tribunal to operate in divisions. Of course, the conduct of the Mahon tribunal, or any tribunal for that matter, is solely a matter for the chairperson.

Senator O'Meara referred to the fact that the tribunal had done a great amount of work but on the tribunal's own estimate it has an even greater amount of work still to do. It must be remembered that the bulk of the tribunal's work to date related to just one county, Dublin. That county is now divided into three administrative areas but at the time of the matters into which the tribunal is investigating, it was one administrative area. My understanding is that the tribunal has matters to investigate from every county, so clearly there is still a great volume of work to do. It would be a good thing if the tribunal could establish and put beyond reproach the names of those public figures who are not in any way involved in this or whose names, if they are investigated, remain beyond reproach. However, that concerns the work of the tribunal.

Senator Walsh referred to more general matters relating to legal costs, which is a very big area. The Minister for Finance has already expressed his concerns about that matter. Any assistance or co-operation that Senator Walsh wishes to offer in this respect will be most appreciated. I thank Senators for their assistance.

Question put and agreed to.

Question, "That the Bill do now pass", put and agreed to.

Transfer of Execution of Sentences Bill 2003: Committee Stage.

SECTION 1.

Acting Chairman: Amendments Nos. 1, 3, 30

and 31 are related and may be discussed together by agreement.

Ms Tuffy: I move amendment No. 1:

In page 3, subsection (1), line 22, after "1997" to insert ", the text of which in the English language is set out for convenience of reference in *Schedule 1* to this Act".

I would like to hear the Minister of State's comments on this amendment.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): The amendment proposed by Senator Tuffy's amendment proposes that the full text of the additional protocol and the Schengen Convention should be added as Schedules to the Bill, but we are not giving effect to the full protocol. The protocol contains nine articles and only two contain substantive provisions, namely Articles 2 and 3. Of these, Ireland proposes to operate Article 2 only and in those circumstances it would be inappropriate of the Oireachtas to include as a schedule the entire protocol when we are only giving effect to part of it. In any event, scheduling the protocol when the main convention itself has not been scheduled would seem odd and might lead to confusion as to the exact legal status of these international instruments. Such an outcome would defeat the purpose of the amendment.

Why then are we not scheduling the Schengen Convention, as proposed by Senator Tuffy's other amendment? The Schengen Convention consists of 142 articles and in this Bill we are giving effect to just three of those — Articles 67, 68 and 69, which deal with the transfer of the enforcement of criminal judgments. Ireland is opting into only some parts of the Schengen Convention, such as police co-operation, mutual assistance, criminal matters and extradition. We are not implementing provisions on cross-border hot pursuit, for example. Scheduling the whole convention, including those parts which we will not be opting into, could give rise to considerable legal confusion and that would also defeat the intentions behind the amendment.

What we are doing here is giving the force of law in the State to an international instrument. The Oireachtas could inadvertently give the impression that the entirety of these legal instruments was part of the domestic law of the State, were we to schedule them to this legislation.

Ms Tuffy: Given the Minister of State's comments, would it not be proper to schedule the full protocol and convention even if we are only implementing parts of them? Also, what are the future plans for implementation of the other parts of the protocol and the convention?

Mr. B. Lenihan: Implementing legislation may be required for other aspects of the Schengen Convention to which Ireland has signed up. That

is another reason it would be inappropriate to schedule the entire convention to this Bill, which only deals with a small part of the Schengen Convention. The immigration control provisions of Schengen are under consideration in the Department with a view to legislation.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 2 and 7 are related and may be discussed together by agreement.

Ms Terry: I move amendment No. 2:

In page 3, subsection (1), between lines 25 and 26, to insert the following definition:

“relevant authority” means the person designated in the relevant country concerned who performs functions the same as or similar to those performed by the Minister under this Act;”.

I seek the insertion of the definition of “relevant authority” in subsection (1). I have taken this from amendment No. 7 to section 5, as it is more appropriate in the definitions section. I ask the Minister of State to consider this favourably.

Mr. B. Lenihan: Senator Terry is essentially seeking to insert the definition in the interpretations section but the definition is already contained in the wording of section 5(1) and the existing wording of that section is perfectly clear. The amendment simply repeats that wording.

Ms Terry: I am seeking to move this from section 5 because it is more appropriate to have it in section 1. I understand it is very clear and this is just for clarity. It would be more sensible to have this in section 1.

Mr. B. Lenihan: I can give an undertaking to have this matter examined by the Parliamentary Counsel.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

Section 1 agreed to.

SECTION 2.

Ms Terry: I have received notice that amendment No. 4 cannot be moved.

Acting Chairman: It is out of order.

Ms Terry: May I speak on the amendment if it is out of order?

Acting Chairman: Yes.

Ms Terry: I regret the Chair has ruled this amendment out of order because it would impose

a cost on the State. This is a matter of accountability and the amendment sought to make the Minister accountable to the Houses of the Oireachtas in order that Members would have necessary information. I regret it has been ruled out of order.

Amendment No. 4 not moved.

Ms Terry: I move amendment No. 5:

In page 4, line 19, after “sentences” to insert “, including those imposed outside the State,”.

There is a presumption in our legislation against extra-territorial effect and to rebut this presumption very clear words must be used. I propose the amendment to guarantee that the Act applies to sentences imposed outside the State. I hope the Minister of State accepts the amendment.

Mr. B. Lenihan: I regret that I am not Santa Claus today.

Senator Terry referred to the presumption on extra-territorial effect. It is a presumption of statutory construction but one which does not have very cogent force in the context of legislation such as this, where the Long Title makes quite clear the Bill is implementing an international arrangement by way of mutual assistance.

This amendment would insert a provision in section 2, a general section describing the application of the Act, where the expression “sentences” would be extended to include “those imposed outside the State”. However, it is clear when one examines sections 5 and 6 that there are two circumstances plainly envisaged in the legislation. Section 5 deals with requests of execution of Irish sentences in a designated country and section 6 deals with requests for execution of foreign sentences in the State. They are the two complementary parts of the legislation and are the core provisions of the Bill. It is clear from those sections that there is an expressed statement by the Oireachtas that we will have extra-territorial effect to the extent provided for in those sections. It is important to note the Bill does not apply to all sentences imposed outside the State but only to those imposed in designated countries. The Senator’s expression might imply that the legislation applies to any sentence imposed in a foreign jurisdiction whereas it must be a designated country. It is clear from sections 5 and 6 that this entire exercise applies in designated countries. For that reason I cannot accept the amendment.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 6, 22 and 23 are related. Amendment No. 22 is consequential on amendment No. 23 and these amendments may be discussed together, by agreement.

Ms Terry: On a point of order, we have not been given the groupings list.

Ms Tuffy: I move amendment No. 6:

In page 4, line 20, after “passing” to insert “, unless the High Court on the application of the sentenced person concerned determines that it would be unjust for this Act to apply to that person”.

I am not sure those amendments should be grouped because they appear quite different. I do not see the need to group them.

The reason for this amendment is that the Bill states the provisions apply to sentences whether imposed before or after its passing. That is a fairly remarkable move for this provision to apply retrospectively. There should be some jurisdiction for the courts whereby retrospective application which might be unjust would not apply.

Mr. B. Lenihan: Am I correct in saying there appears to be two separate issues within this grouping?

Ms Tuffy: Yes.

Mr. B. Lenihan: The core important issue is the whole function of the High Court in respect of the legislation. In the proposed amendment to section 2, after the reference to sentences whether imposed before or after its passing, the Senator wishes to insert the proviso “unless the High Court on the application of the sentenced person concerned determines that it would be unjust for this Act to apply to that person”. In section 9, the Senator wishes to extend the jurisdiction of the High Court.

The amendment proposed to section 2 is made in the context of a clause which provides that the Act is to apply to sentences imposed both before and after the passing of the Bill. The provisions I am introducing in the Bill for the enforcement of sentences require the full involvement of the High Court before the sentence can be enforced in the State. My understanding is that the amendment aims to ensure the court is satisfied that the requirements about, for example, due process and fair procedures, were complied with at all earlier stages of the sentencing state. Such matters are already within the inherent jurisdiction of the court. Any statutory provisions must, therefore, be read in the light of the constitutional safeguards that the courts must apply in such matters. Accordingly, the proposed amendment is unnecessary. Such matters are better left to the courts’ discretion. It is always open to the sentenced person to raise the issue before the court.

In the case of amendment No. 23 which proposes a new paragraph (f), these are matters that will arise to be examined in the normal course. Specific provision can be made in relation to them. By making specific provision in relation

to them, that can interfere with the discretion which the High Court has always had. As I have indicated, the High Court will always have regard to constitutional principles such as due process and fair procedures. It would seem the better course if these matters were left in the inherent powers of the High Court and that we did not try to prescribe by statutory rubric how the High Court should do its business.

The proposed amendment No. 22 to section 9(2)(d) is a separate matter. It is unnecessary as the word “and” would automatically be removed if the next amendment were accepted.

Acting Chairman: Is the amendment being pressed?

Ms Tuffy: I would like a further response from the Minister of State. While I understand what the Minister of State said, so far as I am aware the court will have no jurisdiction in regard to legislation applying retrospectively. The Minister of State mentioned due process and fair procedures but that is not the issue. The issue is whether the court would have jurisdiction in making a determination where something was unjust to apply the legislation retrospectively. If the legislation is there, surely there could not be that jurisdiction unless it was allowed for.

Mr. B. Lenihan: In respect of the amendment to section 2, the Senator’s position is that it is necessary because of the retrospective character of the legislation.

Ms Tuffy: Yes.

Mr. B. Lenihan: Whether it is retrospective or prospective after the enactment of the Bill, the High Court has an inherent power in the exercise of its functions to determine the substantial justice or injustice of any application before it. The Senator has raised an interesting point and I am prepared to have the issue examined. I am not prepared to accept it at this stage but I shall bring to the Minister’s attention the view expressed on the retrospection issue so the matter can be reviewed prior to Report Stage.

Amendment, by leave, withdrawn.

Sections 2 agreed to.

Sections 3 and 4 agreed to.

SECTION 5.

Amendment No. 7 not moved.

Ms Terry: I move amendment No. 8:

In page 5, subsection (2)(a), line 22, after “deemed to be,” to insert “or is entitled to be,”

In the Twenty-seventh Amendment of the Constitution Bill 2004, which is before the Dáil, the Minister for Justice, Equality and Law

Reform places great significance on the entitlement to citizenship. Therefore, if we are to be consistent, the entitlement to citizenship should be of equal significance in this Bill. The effect of my amendment is to ensure that a person entitled to citizenship cannot evade justice, as is the case with the section as drafted.

Mr. B. Lenihan: The Senator is seeking in section 5(2)(a) after the words “deemed to be” to insert “or is entitled to be”. As in legislation that implements international arrangements, what we are doing here is following the language of the international instrument which we are implementing. For that reason, we have followed that particular expression because this legislation has to apply to the nationals of many different states. The agreed term used in this context was “national”, hence the expression in the legislation. Under the law of the designated country the person is or is deemed to be a national of the designated country. The words “or is entitled to be” do not arise in this context because we are mirroring an international designation. We are not entering into our own designation because it is captured by the wider international designation that all of the states have agreed on the conclusion of this instrument. That is the reason for using that particular wording and the reason I am not disposed to import terms or phrases that might be used in our domestic legislation into this Bill, though I have no doubt we will have some interesting debates on phraseology in the weeks ahead.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 9 to 11, inclusive, amendments Nos. 13 to 18, inclusive and amendment No. 21 are related and may be discussed together by agreement.

Ms Terry: With the permission of the House, may amendment No. 21 be discussed with amendments Nos. 25 and 26?

Acting Chairman: Is that agreed? Agreed.

Ms Terry: I move amendment No. 9:

In page 5, subsection (2)(c), line 25, to delete “6 months” and substitute “one month”.

These amendments deal with subsection (2). They propose that persons with less than six months to serve will not be pursued. If we are committed to preserving and securing the integrity of the courts and the integrity of the sentences imposed, all those who have unserved sentences must be pursued. I agree that resources cannot be expended on pursuing people who may have just a few days of a sentence left to serve, but six months seems unduly lenient. I propose a change from six months to one month.

Mr. J. Walsh: I note the point being made by Senator Terry and there may be some validity in

it. One would wish that people served their sentences. On the other hand, early release must be taken into consideration. Resources should not be used up for such a short period of time. Community service might be relevant in this case. In general, community service sentencing can often be a very prudent and restorative measure from the point of view of the culprit. It could be considered as an alternative to putting people in jail for short periods of time when the bulk of the sentence had been served.

Mr. B. Lenihan: We are constrained by the convention in this matter. Senator Terry has raised a very interesting issue. In the international agreement we are dealing with, the six month threshold as set out in Article 3.1.d of the Convention on the Transfer of Sentenced Persons 1983, which is the parent convention, and the additional protocol in the Schengen provisions must be read in conjunction with that parent convention. For that reason the six month threshold in the 1983 convention has been included in this Bill. In the light of our international understanding and agreement, it was not open to us to legislate as Senator Terry wished. I appreciate the point she made.

We are dealing with requests from other states for the return of persons located here and under the legislation the position is that either the sentence must have been more than six months or there must be at least six months left to serve. The furthest the Minister can go to meet the point raised by Senator Terry under the convention is contained in section 5(3) which states:

The Minister may, in relation to a person—

(a) sentenced to less than 6 months imprisonment, or

(b) who has less than 6 months remaining to serve of a sentence,

make a request under *subsection (1)*, if he or she considers that exceptional circumstances exist which warrant the person serving the sentence or remainder of the sentence, as the case may be, in the designated country concerned.

It is permitted under the legislation in exceptional circumstances but that is the furthest we can go in this area. Otherwise, our hands are tied by the international instrument.

Amendment, by leave, withdrawn.

Amendments Nos. 10 and 11 not moved.

Section 5 agreed to.

SECTION 6.

Ms Tuffy: I move amendment No. 12:

In page 5, subsection (1), line 39, after “who” insert “is in the State having”.

[Ms Tuffy.]

The purpose of this amendment is to clarify the legislation. As it is worded, it gives the impression of an intention to apply it to a person who is in the State, but that meaning is not necessarily clear from the wording. The amendment would ensure that the new procedure only applies to people in the State because otherwise they would become wanted in two jurisdictions and there would be extraordinary complications as a result, apart from the question of how they would be notified of the proceedings if they were not in the State. I await the Minister of State's response.

Mr. B. Lenihan: The amendment seeks to provide that before the Minister can consent to a request from a sentencing state for the enforcement of a sentence against an Irish national, the Minister must be satisfied that the person has not only fled from the sentencing state to this State but that he or she is in this State. I believe the amendment is unnecessary. The Bill already refers to a person who has fled to the State. In any event, another state will not request this State to carry out the enforcement of a penalty on a person who is not in the State.

Amendment, by leave, withdrawn.

Amendments Nos. 13 to 16, inclusive, not moved.

Section 6 agreed to.

SECTION 7.

Amendments Nos. 17 and 18 not moved.

Ms Terry: I move amendment No. 19:

In page 7, subsection (6), line 36, after "any time" to insert "prior to the execution of the warrant".

This amendment proposes that the section would state: "The Minister may at any time prior to the execution of the warrant apply to the High Court for an order varying the terms of, or revoking, a warrant issued under this section." The amendment is to ensure that the warrant cannot be varied after it has been executed. I doubt if the Minister of State will have any difficulty accepting this amendment.

Mr. B. Lenihan: I do not propose to accept this amendment. The Minister must be able to apply to the High Court at any time even after the warrant is issued or executed, if he becomes aware of information that would justify him going back to the court to seek a variation to the warrant. This amendment would limit the Minister's discretion in that regard. I do not propose to hold Senator Terry personally culpable for this amendment — no doubt she is acting on what I would characterise as unsound legal advice. I ask her to consider some of the difficulties we might have to encounter in this

House with regard to the execution of a warrant in the near future.

Amendment, by leave, withdrawn.

Section 7 agreed to.

SECTION 8.

Ms Tuffy: I move amendment No. 20:

In page 8, subsection (4), line 38, to delete "in custody".

The purpose of this amendment is to allow the possibility for remand to be on bail as well as in custody and for that reason it proposes to delete the word "custody". I await the Minister of State's response.

Mr. B. Lenihan: This amendment relates to the circumstances arising when a person has been provisionally arrested pending receipt of the formal request from the sentencing state. The existing proposal is that the court should remand the person in question. The amendment proposes to delete the requirement that the remand should be "in custody" and proposes instead that the person should be remanded. Remand in custody following provisional arrest is established practice under extradition law. Application of the procedures under the Extradition Act and the European Arrest Warrant Act to the new circumstances appears appropriate because the procedures provided for in the Bill are in many respects an alternative to extradition or surrender, with the benefit that the person receives an opportunity to serve the sentence in his or her home state.

It must be remembered that the person has already absconded from the sentencing state and shown a propensity to flee. If the person had not fled, he or she would not be in detention in the sentencing state. Allowing for the possibility of release following provisional arrest would undeniably result in absconders doing another disappearing act and lead to protracted judicial proceedings, which would waste the time of the court on what would be unmeritorious pleas, given that they come from the mouth of a person who has already absconded. I do not propose to accept the amendment.

Ms Tuffy: The Minister of State appears to be making a judgment to be made by the judge in court.

The Minister of State has said bail would never apply and the person must be remanded in custody but circumstances may arise in which it is reasonable to have the person remanded on bail.

Mr. B. Lenihan: In general, bail can be invoked by a person who has not yet been convicted. That is the crucial distinction between bail and this legislation. The inherent powers of the court to grant bail apply to persons whose guilt has not been established and are innocent in the eyes of

the law. It is true that in exceptional circumstances bail is given pending an appeal, but after the final appeal the question of bail does not arise and a person is remanded in custody. While it is also true that the courts in our system, in the consideration of sentencing following conviction, can remand a person, otherwise than in custody, and leave a person at liberty pending final sentence, there is no analogy between those circumstances and the circumstances described in the Bill. The persons referred to have been convicted and have demonstrated a propensity to evade the execution of their sentence. There is a world of difference between that and a person whom a judge, in his or her discretion, believes can be left at liberty pending the final determination of his or her sentence.

Ms Tuffy: What if the court decided that the person did not have to serve the rest of his or her sentence or that the procedures applied in the other country were not fair?

Mr. B. Lenihan: An execution warrant will have been made and an attempt could be made to judicially review it or if there was a fundamental defect in procedure, the jurisdiction of the High Court to order an inquiry under Article 40 could be invoked. If there was a fundamental want of process or procedure in the matter, the fundamental constitutional remedy to establish one's liberty is available to the person in question to invoke, as it is available to any person. In the absence of that, if the execution warrant is valid on its face, there is a presumption which entitles the State to hold the person concerned and judicial review proceedings would have to be instigated to set aside the valid warrant.

Amendment, by leave, withdrawn.

Section 8 agreed to.

SECTION 9.

Amendment No. 21 not moved.

An Cathaoirleach: Amendment No. 22 was discussed with amendment No. 6. Is it being pressed?

Ms Tuffy: I did not agree to the grouping and would like the Minister to respond to the amendment.

An Cathaoirleach: It has already been discussed.

Ms Tuffy: It was not discussed and I did not agree to its grouping.

An Cathaoirleach: In that case, the House may discuss it.

Ms Tuffy: I move amendment No. 22:

In page 9, subsection (2)(d), line 39, to delete "served, and" and substitute "served,".

Mr. B. Lenihan: I thought I had responded to the amendment but will return to it out of courtesy to the Senator as it is important to try to clarify matters. However, the House must first agree to discuss it.

An Cathaoirleach: Senator Tuffy informed me she did not agree to the amendment being discussed with amendment No. 6.

Mr. J. Walsh: On a point of order, the House agreed to discuss the amendments together and when Senator Tuffy spoke to them, she refused to agree to them being grouped together because she did not believe they were related. However, the Chair did not rule on her objection.

Mr. B. Lenihan: I understand the Senator then withdrew amendment No. 6 in the belief that she could discuss amendment No. 22 later.

Ms Tuffy: Amendment No. 22 was not discussed.

An Cathaoirleach: If the amendments were discussed together with amendment No. 6, the Senator may move the other amendments in the grouping and put them to a vote if necessary.

Ms Tuffy: They were not discussed and I clearly objected to the grouping. We have not even received a list of the groupings.

An Cathaoirleach: I will allow a brief exchange as there is some confusion as to whether the amendments were discussed.

Ms Tuffy: Neither I nor the Minister of State referred to amendment No. 23, for example.

Mr. B. Lenihan: Senator Tuffy's concern regarding this section appears to be to ensure that the High Court is satisfied, having regard to all the circumstances, that it would be appropriate for it to make an order under section 9(1). In other words, she is concerned about the provision in subsection (2) that the High Court shall not make an order under subsection (1) unless a number of conditions, including that the Minister has given his or her consent and the person is an Irish citizen, have been met. She proposes inserting an additional requirement providing that the High Court must be satisfied that, having regard to all the circumstances, it would be appropriate to make the order. This wording appears to be surplusage because, by definition, if one meets all the conditions, the High Court is satisfied in all the circumstances that it would be appropriate to make the order. The amendment would introduce a vague criterion on the making of such orders.

[Mr. B. Lenihan.]

In general the matters arising in any application will arise in the normal course. Therefore, to make specific provision may interfere with the court's discretion and cause difficulty in circumstances not now foreseen. The High Court will always have regard to constitutional principles such as due process and fair procedures. The better course would be to leave these matters to the discretion of the court.

Amendment, by leave, withdrawn.

Amendment No. 23 not moved.

Ms Tuffy: I move amendment No. 24:

In page 9, (subsection 13), line 47, to delete "may, upon" and in page 10, to delete lines 1 and 2 and substitute "shall not commit the person to prison pursuant to an order under *subsection (1)* for a period exceeding--".

The Bill provides that a court would not be obliged to sentence a person for a longer period than the maximum available by law in Ireland but may do so. This is undesirable and the amendment proposes to prohibit the court from imposing a longer sentence than that available here.

Mr. B. Lenihan: Senator Tuffy has raised an interesting question regarding the powers of the High Court. Section 9 deals with the powers of the High Court to make orders for the enforcement of foreign sentences in this jurisdiction. The general rule is that the duration of the foreign sentence should not be altered, even where it exceeds the maximum duration for the same offence under Irish law. In line with the existing provisions in the 1995 Act, the Bill provides that the High Court may set the sentence at the maximum level under Irish law where the Minister makes a request to do so. The court is, therefore, given a discretion to agree to a ministerial application to reduce the sentence in those circumstances. However, Senator Tuffy seeks to impose a duty on the court to reduce the sentence in those circumstances. That would not be a desirable state of affairs because the Judiciary has to be independent in the implementation of this legislation. The Minister cannot make a final decision on the issue of whether a sentence should be reduced to correspond with the relevant sentence in Irish law.

The 1983 Council of Europe convention on the transfer of sentenced persons is relevant. Under this convention, the administering state has two ways to enforce the sentence imposed by the sentencing state. It may continue to enforce the sentences imposed, in which case it is bound, subject to technical modifications, by the nature and duration of the sentences determined by the original sentencing state, or it can adopt the sentence prescribed by its own law for the same

or a similar offence. Ireland chose the continued enforcement principle when it ratified the 1983 convention. This requires that the sentence to be served should be the same in its duration as the one imposed. This can apply even where the sentence imposed exceeds the maximum duration for a similar offence under Irish law.

Accepting the Senator's amendment would put the provisions of this Bill out of alignment with those that apply under the 1995 Act as amended. This Act was amended in 1997 to facilitate the transfer into the State of persons who had been sentenced to periods of imprisonment greater than the maximum penalties allowed under Irish law for similar offences. Under the 1997 Act, notwithstanding Ireland's declaration at the time of ratification, the Minister may request the court to adapt the foreign service. He will do so generally where the foreign state agrees. That is one of the reasons there is ministerial intervention in this type of application. The 1997 Act, therefore, ensured that transfers could take place with states which insist that there can be no question of a sentence imposed in the sentencing state being reduced.

At the same time, it allowed a mechanism for the adaptation for the duration of sentences where the states in question have no objection to this procedure. Similar considerations arise regarding the enforcement of sentences under this Bill. If the amendment was accepted, states which insist that there can be no question of the imposed sentence in the sentencing state being reduced would simply look for the extradition of the person concerned rather than have the sentence transferred. The person in question would lose out as he or she would have to serve the sentence in the foreign sentencing country rather than in Ireland of the welcomes.

Ms Tuffy: It seems to me that an Irish prisoner who served an entire sentence could still serve a shorter maximum time to someone who began a sentence in a foreign country. What if the person began that sentence in a country where the regime was very different from our own? There could be two categories of prisoner because one prisoner began a sentence elsewhere and had to serve a longer, more unjust sentence.

Mr. B. Lenihan: The reference to regimes disturbs me. We are dealing with states in the Council of Europe where there has to be a basic guarantee of fundamental rights and freedoms. We do not propose to accept a transfer of responsibility for sentences imposed in other states which we will not mention here. We will only deal with reputable states and any international arrangement is part of what is loosely termed the committee of nations. We have to respect their cultural views on sentencing just as we expect them to respect our views. If a burglary in Warsaw attracts a higher penalty than a burglary in Dublin, so be it. Ireland co-operates with Poland to the extent that if someone flees

from Poland to Ireland, we will accept the transfer of responsibility for the sentence. The person will receive the sentence that would have been handed down in Poland.

As a matter of abstract justice, that may sound strange. On the other hand, we are upholding the respect for the courts in these countries. Otherwise, these countries might not be interested in our transferred enforcement procedures and might prefer to seek extradition. The whole rationale of this legislation is to minimise extradition applications.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendment Nos. 25 and 26 are to be taken together by agreement.

Ms Terry: I move amendment No. 25:

In page 10, subsection (3)(a), line 6, after “State” to insert “at that time”.

This subsection deals with how we treat persons who have been sentenced to terms greater than the maximum term under Irish law. I suggest that the words “at that time” are inserted to ensure that the sentence at the time of conviction and not at the time the person is caught is applicable. The Bill is ambiguous in this regard and I propose this in the interest of certainty and fairness.

Mr. B. Lenihan: I agree with the Senator that the provisions are very complex. My instinct is to oppose the amendment because it appears to deal with issues concerning how and when correspondence of offences should be determined. Section 3 of the Bill has already dealt with that matter. In any event, the convention provides that the original sentence cannot be aggravated by increasing the sentence that was imposed, even where the sentence available in Ireland for the same offence is higher. I will draw the matter to the attention of the Minister and have it examined before Report Stage.

Amendment, by leave, withdrawn.

Amendment No. 26 not moved.

Ms Tuffy: I move amendment No. 27:

In page 10, subsection (4)(a), lines 24 and 25, to delete “, if the High Court so directs,”

The provision as it stands allows the court a discretion not to apply a less favourable penalty to someone sentenced in another jurisdiction. This amendment deletes the qualification “if the High Court so directs” because, for example, if the penalty involved hard labour the court should not have any discretion. It should be clear-cut that a penalty like that could not apply here. There should not be any qualification in the legislation to allow the High Court any discretion in that respect.

Mr. B. Lenihan: Let us assume the unlikely argument that a state in the Council of Europe exists that has the penalty of hard labour during detention. The amendment proposed by the Senator states that the High Court should have no element of discretion in deleting that condition from the sentence. However, the High Court has to have discretion because that is its character. We cannot tell the High Court what to do. The amendment seeks to remove the discretion of the High Court and it states that no provision that is less favourable should apply here. I can see why the Senator might view that as reasonable. The issue remains that some person must decide what aspects of the sentence are less favourable.

If the court is not empowered to determine this matter, it may mean that it becomes a function of the Minister. Any decision of the Minister in this area would be open to judicial review and matters relating to the imposition, as distinct from the administration, of sentences are in the power of the courts. It would seem preferable, on the analogy of our domestic arrangements, to leave those arrangements intact. For those reasons, I do not accept the amendment.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendments Nos. 28 and 29 are related and may be discussed together, by agreement.

Ms Tuffy: I move amendment No. 28:

In page 10, subsection (6)(a), line 34, to delete “*paragraph (b)*” and substitute “*paragraphs (b) and (c)*”.

Amendment No. 29 seeks to insert a subsection (6)(c), which includes three different points regarding the calculation of a sentence. It is pretty self-explanatory. Paragraph (c)(iii) provides that where a sentenced person is remanded in custody pending the making of an order under section 9, he or she shall be entitled to credit for time spent on such remand for the purposes of calculating the sentence. This would seem to be reasonable and surely should be provided for in the legislation. The same applies to paragraph (c)(ii).

These amendments are to allow for things that will have happened and for these to be taken into account when providing for the remainder of the sentence to be served.

Mr. B. Lenihan: I recognise the intentment of the amendment, which seems to be designed to give the person in detention the benefit of both our own system and that of the original sentencing state. However, I am not certain the implications have been fully worked out in the amendments. For example, paragraph (c)(ii), as proposed in amendment No. 29, provides: “For the purposes of such rules or practice, remission of a sentence which has been partly served in the

[Mr. B. Lenihan.]
sentencing country shall be calculated on the basis of the total duration of the sentence served by the person concerned rather than that portion of it which is served in the State." This could mean a person who has served part of the sentence abroad in a country with a higher remission rate than applies here would lose some of the remission gained abroad. I do not propose to accept the amendment but will inform the Minister of the Senator's concerns. I am prepared to revisit the issue of the relationship between remission and the operation of the legislation on Report Stage.

Amendment, by leave, withdrawn.

Amendment No. 29 not moved.

Section 9 agreed to.

Sections 10 to 13, inclusive, agreed to.

NEW SCHEDULES.

Amendments Nos. 30 and 31 not moved.

Title agreed to.

Bill reported without amendment.

An Ceann Comhairle: When is it proposed to take Report Stage?

Ms O'Rourke: Next Wednesday.

Report Stage ordered for Wednesday, 5 May 2004.

Sitting suspended at 12.55 p.m. and resumed at 2.30 p.m.

Road Safety: Statements.

An Cathaoirleach: I welcome the Minister for Transport, Deputy Seamus Brennan. The Opposition is anxious you attend here often. Maybe if you did, you might be able to recognise the Cathaoirleach when acknowledging public representatives at functions in the mid-west. It was demeaning to this high office and disappointing, especially when you started off your parliamentary career in this House in 1977 when you were appointed by the then Taoiseach, the late Jack Lynch. It was also the first year I was elected to this House.

Minister for Transport (Mr. S. Brennan): I offer you my sincere apologies. I overlooked doing the correct thing when I met you last time.

Today's debate gives me the opportunity to update the House on the developments in road safety policy. Over the past six years, there has been a distinct improvement in our road safety performance. Indeed, over the past 18 months, improvement has been dramatic. However, the

need for constant vigilance and attention has been clearly shown since the beginning of the year. As of last Monday, 30 more people have died as a result of road collisions than was the case over the same period last year.

The collective goal of all those involved in the promotion and delivery of road safety policies is to ensure that the improvements achieved over the past six years are sustained and built on. The realisation of that goal is central to the new road safety strategy which will be published shortly. The strategy will cover the period 2004-06 and will focus on reducing road deaths to a level of not greater than 300 by 2006. That achievement will realise a reduction of 25% when compared to the average number of annual road deaths over the past six years.

The strategy will build on the success of its predecessor, the results of a review of that strategy carried out by an international expert in road safety and the further improvements realised in 2003. Achieving a reduction of 25% is an ambitious target. The degree of that ambition can be judged against the background of the overall EU target of realising a 50% reduction in road deaths over a ten year period and the target set in the United States, which provides for a reduction of approximately one third in fatalities per vehicle kilometre travelled over an eight year period.

In setting our goals for the period up to the end of 2006, we are supported by the knowledge that the strategic approach we have adopted has been shown to deliver the greatest benefits in the long term. The most successful countries in the European Union in delivering reductions in road casualty numbers on a sustained basis over long periods are those countries that have adopted this overall approach. In adopting our road safety strategy, we learned from the experience of states like the Netherlands, Sweden and the United Kingdom which are the leading states in the European Union in terms of road safety performance. We have also adopted an approach that has seen the engagement of all the organisations that contribute to the various elements of road safety policy in the identification and pursuit of the policies through which the overall targets can be achieved.

The primary target of a 20% reduction in deaths and serious injuries was achieved in the case of deaths and surpassed in the case of serious injuries. However, progress in particular key areas was mixed. We did not achieve the level of improvements targeted in the area of drink driving and speed limit compliance. Progress was made on seat belt wearing rates but even there, there is significant room for improvement.

One area where we made significant progress was in regard to the target to introduce specific accident reduction measures at 400 locations on the national road network. This was surpassed with 418 schemes completed by the end of 2002. In addition, good progress has been made in the implementation of the overall national roads

upgrade programme provided for in the national development plan. To date, 37 projects, a total of 256 km, including 76 km. of motorway and 50 km. of dual carriageway standard, have been completed. Work is also underway on 17 projects totalling 148 km, including 120 km. to motorway-dual carriageway standard, and another 17 projects — a total of 160 km. — are at tender stage.

As regards the five major inter-urban routes, the position is that at the end of 2003, almost 30% of these routes had been upgraded to motorway-dual carriageway standard with work underway on approximately another 12%. This is ensuring that priority is given to addressing the need for urban by-passes and dealing with traffic congestion.

The recommendations of the Motor Insurance Advisory Board report are being pursued by the Government and we are now seeing significant reductions in insurance premiums. In addition to road safety measures, I have taken steps to improve the insurance position of motorists and other road users. I have concluded a revised agreement with the Motor Insurers Bureau of Ireland, the EU 4th insurance directive has been transposed into Irish law and I have promoted a beneficial dialogue with the insurance industry.

One of the most significant elements of the last road safety strategy was the development of a system of penalty points. There have been delays in regard to the development of the necessary IT network to support the full roll-out of this system. This is regretted and for this reason, I decided in October 2002 to apply the system to speeding offences. I have since added seat belt wearing offences and driving without insurance. So far, over 144,000 penalty point notices have issued. It is proposed to roll-out the full system of penalty points when the necessary IT systems are in place. A range of road safety offences will be subject to penalty points which should have a positive impact on driver behaviour. The consequences of losing one's driving licence exercises the minds of most road users who are changing their behaviour and will continue to do so. As the Taoiseach recently commented, "a licence is a privilege, not a right". I will add the offence of careless driving to the system with effect from 1 June and I am advised by my colleague, the Minister for Justice, Equality and Law Reform, that the IT support for the full operation of the system should be available by the end of the year.

Much attention has been paid to the number of road deaths experienced in the first quarter of this year. All road deaths are tragic and avoidable but the current position needs to be put in context. We have seen unprecedented growth in recent years in the number of vehicles and drivers on our roads. With this in mind, the reductions which have been experienced in the past six years are welcome. Indeed, 100 fewer people have lost their lives on the roads during the 17 month period since the introduction of penalty points

compared to the preceding 17 months. That is 100 families which have not faced that trauma.

The forthcoming road safety strategy which I will publish shortly will set out a number of measures aimed at reducing the number of road deaths even further. Over the period of the new strategy, the following major road safety policy initiatives will be pursued, and some in the coming weeks. Random preliminary breath-testing for drink driving and a new speed limit structure to be expressed in metric values rather than miles per hour will be introduced. I also intend to introduce a network of speed cameras to be operated by the private sector which will be developed shortly. I will introduce a comprehensive package of measures to address issues surrounding driver licensing and testing. I will also roll-out the penalty points system fully.

I am committed to the establishment of a dedicated traffic corps. Further work needs to be done on that in consultation with the Department of Justice, Equality and Law Reform. There are difficult and complex legal issues but I am determined to resolve them. In recognition of the importance of enforcement, the Garda has established commitments to the achievement of specific levels of enforcement across the three key areas of seat belt wearing, speed limits and drink driving.

The strategy can only work through the adoption of an integrated approach along the lines about which I have talked, which targets the key areas of speeding, drink driving and seat belt wearing and which includes measures in the areas of education, engineering, legislation and enforcement. We need all these measures to make a difference. The high level group on road safety will oversee the implementation of the strategy. All the road safety agencies responsible for various measures set out in the strategy are represented on the group. My Department chairs the group and is responsible for developing the legislation set out in that document.

New legislation has been prepared in my Department which will provide support for the deployment of these key initiatives, particularly in the area of speed limits and drink driving, and will further enhance the enforcement capacity of the Garda Síochána. The Bill will feature a number of radical changes that will be focused on these key areas.

A new system of speed limits based on metric values will be introduced before the end of the year. I am taking the opportunity of this new legislation to assure the travelling public that the speed limits applied at specific locations are reasonable and fair and reflect the road safety needs and capacity of the road in question. I have already raised this issue with county and city managers. The new speed limit structure will, as was envisaged in the report of the working group I established to review speed limits, offer a far greater degree of flexibility to local authority members, who will retain primary responsibility

[Mr. S. Brennan.]
for determining the application of speed limits at specific locations.

The gardaí will be empowered to engage in what is colloquially termed random breath testing. This is a radical and fundamental initiative which will greatly strengthen the enforcement capacity of the gardaí and is one of a number of initiatives to be included in the legislation which was approved by Cabinet in the past few days.

The introduction of speed cameras is not a money making business. The operational parameters for the provision of this service will be clearly established and decisions on the deployment of enforcement assets will remain within the gift of the gardaí. This is a significant initiative in that the introduction of a new source of speed enforcement capability will provide greater freedom for the gardaí and will free them to focus on other duties, including other areas of traffic law. The Bill will see the removal from the Garda of direct involvement in much of the day to day administrative work associated with the operation of the penalty points and fixed charge systems.

The early publication and passage of the Bill is essential if the delivery of the programme established in the new road safety strategy is to be delivered as quickly as possible. The passage of the Bill will be particularly critical to the achievement of the ambitious enforcement targets that have been set in the new strategy. Implementation of the new Bill will see a better use of Garda resources resulting from the privatisation of speed cameras and the outsourcing of the collection of payments, both of which measures are included in the forthcoming legislation. I look forward to the support of Senators for the provisions of the Road Traffic Bill 2003, which I hope to bring to the Houses before the summer recess.

Work is also at an advanced stage on the preparation of legislation for the new driver testing and standards agency. I expect to be in a position to publish the Bill without delay. The authority will be given responsibility for delivering the driver testing service and will have greater flexibility to respond to variations in demand. In addition, the authority will have overall responsibility for driving standards. The new authority will, for the first time, be responsible for the registration of all driving instructors. That a new authority will be responsible under legislation for increasing driving standards and for registering and maintaining the standard of driving instructors will give a substantial boost to driving standards.

The programme for Government contains a commitment to the establishment of a dedicated traffic corps. I support the implementation of this proposal. A consultation process has made good progress and the Minister for Justice, Equality and Law Reform and I are fully determined that

the traffic corps will come into being, although issues in that regard remain to be resolved.

I note with interest recent media coverage regarding the recruitment in the UK of highway agency officers who are civilians and have been given limited powers in traffic management and highway patrol duties. We will monitor progress with regard to the usefulness of that proposal to see whether we can learn something from it.

I have decided to take over chairmanship of the working group on the establishment of a traffic corps. The Minister for Justice, Equality and Law Reform will also chair sessions of the group. We hope to bring our commitment to this measure to a conclusion as soon as possible.

I thank you, a Chathaoirleach, and Senators for scheduling this timely debate on road safety, a matter for which we all have a responsibility. One death on the road is one too many. With this package of measures I am trying to show the public that the Government and the Houses of the Oireachtas are serious about road safety. We are serious about putting legislation and enforcement procedures in place to enable us to reduce the number of road accidents. I thank the Seanad for giving me the opportunity to lay my proposals before it and I look forward to hearing Senators' views on the proposals.

Mr. Browne: I welcome the Minister. As an Opposition Senator I should be happy to be able to prove the Minister and the Government wrong. However, I take no pleasure in saying that the penalty points system is no longer as effective as it was initially. Thirty more lives have been lost in road accidents since the penalty points system was introduced and 30 more families have been devastated.

When the Minister addressed the House last year he said, "I would like to be here this time next year to say that the second six months were as good as the first six". Unfortunately, that is not the case. The Minister was warned of this danger by the National Safety Council. In a press release last September, while expressing satisfaction that the number of road deaths had decreased, Mr. Pat Costello of the council said, "It will be a struggle to sustain the road safety gains made in recent years and months. This is because the Department of Finance does not appear to have a public expenditure allocation process to support investment in road safety." Unfortunately, Mr. Costello has been proved right in that regard.

Deputy Enda Kenny issued a document at the beginning of this year in which he highlighted the fact that the cost of carnage on our roads, apart from the huge emotional trauma, is in the region of €500 million per year. This cost must be reduced.

The Joint Committee on Transport recently heard submissions from the Garda Síochána, the National Safety Council and the Departments of Justice, Equality and Law Reform and Transport. Every member of the committee, from all political parties, made the point that the

Department of Finance does not understand that the more money the Government spends on road safety, the greater the economic return. The Department of Finance appears to view road safety as being just like any other project. We must persuade the Department to alter that opinion because car crashes have a devastating effect, emotionally and economically. I wish the Minister for Transport well in his daily rows with the Department of Finance in this regard.

The Minister for Transport is not totally to blame for the difficulties we face in this area. The problem is wider than that. People now spend many hours every day travelling by road. Road traffic has grown by 73% since 1980 and nearly one quarter of all households have two or more cars. That 55% of people travel to work in their own cars is a symptom of a poor public transport service. House prices are so unaffordable that Dubliners are forced to move to Carlow, Cavan or Athlone and to spend hours travelling to and from work. The *Irish Independent* published a series of articles recently entitled "Generation Exodus". One of the articles stated that 34% of the working population take less than 30 minutes to travel to work every day; 39%, approximately 113,000 people, take between 30 and 60 minutes; 17% take between 60 and 90 minutes; 7% take more than two hours; and 3%, approximately 9,000 people, spend more than three hours travelling to work every day. The national spatial strategy has failed to deliver in this area and we are forcing people to live long distances from their place of work.

People are bundling their children into cars at 6 a.m., sometimes still in their night attire, to bring them to their grandparents' in Dublin, who get the children ready for school. While the parents work, the grandparents collect the children from school before the parents return to the grandparents' house at 5 p.m., and off the children go again. It is an horrific and unsustainable lifestyle. The Minister must use his influence at Cabinet to promote proper planning.

The Minister's speech was disappointing and contained nothing new. While he referred to the driver testing and standards agency Bill, this is no more than a plan. The Minister hopes to have the Bill complete by the end of this Oireachtas term whereas it was promised that it would take effect months ago. I am glad the Minister has taken on board the Fine Gael proposal on regulating driver testing agencies. The previous situation was daft and partly explains the huge variations in pass rate figures around the country. Athlone had the lowest first-time application passes at 43.5% while Shannon had a pass rate of 68%. Counties Cavan and Carlow did poorly despite County Carlow natives being, generally speaking, the cleverest in the country. Something is wrong with this.

Mr. Dooley: The people of County Carlow did not elect the Senator to the Dáil.

Mr. Browne: They occasionally make mistakes. I previously raised with the Minister the issue of motorcycles. I was appalled to learn from him that 70% of motorcyclists do not hold a full licence and that a similar proportion have not taken a test or received a single day's training. To quote the Minister: "They simply buy a bike, obtain a provisional licence and off they go". The Minister pointed out that pillion passengers account for a significant proportion of fatalities in motorcycle accidents despite it being illegal for provisional licence holders to carry a pillion passenger. The Minister also stated he was considering the current age limit of 16 years for motorcyclists but I have heard nothing since then. Has the Minister any news on this?

The privatisation of speed cameras would be dangerous. I was amazed to learn that the British Labour Party has made a major U-turn in regard to speed cameras. Last year, in England alone, speed cameras brought in approximately £17 million. The minister responsible for transport, Mr. Tony McNulty MP, wrote to all councils and local police forces to ensure that cameras were used fairly, and an audit of all cameras is underway to ascertain which cameras reduce accidents, the benchmark by which success is measured. Surely the cameras which bring in most revenue are failing miserably. All speed cameras in Ireland should be audited to find whether accidents have reduced in particular areas and to quantify that reduction.

Motorists resent receiving anonymous speeding fines. It is hard to stomach a punishment when caught travelling at 61 miles per hour in a 60 miles per hour zone. The situation would be improved by having gardaí present to enforce the speed limit laws. While it is hard to accept a fine at the time, gardaí can at least allow some latitude if a driver is narrowly over a speed limit. On the other hand, cameras lead to public resentment. The Minister should consider the British experience and ensure we do not simply follow the example of that country, as we normally do, but learn from its mistakes. I reiterate that a complete U-turn has been taken in Britain, which now accepts that speed cameras are to change driver behaviour, not to produce revenue.

I am not sure what the Minister was like in school but feel he might have been weak in the area of science. One scientific principle which stands out is Newton's law that for every action there is an equal but opposite reaction.

Mr. S. Brennan: Newton's law was recently dropped.

Mr. Browne: Is that so? Nonetheless, the case in point is that of the provisional driving licence. While the Minister made the correct decision to clamp down on provisional drivers, nothing has happened since and chaos has resulted. On 7 May last year, the Minister admitted there were almost 300,000 provisional licence holders and, if those

[Mr. Browne.] holding fourth provisional licences were included, the figure was even higher.

The system cannot cope with such numbers. In County Carlow there is now a waiting time of almost 13 months, which has a devastating effect on younger drivers who in total pay an extra €15 million in insurance. The Minister spoke of a significant reduction in insurance premia but this has not happened. It is a matter of urgency because, while drivers are waiting to be tested they are being loaded by the insurance companies.

A recent newspaper report highlighted the issue of driver fatigue, which is obviously a knock-on effect of urban sprawl and the necessity for drivers to travel for many hours. The report stated that 20% of all fatal crashes were due to driver fatigue. Has the Minister plans to introduce systems to prevent this? All drivers get tired. Despite opening car windows or turning up the music volume, it has been proven that such measures have no effect and also that one can fall asleep with one's eyes open. To lose consciousness for a short period while driving could be devastating.

Mr. Dooley: Would the Senator still talk while asleep?

Mr. Browne: Males are the most vulnerable drivers, particularly those aged 18 to 30 years because we all think ourselves invulnerable at that age, which we are not.

Mr. Bradford: Deputy Hogan never fell asleep with his eyes open.

Mr. Browne: Maybe not, but it has happened, as the Senator would know if he studied the relevant documents.

An Cathaoirleach: The Senator should be allowed to speak without interruption.

Mr. Browne: Systems can be introduced to prevent this. For example, cars might be modified to make beeping noises if eye movement, as an indicator of fatigue, was detected. Perhaps the Minister, in his EU Presidency role as head of the European Council of Transport Ministers, could consider this area.

A fascinating recent American television programme, "Eye on America", showed that television monitors are now being inserted in cars there; one person interviewed on the programme had 17 monitors in his car. The monitors are usually inserted in the back of head rests and are now being blamed for causing numerous car crashes. Unfortunately, what happens in America today will soon happen here. I understand some companies are already advertising car television screens, which would be located primarily in back seats for children on long journeys. Is the Minister aware of this and has he plans to

legislate for it before it becomes a serious problem?

There has been no advance in regard to drug testing. While we complain about drink driving, the fact that much of our population takes drugs is ignored. On his last visit to the House, the Minister indicated I had a valid point regarding this crucial area. However, he should clarify whether he plans to bring forward measures to deal with it. The Minister should put the onus on the National Safety Council to place advertisements to remind drivers that drugs affect their ability to drive.

The city of Melbourne in Australia halved its level of road deaths in a three year period. However, the level of road deaths in Ireland has reduced by just 20% and we should not congratulate ourselves too much on our achievements. The Government should impress on the National Safety Council the need to alter its current publicity strategy of spending significant resources on television advertisements. These have limited impact as we see similar scenes so often on television that we become immune. A high proportion of car crashes occur on certain nights and at certain times, with Sunday night to Monday morning being a particularly bad period, as is the 9 p.m. to 3 a.m. period on other nights. There should be constant radio advertisements between these key hours to remind people to slow down, put on their seat belts and, if they have been drinking, not to drive. Unfortunately, while television advertisements are helpful in some respects, they do not have the same impact when one is sitting at home. It would be more effective in reducing road deaths if one heard a reminder while driving one's car.

Mr. Dooley: I join with Senator Browne in welcoming the Minister. He has been here on many occasions over the past year, including relatively recently to discuss the Government's attitude to road safety. I welcome his coming here today with news of two forthcoming Bills, which will be of immense benefit in the Government's stance in continuing to take a strategic approach to road safety and working towards the reduction of road accidents.

There has been a considerable amount of comment in recent weeks about road safety. Some critical comments have been made in the media and among the Opposition on the concept of penalty points. There appears to be a suggestion from some quarters that penalty points are not working. The introduction of the penalty points system was a significant measure by the Government in addressing the whole issue of road safety. At no time were penalty points put forward as the only element of the Government's strategy in terms of reducing the number of deaths or serious accidents on the roads. Some people tend to overreact and panic because of what has happened in recent months. There has

been a distortion to some extent by virtue of the fact that a large number of people were fatally injured in some accidents, which is a distorting factor. This distortion should not be allowed to affect our view on penalty points. We must recognise the system has the capacity to reduce the number of people killed or seriously injured on our roads.

We would like the Government to continue its strategic approach to road safety. The Road Traffic Bill and the driver testing and standards agency Bill will do this, together with the publication of the Government's strategy. The penalty points system has worked. The response was probably much better in the first months when there was a dramatic increase in the number of lives saved. Ultimately, when there is a greater basis on which to do the comparisons, it will become clear that they will continue to work well into the future.

Concerns have been raised in recent weeks about enforcement, which needs to be considered. The Road Traffic Bill will address this issue, particularly the freeing up of Garda time in respect of the outsourcing of the collection of fines and other elements in the legislation such as the capacity to monitor speed. There has been some criticism of the gardaí in the media and other areas, which is unfair. The gardaí, by and large, are trying to bring about a change in culture. It is not fair to say that just because one is caught exceeding slightly the speed limit in what is considered to be a relatively safe area indicates that the gardaí are taking the soft approach. The monitoring of speed has more to do with bringing about a culture of safety on the roads which ensures that people are mindful of their responsibilities in regard to their safety and that of others. Regardless of where the monitoring or enforcement is carried out, it will seek to bring about this culture.

There is an issue in regard to speed limits. The Minister referred to changes in this area and he made some announcements in the past. There are problems in respect of sections of road where the surface, width and quality of the road is of such a high standard that there is no need to have the lower speed limits enforced. This is a matter which needs further attention. There is also an issue regarding entering and leaving populated areas. While usually the road markings are the same entering and leaving these areas, the point where the limit kicks in and out are the same. This needs to be examined because when one is leaving a built up area there is no reason to keep within a 30 mile limit. This is more important on the way in.

Reducing the number of road deaths has a knock-on effect on the health system and the accident and emergency units of our hospitals. Many people think that all we are doing is saving lives on the roads. However, reducing the number of fatal road accidents also results in reducing the

number of non-fatal road accidents, which has a huge knock-on effect on our accident and emergency rooms. There have been debates in this House on accident and emergency facilities. We all recognise that many of them are overburdened to a large degree and anything that can be done in that regard will be of great benefit.

There is an ongoing battle to identify the cause of accidents, many of which Senator Browne has identified. An argument could probably be made to establish an accident investigation unit. Trying to understand why accidents occur will obviously lead to a better approach to the development of the strategy to prevent accidents. There are a number of well aired issues in terms of the causes of accidents. It would be worth setting up an accident investigation unit which would put the same effort into the investigation of road traffic accidents as is put into light aircraft accidents. If a light aircraft is involved in an accident, a plethora of individuals will visit the scene and carry out detailed investigations. I am not trying to demean air accidents but in many instances just one or two people are killed as a result, whereas many road accidents result in multiples of that number being killed.

Some people suggest that the penalty points system did not have an effect on drink driving. I do not think this was ever expected to be the case. People found to be drunk while in charge of a vehicle always faced immediate disqualification from driving, therefore the penalty points system was not about dealing with drunk driving. The measure in the forthcoming Bill of random testing will have a greater input into this.

There is probably also a greater role for community policing in targeting some of the young people involved in accidents late at night who are intoxicated or under the influence of drugs. A greater presence of gardaí on the streets of villages and towns on Friday and Saturday night, in particular, may prevent these journeys taking place. Young people who are intoxicated often travel through back roads and side roads throughout the length and breadth of the country, which sometimes leads to very serious accidents. The traffic corps, which will be a welcome development, would have to be on a very large scale to monitor the many back roads and by-roads throughout the country. It would probably be better served by focusing its attention in the villages and towns. One of the benefits would be dealing with the regular disturbances that occur in many of these areas over the weekends, which would have a knock-on effect in preventing some accidents. The speed of vehicles on poorer roads cannot be monitored effectively by the police because it is never possible to cover them all. Has any consideration been given to the introduction of tachographs, similar to those used in commercial vehicles? It has implications in the context of the EU and is an issue which the Minister may have considered as President of the

[Mr. Dooley.]

Council of Ministers but it may be worth investigating further. Many different gadgets are available and Senator Browne referred to some of the technology. The tachograph is technology which is already used on trucks and provides for the ongoing monitoring of drivers' behaviour. The use of tachographs could lead to significant developments in respect of monitoring other drivers' behaviour.

The Minister has also referred to the wearing of seat belts on many occasions, which has great capacity for saving lives as is borne out by research. Senator Browne referred to the issue of fatigue and we were shocked to hear that up to 20% of fatal accidents are caused by driver fatigue. I am not so sure that the technology to which Senator Browne referred is the way forward. Due to the changing nature and development of our road infrastructure, something will have to be done in respect of the design and build of these roads to include road stops and rest areas, which have not been a feature to date from my vantage point.

These features may only come into play now as we see the completion of the stretch of M1 motorway and the other routes detailed as inter-urban priorities, particularly the Dublin to Portlaoise, Dublin to Cork and Dublin to Limerick routes. All of these are particularly long stretches of road and certain considerations must be taken into account in that context. Many of us who travel these roads late at night on an ongoing basis realise that in many cases there are no safe structured areas for drivers to stop and park or get access to facilities which would help in terms of fatigue.

Another area which requires ongoing consideration in the context of the deliberations on the road strategy is the approach to young male drivers whom, based on some of the statistics, are a major cause of carnage on our roads. We will have to take a dramatic and serious approach to this and there may be a justification for setting limits on the size of engines certain groups of people are permitted to drive and modifying the engines of cars used by people under a certain age or with certain categories of licences. We have all seen the horrific crashes, particularly in County Clare and along the west coast, in which young drivers were involved, some of whom had full licences but were still only 22 or 23 years of age and had not yet built up the capacity or responsible nature to use the road as it should have been used. We must go beyond the standard approach and look to modifying the engines of cars that such people are permitted to drive.

The Minister's work is welcome and I want him to continue in this vein. His approach in terms of the strategic nature of responding to road safety is the correct way forward. It would not be responsible to react based on certain trends or

accidents that take place, despite calls for that in many instances. I welcome the forthcoming publication of the strategy and the measures which the Minister has outlined give us an idea of what he and his Department are thinking in this regard. When the strategy is published, it will provide a blueprint for the future. The legislation will be most welcome and I understand the Minister is endeavouring to have it published before the summer. I am sure the House will assist him to that end and pass the Bill as quickly as possible.

Mr. Bradford: I welcome the Minister to the House. If the Fianna Fáil election slogan "A lot done — more to do" applies to any Department or Minister, he will concede it applies to his own. A significant amount of work has been done and is in the preparatory stage but we have a long way to go until we have satisfactory statistics regarding road safety and deaths on our roads. Three or four weeks ago on a Monday night, I unfortunately attended the funerals of two people killed in separate accidents in my constituency. One was a middle aged man and the other was a young person. It struck me once again that we have not made sufficient progress in our battle against speed and road danger problems. In so far as the Minister has plans for the future, I want him to expedite them and bring about the necessary changes. The subject of road safety and driver testing is one which requires an ongoing debate.

No one can suggest that the penalty point system will not be a help in the long term. However, it has a distance to travel, if Senators will excuse the pun. I understand the Minister intends to introduce some of the other elements to the system and presumably they will be rolled out in the coming months. The complaints about the system which public representatives hear most frequently at present are made by people penalised for travelling at 31 mph in a 30 mph limit area or at 41 mph, 42 mph or 43 mph in a 40 mph limit area, often on the edge of a built up area. The imposition of points on such people who are marginally in excess of the limit is doing nothing to build a relationship between the Garda and citizens. Someone travelling at 31 mph, 32 mph or 33 mph, within 2% or 3% of the limit, is no greater a threat on the road than someone travelling at 30 mph. I suggest that a sizeable fine should apply to a person travelling within 3 mph or 4 mph in excess of the speed limit but that the penalty points would not be imposed in such circumstances.

We are told there is some degree of discretion — up to 5%. In other words, if a person is travelling at 33 mph or 34 mph in a 30 mph limit area or at 41 mph, 42 mph or 43 mph in a 40 mph limit area, the system may not trip in. I suggest that in those cases, people would pay a significant financial penalty but that the penalty points

would not be applied, which would help achieve respect for the law. If one accepts the fact that the first 2 mph or 3 mph over the limit will result in a financial penalty rather than penalty points added to one's licence, it would ensure that one would not travel in excess of 2 mph or 3 mph over the limit. It would help resolve the bitterness which is creeping in. We have all met people who are very angry at having penalty points imposed for travelling at 31 mph, when they see people travelling on country roads at 60 mph, 70 mph and 80 mph, with no chance of penalty points being imposed on them.

I understand the Minister has proposals to examine the speed limit system, the main element of which is simply the metrification of it. When we examine the speed limits, which have been devolved to local authorities, we will have to take a serious look at the speed limits which do not apply on county roads. It is ironic that one can travel at the same legal speed limit on a county road — often a windy, twisty, badly surfaced county road — as one can on most of the Cork to Dublin road. It makes no common sense whatsoever and provides numerous opportunities for danger and disaster on the county roads, in particular where people are driving lorries and large vans and seem to have no respect for the fact that they are travelling on narrow dangerous roads. We must consider changing the speed limits on minor county roads. I appreciate that in theory one may be charged with the offence of dangerous driving on these roads. However, is it correct that one may legally travel at the same speed on the country road outside my house in a rural parish as on the Cork-Dublin road? That must be examined.

I support the point made by Senator Dooley to consider applying a maximum engine size to cars driven by young drivers and those with a provisional licence. Not every young driver or provisional licence holder is a dangerous or less safe driver than those driving for ten or 15 years but we have to address the issue in general terms. A provisional licence holder may drive a 2.5 litre turbo charged car on the highways and byways, and I do not think that is correct. We have to consider limiting inexperienced drivers to certain engine sizes. While it may not be appreciated, it might be the right course of action in the long run.

The National Roads Authority is establishing three or four pilot projects using a wire rope to divide a road into two carriageways. It is proposed to divide a ten to 12 mile stretch of the Cork to Mallow road with a wire rope. A company that supplies barrier as opposed to wire rope divisions provided figures on the cost variation between dividing a road with wire rope or the full protection barrier system. The wire rope system proposed by the National Roads Authority will cost 90% of the full barrier division protection system. I was also advised that

the wire rope system should cost only 30% of the full barrier division system. I was told the National Roads Authority was being ripped off. Will the Minister check this? If the full barrier division system can be laid for an additional 10% of the cost of the wire rope system, this should be examined to get value for money.

I have raised the issue of road signage many times in both Houses and was assured the issue would be examined. We continue to use similar road signs to those of 40 to 50 years ago. People totally ignore these signs and fly through Stop and Yield signs as if they did not exist. There should be more marking on the road in addition to road signs. Will the Minister consider modern, hard hitting, dramatic and eye catching road signs?

My colleague, Deputy Kehoe, in answer to a question on the number of telephone calls to the traffic watch scheme that resulted in prosecutions, was informed that during the operation of a pilot scheme in the south eastern region from November 2001, of the 3,800 calls received, 1,000 drivers were formally cautioned, but only 30 prosecutions resulted, less than 1% of the cases. If we wish to encourage people to report dangerous driving, we will have to be more proactive. That only 30 prosecutions resulted from 3,800 calls shows the system is not working.

Mr. Wilson: I join with other Members in welcoming the Minister for Transport and his officials. Since the National Roads Authority announced its road programme this is the first opportunity I have to thank the Minister publicly for using his good offices to ensure phase two of the Cavan by-pass will go ahead this year.

Mr. Bradford: The Minister has no responsibility for that, it is an operational matter.

Mr. Wilson: With the allocation of €5.5 million by the National Roads Authority, phase two of the Cavan by-pass will commence on or before 11 June this year. I thank the Minister for that.

Whereas the penalty points system has been a great success, I have some concerns about it. It would be a mistake to include too many offences in the penalty points schemes as I think it should focus on speeding offences. If we broaden it too much, it may not achieve what it set out to do. It should concentrate on speeding offences, wearing of safety belts and lights.

It is not appropriate to extend the penalty points system to deal with those driving without insurance. If somebody is caught driving without insurance, he or she should be put off the road for up to two years. Somebody willing to drive without insurance is endangering the lives of others.

A person convicted of careless or dangerous driving should not incur penalty points but be banned from driving for a period.

[Mr. Wilson.]

I agree with the points made by Senator Browne on those driving while under the influence of drugs. As well as random testing for drink-driving, there should be random testing to see if a person is driving under the influence of drugs and this provision should be included.

The fact that 144,000 drivers have received penalty points shows the system is working. However, how many have incurred penalty points when driving in areas with 30 or 40 mile speed limits? Somebody who is convicted of driving at 33 or 34 miles per hour in a 30 mile zone should not incur penalty points but should be fined heavily. We should concentrate on speed checks on the main roads. The introduction of the penalty points system 17 months ago has resulted in saving 100 lives, which is to be welcomed.

The Minister together with his colleague, the Minister for Justice, Equality and Law Reform, will work to speed up — pardon the pun — the introduction of a dedicated traffic corps. The introduction of speed cameras throughout the country is welcome, but will the operation of the privatised speed cameras be based on commission? If so, that is a dangerous precedent because, if it is being done on a commission basis, it will be in their interest to issue as many speeding fines as possible. I would like the Minister to clarify that matter.

I agree with what Senator Dooley said about the tacograph system, which operates very successfully in trucks. I see no reason why it should not also be used in cars because it would be a bigger deterrent than any speed check.

The Minister should examine the sale of high-speed cars. What is the logic behind allowing people to purchase cars capable of doing 160 mph when the maximum speed limit is 70 mph? People should not be entitled to buy or sell such cars. It should be made compulsory to fit a device which beeps to alert drivers when they exceed the speed limit. Such devices are fitted as standard in some cars, but not in most vehicles.

I am concerned by the delay between the commission of an alleged offence and the issuance of proceedings. It can take up to three or months before people are notified. While I appreciate there has been a problem in getting the computer system up and running, such notification should be treated as a matter of priority.

In recent court cases in Dublin, five people had alleged offences against them struck out because they claimed they had not received due notification. I can assure the Minister this does happen because I was a victim of such an occurrence. The first I knew about having incurred a speeding summons was when a garda called to my house. I understand that one must be notified by post of such an offence in the first instance, and one is then supposed to submit details to the relevant authority as to who was

driving the car at the time of the offence. I did not get an opportunity to do that. Letters of notification should be sent by registered mail to the alleged offenders.

The penalty point system cannot be viewed in isolation because other Government initiatives have led to safer roads. The low-cost accident reduction schemes, funded by the Government, have been very successful since their introduction some years ago. I am glad they are to be continued.

The signage, lighting and cats' eyes programme, announced by the Minister for the Environment, Heritage and Local Government, has also played a major role in road safety. As we all know, however, there are not enough road signs. One of the major difficulties facing drivers is whether a 30 mph or 40 mph limit applies when entering urban areas. In many cases, there are no signs to indicate the speed limit, and if there are any signs they are often too small to be noticeable. Speed limits should be painted on main roads into towns, instead of only having roadside signs which are hard to see.

I am aware that the Minister is considering the metrification of speed limit signs but he should provide additional warning signs in Border counties, stating clearly that they refer to kilometres and not miles per hour. The Minister should speed up consultation with the authorities in Northern Ireland so that drivers from that jurisdiction can be included in the penalty points system. It is a disgrace that while cars registered in the Republic do their best to obey the speed limits, they can be overtaken by Northern-registered cars whose drivers do not bother to pay the ensuing fines. The sooner the penalty points scheme is extended to include drivers from Northern Ireland, the better for road safety. I urge the Minister to take up this matter with his counterparts in the North. I also intend to raise this question with my colleague, Deputy Brendan Smith, who is chairman of the British-Irish Interparliamentary Body. The BIIPB is an appropriate forum at which to raise the issue.

I congratulate the Minister on all the work his Department is undertaking. He is one of the most hard-working Ministers and the public appreciates that.

Mr. Quinn: I welcome the Minister and, as Senator Wilson said, his heart is in the right place. Not only is he a hard-working Minister but he is also determined to achieve success in this respect. I sought this debate, as did a number of my colleagues. In a report yesterday, the National Safety Council stated: "Tragically, approximately 250 people will set off on a journey between now and the end of the year and never make it home to their families." That is a startling figure but we can do something about it and it has been on my agenda for some time. On 5 February 2003, I moved a Private Members' motion in the House

congratulating the Minister for Transport on the initial success of the penalty points scheme. The first three months that followed the introduction of that scheme showed very impressive results. We were upbeat about it and full of congratulations for the Minister. In those three months, 67 people were killed compared to 112 in the corresponding period the previous year. That 40% reduction in road deaths was a great success. The change could only be described as massive and it followed the Minister's introduction of the penalty points system. Unfortunately, however, as we have seen, the improvement was short-lived. In the first quarter of this year, the death toll came to 96, compared to 74 in the same period last year. By comparison, during the first three months of 2002, in other words, before penalty points were introduced, the figure was 102 deaths. It is clear therefore that after an initial massive drop, the figures have now bounced back to more or less the same murderous level they were at before penalty points were brought in. That is the true picture to which we should be paying attention.

Comparing the overall period of 17 months since the introduction of penalty points with the preceding 17 months is misleading because the overall period masks rather than illustrates the true trend. I am not suggesting that penalty points have failed. At the very beginning they definitely had an effect, but they are no longer having the same deterrent effect. In seeking to find a way forward, we should examine closely why this has happened. The truth is that at the beginning people took seriously the risk of being caught speeding and the possibility of losing their driving licence. For the first time in many years, they formed the impression that the Government was at last becoming serious about tackling speed on our roads. As a result, drivers changed their attitudes and behaviour on the road. This altered behaviour was reflected in accident statistics, producing the happy result we were celebrating this time last year.

A document from the National Safety Council stated that "The primary choice of death and injury is our own behaviour". In fact, the council claims that 96% of all road deaths and injuries arise from the behaviour of drivers. I am involved with an awards scheme run by the National Safety Council. One of last year's awards went to a company called "How's my driving?", owned by Mr. Tom O'Sullivan. Members may have seen the slogan on the back of trucks, which reads "How's my driving?" and provides a telephone number for respondents. One of my colleagues was coming up from the country the other day and saw the slogan for the first time. She was impressed by it because the truck driver in front was pulling in to the hard shoulder to allow cars to pass. She telephoned the number to compliment the truck driver. This is a positive step, because drivers know if they have this sign

on the back of their truck they will get rewards if people telephone to compliment their driving. If they are driving badly, they will be criticised. Those are little things we can do to change our behaviour.

What has happened since last year? People have reassessed the risk of being caught. The penalty points system worked very well at first but as time went on it became clear that the level of enforcement was very low. Some people were caught, and we have heard figures on that today. A few people were caught repeatedly and built up their number of points, but others very rapidly came to the conclusion that despite all the hype, the enforcement animal had not changed his spots. They decided, rightly or wrongly, that the risk of being caught was no higher than it ever had been and they adjusted their behaviour accordingly, as one would expect. It was back to the same old bad habits.

What this shows is that the principle I have often heard from criminologists applies just as much to bad traffic behaviour as it does to any other kind of crime. The principle is that what acts as a deterrent is not the severity of the sentence but the likelihood of getting caught. No matter how severe the sentence, the criminal will still base his behaviour on what he assesses as the risk of being caught. If that risk is high, he is deterred, but if that risk is low or if he thinks it is low, he will try to get away with it. I make no apology for comparing bad road traffic behaviour with that of common crime. It is not just because the consequences are so serious although often they are more often serious than those of ordinary crime. Road traffic misbehaviour is a matter of life and death and the Minister outlined some horrific figures. However, it is becoming clear that the task of changing attitudes and changing behaviour is a far more intractable one than in some other situations.

For instance, over the past few years we have passed legislation which has radically changed people's behaviour on two separate occasions. I refer to the law on plastic bags and the more recent regulations on smoking in the workplace. In both cases we succeeded in changing attitudes, and therefore behaviour, virtually overnight. My business was involved with the plastic bag levy and attitudes changed overnight. While my business does not involve smoking, attitudes on smoking seem to have changed overnight also. In both cases we did this far more smoothly and completely than anyone could have predicted.

I do not know exactly what mechanisms produced success with plastic bags and smoking in the workplace. Perhaps the change was driven in these cases by the basic wish of most people to respect the law. In these cases we can rely on people to enforce the law themselves. This is very fortunate from the Government's point of view, because enforcement in such situations is relatively cheap.

[Mr. Quinn.]

Whatever it was that produced those successes, we must face the fact that when it comes to changing road traffic behaviour, the real issue here, different mechanisms are at work. When it comes to driving, some people are prepared to flout the law day in and day out, as we have seen. I was delighted Senator Wilson mentioned the Northern Ireland penalty points system. I was in Belfast last week and it was clear north of the Border that cars were staying within the speed limit. However, as soon as they crossed into Louth they passed us out. I did not pay much attention but I presume the opposite was also happening, that those with penalty points down here suddenly started going faster because they felt free to do so, although I did not misbehave. There must be a way to tie these systems together. We have spoken about this before — Senator Brian Hayes made the point originally — but if we have North-South co-operation in areas like food safety and tourism, then there should be North-South co-operation on traffic. I gather that penalty points in the North do not apply in the rest of Britain, although the Minister may correct me. I understand they only apply in the North, so if one collects penalty points in Northern Ireland they do not apply in Britain or south of the Border, where one's chances of being caught are slim. We can do something about that.

When it comes to driving some people are prepared to flout the law day in, day out, and the law-abiding principle, which can be so powerful a means of self-enforcement, seems very weak in this case. Another issue, which is not directly related to penalty points, is the length of time it takes to get a driving test, 60 weeks in some parts of the country. There must be something we can do about this. One can continue to drive without a test; one member of my family drove for some years on a provisional licence having failed a test, although she has since passed her test.

The conclusion I am driven towards is that if we really want to change road traffic behaviour, we must be prepared to put resources into enforcement. Penalty points are part of the solution, but only if the system is properly enforced. Where road traffic behaviour is concerned, all the evidence points to the fact that there is no free enforcement. If we want these laws to be effective we must pay the price for enforcing them properly. Legislation of this kind carries an inevitable price tag. There is very little we can do with the stroke of a pen to change that.

However, the good news about the price that has to be paid is that it is a very good investment. I have astounding figures from the study carried out by the economist Peter Bacon in 1999. He calculated that money invested in road safety had a pay-off ratio of 8.3:1. For every euro we invest in road safety, the community benefits to the extent of €8.30. Anybody in business would jump at the opportunity to invest €1 to get €8.30 back.

It makes business sense to spend money on enforcing the penalty points system.

Enforcing road safety properly is not a matter of adding to our public spending. It is a matter of reducing public spending by an amount that is far from insignificant. We are therefore presented with an offer that, as a community, we simply cannot refuse. It is a mafia offer if ever there was one, as we are making an offer that cannot be refused — invest €1 in road safety and get €8.30 back. On the one hand we can save money, while at the same time saving lives, preventing injuries, and reducing the utterly pointless and unnecessary human misery that is represented by the toll on our roads. Would any person, community or Government refuse an offer like that?

The Minister's heart is in the right place and it is interesting to see the work that is being done. When I talk to the National Safety Council it has concerns about the traffic corps and other issues mentioned today. However, I return to the point I made earlier, that 250 people will set off on a journey between now and the end of the year but they will not make it back to their families. That makes the investment worthwhile. For every €1 we invest, we get €8.30. Let us ensure we do not turn down that offer. The Minister's heart is in the right place but we must ensure we strengthen his backbone and resolve in enforcing this.

Mr. MacSharry: I join with others in welcoming the Minister and I am happy to speak on this issue, particularly with the increase in road tragedies.

The aim of the Government has been to reduce road deaths rather than taking the line that mortalities on our public roads are an inevitable feature of increased mobility in the country. The challenge of reducing the number of road deaths, despite an increase in the volume of traffic, has been met with determination and commitment from the Minister. Although targets are ambitious, road accidents and deaths must be decreased. I am pleased the penalty points system has impacted significantly in this regard.

Figures released by the Department show that more than 130,000 drivers have penalty points while almost 1,000 have accumulated six or more. There are now 20 drivers with ten penalty points on their record, just two short of disqualification. Road accident statistics indicate that in the 17 months since penalty points have been introduced there have been 479 road deaths, compared to 582 for the previous 17 month period. This demonstrates a significant reduction.

The counties which accounted for the largest proportion of road fatalities from the years 1995 to 2000 were Dublin and Cork which, when combined, accounted for 466 road deaths out of a total of 1,758 during the period. Rough calculations indicate this is 26% of the total. However, when we examine the proportion of

penalty points designated to these two counties, it is clear the cities are over-represented. Some 44,093 drivers from Dublin and Cork have been given penalty points out of 117,387. This is approximately 37%, which means these counties account for 37% of penalty points but only 26% of the fatalities. That is a disparity of 11%. It is incredible that a county, such as County Donegal, which accounts for almost 6% of road fatalities accounts for less than 2% of the penalty points. This needs to be explained and addressed.

It appears that the Garda concentrates its efforts in urban areas where large volumes of traffic exist and drivers are being stopped on predominantly safe stretches of road where the speed limits are quite low. I am concerned that drivers are being stopped as the speed limit does not make sense and needs to be changed. I understand the Minister is actively engaging with the local authorities in addressing the speed limits around the country and I would encourage this initiative wholeheartedly so that the penalty points system maintains its credibility. We all agree that the penalty points system will work only if the nationwide speed limits are logical and reasonable. As it currently stands, three out of every four motorists hit by penalty points are being apprehended in low speed 30 to 40 mph zones. Although this speed is the largest contributory factor to road deaths in Ireland, it seems madness that speed limits are 40 mph on dual carriageways and 60 mph outside schools.

Figures released to the Joint Committee on Transport show that 41% of detections were within a 30 mph area, 20% were in a 60 mph area, 4% were in a 50 mph area and 1% within a 70 mph area. Not surprisingly, this has prompted claims that the Garda was not targeting the high accident, high speed roads where many fatal crashes were occurring. Most accidents occur on dangerous back roads where there are higher speed limits, yet 34% of detections are being made in 40 mph zones. I call on the Minister for Transport, Deputy Brennan, to re-evaluate the speed limits as a matter of priority. I mentioned this in the earlier debate when the penalty points system was being introduced. While I am aware he has instructed the local authorities to address this matter, they will require direction from the Department.

The Galway ring road, a road with which we are all familiar, has a 30 mph zone. One could land a Concorde on it. The Lucan by-pass is a 50 mph zone and has a camera on it. One could land a smaller aircraft on that route. The N4 approach to Carrick-on-Shannon is a wide two-lane road. Three miles from the main roundabout, as one approaches the town, there is a 40 mph zone. I declare an interest and apologise as I have four penalty points, which I deserve. On one occasion on the Carrick-on-Shannon by-pass, a garda approached me at 1 a.m. as I returned from a busy week here, and handed me two penalty

points as if they were two tickets to the All-Ireland final. I admit I broke the law but speed limits on such roads need to be examined.

Mr. J. Phelan: The Senator was landing a Concorde at the time.

Mr. MacSharry: Rather than just encouraging and directing local authorities to have another look at the speed limits, we should closely examine the system.

The enforcement of penalty points is one of the most important tasks the Garda Síochána has to perform. In terms of its effects on Irish people and the benefits to society, few Garda activities have as great an impact on Irish life as penalty points enforcement. The Garda deserves our full support in carrying out this task and if additional resources are required they should be provided.

The Irish motorist has fully accepted the penalty points system. Therefore, it was disheartening to learn the statistics indicate that thousands of motorists caught breaking the rules of the road in Ireland have escaped getting penalty points because they do not hold an Irish driver's licence. As Senator Wilson and others have said, reports indicate that 18,009 of the 128,966 drivers who have received points during the past 18 months hold a driving licence issued outside of the State. The Garda is unable to attach penalty points on these licences. Although fines can be issued, many are never paid as Senator Wilson pointed out. I appeal to the Minister to take the necessary steps to develop a scheme which will put an end to this disregard for the laws of our country.

The Government has always been fully committed to increasing road safety. I am pleased the Minister, Deputy Brennan, is heading a campaign to intensify a number of additional safety initiatives. These will include penalties for careless driving, dangerous overtaking and the use of hand-held mobile phones, all of which are worthwhile. Reform of the provisional licence system and measures to address the unacceptably high level of motor cycle deaths and injuries are also to be tackled. This proactive approach is manifested in the Minister's pledge to publish a new three-year road safety strategy that will set out specific targets for reducing road deaths.

I avail of this opportunity to congratulate the Minister and his ongoing excellent work in this area. I appeal to him to be cognisant of the good proposals that have been made by both sides today. Given that Ireland holds the EU Presidency, perhaps this is an opportunity to look at an EU-wide scheme whereby an Irish person who breaks the law in the UK will get penalty points and *vice versa* in the other countries.

Mr. J. Phelan: I welcome the Minister and compliment him on remaining for the duration of the debate on this important issue. Like Senator MacSharry I have to hold my hands up as I too

[Mr. J. Phelan.]
have four penalty points. However, I do not drive a Concorde, rather a Renault.

Mr. Dooley: Is this a truth exercise? I might have to make a declaration also.

Mr. J. Phelan: Everyone who has contributed has expressed the view that the penalty points system has been largely successful. When the system was introduced there was a noticeable change in attitudes among drivers. Drivers slowed down and changed their patterns of driving. In the intervening months there has been a change because there is not the necessary level of enforcement. In his opening remarks, the Minister referred to the reduction in the number of fatalities on our roads. That is misleading in the sense that in the past three months there has been a considerable increase in fatalities. There has been a 25% increase in the first three months of the year as compared to the first three months of last year. That is disheartening.

Like Senator MacSharry I express reservations at the frequent use of resources by the Garda on straight stretches of road throughout the country while accident black spots are not manned as frequently as they should be. That is a matter that needs to be addressed. Last week the Joint Committee on Transport was informed that the Garda needs to meet quotas in this area. More emphasis should be put on black spots rather than on easy targets and safer stretches of roads.

A problem that has arisen in my area relates to the speed limit system.

There are currently 30 mph and 40 mph limits miles outside villages on national primary and other routes. In the review of the speed limits I urge the Minister and the Department to consider bringing the speed limits around villages and towns closer to those used in urban areas. At present perfectly safe stretches of road well away from villages and towns are subject to low speed limits and that is a matter that could be improved.

On a number of occasions the Government has promised the introduction of a Garda traffic corps but it has not happened yet. There seems to be a conflict between the Minister for Transport and the Minister for Justice, Equality and Law Reform in this area. I urge that this be rectified as soon as possible. There is certainly a need for a dedicated traffic corps. Notification of penalty points incurred is not sent to the motorist for quite a period of time after the offence has occurred and that process should be expedited as a matter of priority.

The driving test system is a pet interest of mine. Senator Quinn and others have outlined the delays which exist in the system. The Minister is aware of the long delays for appointments, running to over a year in many parts of the country. This is unsatisfactory. It would not take a great deal of resources or manpower to

significantly reduce the waiting lists for driving tests.

My opinion of driving instructors is based on personal experience. I passed my driving test four years ago. I took lessons from a person in Kilkenny who should not even be allowed drive in a field, never mind instructing people. I changed to a different instructor and passed the test. There needs to be a crackdown on people calling themselves driving instructors. That may not be the correct word to use but I suggest a register be established for those who call themselves driving instructors. It is my understanding that under the present system, a driving instructor does not need to have a full licence in order to be an instructor but I am not sure if that information is correct. If that is the case, it is not satisfactory. The Minister of State, Deputy McDaid, promised last June that a register of instructors would be set up in the near future but that has not yet happened. It has been mentioned by the Minister in his speech and I hope it will happen as soon as possible. The same standards of driving instruction should apply throughout the country.

The driving test has not been reformed for over 20 years and it is safe to say that many aspects of the test are not now as relevant as they were 20 years ago. Many aspects of driving are not tested and should be. It is beyond belief that the most dangerous manoeuvre in driving, overtaking, is not tested. The present driving test still includes the procedure for reversing around a junction which I understand may be an illegal manoeuvre. That should be rectified.

In a previous debate on motor issues and motor safety, Senator O'Toole spoke of the provision of facilities for people to learn to drive. It is easy for me to speak about learning to drive in south Kilkenny which has miles of open road. It is possible to drive many miles with low levels of traffic. I wonder where anyone living in an urban area such as the middle of Dublin learns to drive.

Local authorities have land banks which are held for different purposes such as housing. It would be a good idea if local authorities were encouraged in some way to make land available for the purpose of learner drivers getting behind the wheel of a car for the first time. The public road is not necessarily a safe place for learner drivers. The driving test does not test driving on motorways and dual carriageways in most parts of the country and that is an aspect that should be covered in any reform of the driving test system.

I fully endorse the remarks of Senator MacSharry and others who expressed the view that there should be North-South co-operation on the issue of penalty points. Anyone with a driving licence from the Republic who is caught breaking the speed limit in Northern Ireland should incur penalty points in the Republic and the reverse should also apply. I endorse also the views of Senator Bradford who spoke about road signage.

Many roads throughout the country, particularly back roads, are badly signed. Many junctions have no markings to indicate the right of way. I ask the Department of the Environment, Heritage and Local Government to examine this matter.

In Australia at times of the year which are regarded as dangerous for driving, such as bank holiday weekends, the penalty points are increased and points are doubled for certain offences. I suggest the Department of Transport examine this when improving and upgrading the existing system.

Mr. Brady: I congratulate the Minister for Transport. This has been a very interesting debate on a particularly important subject. Since I came into this House there have been a number of calls for a debate on this matter. Despite the recent upsurge in road deaths, I congratulate the Minister and his Department on the marked improvement in road safety in general throughout the country. They have managed to change a culture. Since the introduction of the first national road safety strategy in 1997-98, there has been a change. Death and carnage on the roads was costing the country a significant amount of money and, more important, was taking a toll on families and individuals. Injuries and deaths were a common occurrence. Every morning there was news of at least two or three accidents and something needed to be done. The initiative was taken by the previous Administration in putting together the road safety strategy in 1997-98. The downward trend in the numbers of deaths and injuries over the past number of years is proof that a co-ordinated, strategic and properly funded approach to the education of road users, the design of roads and traffic-calming measures, strong enforcement of legislation and ongoing monitoring and research can make travel of all kinds safe for all road users. We are all road users, whether we have a car or not. We use the footpaths and roadways. It is in everybody's interest that measures are taken to prevent accidents.

This Government and the previous one led the way in the introduction of a dedicated Department of Transport. It was also the first to set up a committee on social inclusion.

Senator Quinn also mentioned the introduction of the smoking ban and the plastic bag levy. The Government has targeted areas which most affect people.

Getting public attention and raising awareness are essential in changing attitudes. As we have seen in the campaigns on drink driving, seat belt use and other issues, a well thought out advertising and education campaign, supported by good legislation and strong enforcement, alters the population's attitude and outlook.

Ultimately, as in many other areas of life, particularly as regards alcohol consumption and

drug use, the questions of the speed at which one drives, whether one drinks and drives, the route one takes and one's destination, are a matter of choice and people must take personal responsibility for their actions. This message has got through over the years. An illustration of this cultural change has been the use of seat belts. For many years, taxi drivers, bus drivers and others in similar occupations, would not consider using a seat belt. The introduction of rules making it mandatory to wear a seat belt has worked, despite widespread objections by those who argued it could not work and would require too much monitoring.

Despite recent figures, the clear trend on our roads is one of a steady decline in the numbers of collisions and injuries. According to independent opinion, fatalities and serious injuries fell significantly in 1998, 1999 and 2002 following the introduction of new road traffic measures. The level of fatalities in 2003 was the lowest since 1964. These decreases coincided with a quadrupling of the number of drivers and vehicles.

When the economy started to recover, we had a noticeable upsurge in the number of people driving cars. In the past, on visits to areas such as Cabra and Glasnevin in my constituency, I used to see one car parked outside each house. Nowadays, I often see two, three or four cars parked in driveways. Given such an upsurge in road use, it is only logical that the number of accidents will increase. Recent measures take this trend into account and the strategy planned for 2004 to 2006 goes further in underpinning them.

We must maintain the progress made thus far. I congratulate the Government on the investment made in improving the roads system. This year, an additional €34 million is being invested in our non-national roads. When driving around the country, as most of us do in the course of our work, one cannot escape the noticeable improvement in the road network. Clearly, much work remains to be done on secondary, country roads but significant strides have been made. The Department of Transport, in conjunction with the Department of the Environment, Heritage and Local Government and local authorities, has made significant progress and should be congratulated.

The Department's research has shown that traffic calming and other engineering solutions to address known black spots on roads contributes to making them safer. As the Minister pointed out, specific improvements have been made at more than 400 locations on national roads. As a result, the number of accident black spot signs is decreasing.

The strategy for the next three years will tackle areas, such as speeding and the use of seat belts, that are influenced by personal choice and responsibility. It will be successful if effective advertising and education programmes are

[Mr. Brady.]

introduced. During a previous debate, I called on the Department to consider liaising with the Department of Education and Science to provide lessons on road use for schoolchildren as part of the curriculum. In the United States, many young teenagers in college are given lessons on the rules of the road, road use and showing consideration for other drivers. Years ago, local primary school classes were brought out to a traffic school in Clontarf, which I believe is still in operation, which had a miniature road system and given an introduction to the rules of the road from the point of view of drivers and pedestrians. This was an excellent exercise and I urge the Minister to consider ways to use such programmes in future.

Ireland's record on road safety is above the European Union average. The Minister has undertaken to introduce further measures in the next phase of the strategy with the aim of bringing us close to matching the results of the best performing countries.

I welcome the fact that random preliminary breath testing for drink driving is being considered. On a previous occasion, I raised the issue of statistics on driving under the influence of drugs with the Minister. While one of the medical bureaux is undertaking a study, we do not have any hard and fast statistics on the number of accidents in which drugs are a factor. Given the upsurge in the use of drugs such as cocaine, amphetamines and methamphetamines, it is essential that research is undertaken in this area. I urge the Department to take steps to limit the incidence of offences in this category and to educate people, particularly young people, on the dangers of taking drugs or alcohol before taking charge of a car.

Speed limits and cameras have proven successful in other jurisdictions. Resourcing of the Garda Síochána and licensing and testing are being considered in the forthcoming strategy. The penalty points system is at a very early stage and will require several more years to settle. Enforcement is an issue, but as with all other laws, it will take time, perhaps years, to have effect. We all want drivers to stay within the speed limits and abide by the rules of the road but a cultural change is required. The Minister is, to use a pun, on the right road and I wish him every success.

Mr. J. Walsh: Senator Brady made an interesting point on following the example of the United States where schools use the curriculum to give people an appreciation of, to use the Minister's words, the privilege of driving, but also the responsibilities, risks and dangers it entails. Extending the areas covered by civics and placing greater emphasis on the subject in the school curriculum could equip students to move into society on leaving school in a manner beneficial to them and society in general. It is interesting in

that regard that the Minister for Education and Science is engaged in a debate on the educational system. I hope it will produce some innovative ideas to address some of the issues we have raised.

I agree with the Senators who commended the Minister on the introduction of the penalty points system. At the time of its introduction it was like the smoking ban and many reasons were given to defer it. However, it has turned out to be quite successful. Anybody driving around the country will have detected a noticeable improvement in driver behaviour, especially in complying with the speed limits. That is to be welcomed. However, this speed reduction has resulted in an increase in average driving times. The road network is like an artery through which the lifeblood of the economy flows. Vehicles travelling at 40 miles per hour and hogging the centre of the road are making it difficult for others to pass. This is a hidden cost to the economy. While the speed limit on national primary routes may be 60 miles per hour, transport costs are increased because of the poor infrastructure that exists. This is particularly the case in my own area in the south-east and the matter needs to be addressed.

We have seen a considerable investment made in roads such as the N11 from the Glen of the Downs to Kilmacanogue. Yet there is a 50 mph zone followed by a 40 mph zone on this road. The NRA feels that part of the road is not up to the standard for a dual carriageway. If the investment is being made in the road network to sustain transport for decades to come, why is it done on such a short sighted basis? Millions are spent on improving roads because of the cost benefit analysis yet traffic is then curtailed to 40 mph. This makes no sense. On roads such as the one I mentioned, which have two or sometimes three lane carriageways, the speed limit is ignored. This brings speed limits in general into disrepute. A much more commonsensical approach needs to be taken and I have questioned the NRA on this before.

Traffic bottlenecks in Gorey and New Ross can cause delays up to 45 minutes at peak traffic times. People who work on busy schedules have to make up the time lost in these bottlenecks. That discourages compliance and has an adverse effect on driver behaviour. A more co-ordinated approach to this must be adopted.

Enforcement is a factor in encouraging people to comply with the laws. I recently travelled from Dublin to Galway and onto Ennis, which is a journey of approximately 160 miles. There was only one speed check, which was on the outskirts of Dublin on a three lane carriageway with a 40 mph speed limit. Why are the gardaí working in areas like this and not on the open road? There could be merit in having local authorities involved in speed detection. There are four electoral areas in my county. If there was one traffic warden devoted full time to speed

detection in each area, that would make four, and this could apply countrywide. The Garda Commissioner recently mentioned that 500 gardaí were working in that area. Such an initiative would release gardaí to police other areas such as anti-social behaviour and serious crime. It would give a more focused approach to the operation of the gardaí.

I agree with the Senators who sounded a note of caution on extending the menu of offences into the broad range that was initially indicated. That may detract from the focus on speed and seat belts, which are the main causes of accidents and serious injury.

Minister of State at the Department of Foreign Affairs (Mr. T. Kitt): I thank the Senators for their contributions to the debate. The Seanad has shown a great understanding of this area with many different views. Road safety is a very high priority for this Government. Achieving a world-class performance in road safety requires a range of effective policies to ensure a safe interaction between the roads, vehicles, drivers and other road users. This Government is successfully addressing all of these issues.

Ultimately, of course, road safety is about the behaviour of road users, as Senator Brady stated. We have made substantial progress. Road deaths in the three years prior to the strategy from 1995-97 totalled 1,362 which was 112 higher than the previous three year period. In the absence of concerted action by Government, it was estimated that road deaths would grow to 550 per year by 2002. In fact, as a result of the Government's road safety strategy, road deaths fell to 339 in 2003 and over the most recent three years the total was 1,128. One death is one too many. However, this improvement has been achieved in a period when the number of vehicles, drivers and journeys is increasing rapidly.

Senator Browne spoke about the funding of road safety. Over the lifetime of the first strategy, the Government has overseen significant investment in Garda enforcement assets. It has provided the financial support necessary for the production and presentation of some of the most effective public awareness campaigns ever mounted on road safety, many of which have received international recognition for their quality and focus. It has provided for major investment in programmes to address road collision black spots and to deploy traffic calming measures. Exchequer funding in 2004 for road safety agencies under the aegis of the Department of Transport amounts to a total of €22,488,000.

Other funding is obtained from the insurance industry, local authorities and the Department of Justice, Equality and Law Reform.

Senator Browne raised driving test waiting times. The Government is concerned at the

increase in waiting times for driving tests which has resulted from the unprecedented volume of 234,000 applications received in 2003. This compares to 146,000 applications for a test in 1998. The increased demand for tests has arisen from the commitment to take steps to reduce long-term reliance on provisional licences. Currently there are 120,000 candidates awaiting a driving test. Since 1998 the testing corps of the Department of Transport has been increased from 66 to 118 to deal with the additional workload and had achieved an average waiting time of ten weeks by 2002. To deal with the increased demand in 2003, a bonus scheme was put in place to generate additional capacity. In addition, a number of retired testers have been engaged and are delivering tests for the Department. Testers continue to work overtime.

Senator Bradford raised the issue of the rigid application of speed limit legislation. The Garda is obviously responsible for this and we all agree it is doing a reasonably good job. We would not support the idea of not awarding penalty points for certain speed limit offences. Senators should note that under the new speed limit proposals, the limit applying to non-national roads will be reduced to 50 mph from the current limit of 60 mph.

On Senator Walsh's point on speed limits, I reiterate what the Minister stated, namely, that we seek to assure the travelling public that the speed limits applied at specific locations are reasonable and fair and reflect the road safety needs and capacity of the roads in question. The Minister has already raised this issue with county and city managers.

The Government Strategy on Road Safety, 1998-2002, recognised that the influence of drugs on driving behaviour is an issue of increasing concern. Identification of the presence of drugs is, however, more complex than it is for alcohol. Consequently, considerably more work is needed to develop a more detailed regulatory regime regarding drugs and driving. It is illegal to drive while under the influence of drugs to such an extent as to be incapable of having proper control of one's vehicle. Section 49 of the Road Traffic Act 1961, as inserted by section 10 of the Road Traffic Act 1994, prohibits the driving of a mechanically propelled vehicle by a person while under the influence of an intoxicant — an intoxicant includes alcohol and drugs and any combination of drugs and alcohol.

Enforcement of the law on drug driving is a matter for the Garda. When a member of the Garda suspects that a motorist is driving under the influence of any intoxicant, that garda may arrest the suspect under section 49 of the Road Traffic Act. Unlike alcohol, there is no legal limit for drugs.

The Medical Bureau of Road Safety's principal function has been to carry out analyses for their alcohol content and-or the presence of drugs of

[Mr. T. Kitt.]

specimens of blood and urine provided for the Garda by those suspected of driving while intoxicated. The bureau issues certificates in respect of the results of these analyses, which may be used as evidence in prosecutions for such offences.

Since 1 January 2002 all samples found under the legal limit for alcohol are automatically being tested by the Medical Bureau of Road Safety for the presence of a drug or drugs, as well as cases where the Garda requests that a test for drugs take place. A total of 388 specimens were tested in 2002, of which 30% were confirmed as testing positive for drugs.

Senator Brady referred to the issue of road safety and research. Additional funding was provided to the Medical Bureau of Road Safety in 2000 and 2001 for a two-year research programme of drug analysis of blood and urine samples. The complete confirmatory results of the survey will identify trends in the types of drugs being taken, their combination with alcohol and the incidence of poly-drug use. The analysis of specimens continued in 2002 and the report is scheduled for publication shortly.

On roadside testing, the Medical Bureau of Road Safety is aware that both urine and saliva screening devices have been developed for road traffic drug testing. Urine, however, is not considered to be suitable for roadside drug testing. Saliva testing devices are in prototype stages. None has been purchased for roadside use by the police force. The Medical Bureau of Road Safety is keeping abreast of developments in this area and the specimen of choice appears to be saliva. The Road Traffic Acts do not at present permit the taking of a saliva or oral fluid specimen for such analysis. However, this will be considered as the matter evolves.

Acting Chairman (Ms O'Meara): When is it proposed to sit again?

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

Adjournment Matters.

Probation and Welfare Service.

Ms Terry: I welcome the Minister of State. The matter I wish to raise concerns the provision of a new location for the probation and welfare service in Dublin 15. I know the Minister of State is very familiar with this issue and is working to try to identify and secure another location for the service.

The service is very much needed in the Dublin 15 area and I support the decision to provide one but, as the Minister of State knows, many of the residents of Blanchardstown village have great

concerns about locating it in the old AIB building on Main Street because of its proximity to a residential area and other facilities. They have expressed their opinions to the Minister of State and all the other relevant public representatives and have requested that an alternative site be made available. I understand the Office of Public Works is reviewing the matter. Will the Minister of State inform me of the progress of this review?

We are aware that another vacant property closer to the town centre has been identified by the residents as more appropriate for the probation and welfare service. It is on a bus route and this would facilitate the clients visiting it. I support the residents in their call for another location for the service and I hope that, with the help of the Minister of State, we will be able to identify a site and provide the service as soon as possible.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): I am replying on behalf of the Minister for Justice, Equality and Law Reform, Deputy McDowell. The former AIB premises, Main Street, Blanchardstown, was acquired by the Office of Public Works on behalf of the probation and welfare service for €1.5 million in 2002. The acquisition reflects the policy of the service to localise its offices in the communities it serves. Currently, the only District Court team working from the probation and welfare service headquarters in Smithfield is the team that covers Dublin 7 and Dublin 15.

Having acquired the premises, the Office of Public Works consulted Fingal County Council under the Planning and Development Regulations 2001 and provision was made for the necessary change of use. The Office of Public Works is now ready to place a contract to refurbish the premises in accordance with the requirements of the probation service. The overall project budget is €2.9 million.

Concern was expressed by local residents about this development. There is no evidence that the presence of a probation office in any location is a threat to public safety. However, the Department of Justice, Equality and Law Reform has requested the Office of Public Works to examine alternative options in the Blanchardstown area with a view to identifying a suitable site. In an effort to do so, the Office of Public Works has contacted all estate agents in the Blanchardstown area. Replies received from the estate agents are being examined.

Special Educational Needs.

Mr. Browne: I welcome the Minister of State. He has certainly been very busy lately and I was bamboozled by him yesterday, as was a group of people from Carlow who were looking at him in action in the Dáil Chamber as he discussed the citizenship referendum. We all left humbled—

An Cathaoirleach: The Senator should stick to the point.

Mr. Browne: I am glad we were not caught between him and Deputy Jim O'Keefe, both of whom were arguing away.

An Cathaoirleach: Speak to the Adjournment matter, please.

Mr. Browne: This matter is much simpler than others that have been raised. As the Minister of State is aware, great strides have been made in recent years regarding special needs assistants and extra resource hours for children in primary schools. However, we now have a ludicrous scenario such that decisions have been made by the Department of Education and Science concerning hundreds of primary schools regarding whether they are getting the extra special needs assistants or resource hours but those schools have not been told. I know of one school which applied last June for a special needs assistant for a particular pupil. It has still not been given any indication whether it has been successful.

The Minister for Education and Science made an announcement over Easter about the appointment of 350 new teachers in the special needs area, but he did not indicate from where they will come. Unfortunately, the Department of Education and Science has had a tendency to do that in the past. It appoints new teachers but, invariably, it takes them from mainstream classes. That can have a knock-on effect throughout the school. That is why we have ended up with so many unqualified teachers in the system.

I request that the Department immediately inform all the primary schools so they can start to plan for next year. Some schools will lose teachers, others will gain teachers and some will keep the same number. Schools need to start to plan now as they have less than two months left before the school term ends.

A child normally spends eight years in primary school, but children have been waiting for one year to find out whether they will get extra help. One year out of eight years is a considerable block of time and it can have a huge effect on a child in the future, especially those children who need extra help. I hope the Minister of State will have positive news for me. If he cannot give me a definite answer today, I hope he will use his influence in the Department of Education and Science to make sure it notifies schools because, apparently, it knows what schools are getting. It should let the schools know what is happening because they have been waiting almost a year.

Mr. B. Lenihan: I am pleased to have this opportunity on behalf of the Minister for Education and Science, Deputy Noel Dempsey, to clarify the position in regard to the processing

of applications for special education resources received in the Department between February and August 2003 and also the matter of temporary accommodation in primary schools.

The position is that applications for special education resources received between 15 February and 31 August 2003 are being considered at present. In all, more than 5,000 such applications were received. Priority was given to cases involving children starting school last September and all these cases were responded to at or before the commencement of the current school year.

The balance of more than 4,000 applications has been reviewed by a dedicated team comprising members of the Department of Education and Science's inspectorate and the National Educational Psychological Service. These applications are being further considered in the context of the outcome of surveys of special education resources conducted over the past year and the data submitted by schools as part of a nationwide census of such provision.

The processing of the applications is a complex and time-consuming operation. However, the Department is endeavouring to have this completed as quickly as possible and departmental officials will then respond to all applicant schools. Pending a response, schools are advised to refer to circular 24/03 which issued in September 2003. This circular contains practical advice on how to achieve the most effective deployment of resources already allocated for special educational needs within the school.

In the case of teacher resources, the outcome for each applicant school will be based on a new weighted system of allocation which the Minister for Education and Science announced recently. This system, as part of which an additional 350 teaching posts will be allocated, will involve two main elements: making a staffing allocation to schools based on a predicted incidence of pupils with special educational needs and making individual allocations in the case of children with more acute lower prevalence special educational needs.

It is expected that the change to a weighted system will bring with it a number of benefits. The new system will reduce the need for individualised educational psychological assessment; reduce the volume of applications to the Department for additional resources for individual pupils; and give greater flexibility to schools, which will facilitate the development and implementation of improved systems and procedures in schools to meet the needs of pupils with low achievement and pupils with special educational needs. The detailed arrangements will be set out in a circular to be issued to schools before the end of the current school year. Schools due to receive additional teacher and special

[Mr. B. Lenihan.]
needs assistant posts will be notified within this timeframe also.

The Minister for Education and Science has treated this as a subject close to his heart and has given it particular attention. I accept that the extensive character of the review which he has undertaken has occasioned some delay in the matter but, as a result of tackling the fundamental problems that have existed in the sector at their roots, the Minister will be able to address many

of the concerns expressed about the sector within the timeframe specified in this reply.

The list of primary schools where grant aid will be provided for temporary accommodation will be published on the Department's website in the near future. I thank the Senator once again for giving me the opportunity to clarify these matters in the House.

The Seanad adjourned at 4.45 p.m. until 10.30 a.m. on Friday, 30 April 2004.