

SEANAD ÉIREANN

*Dé Céadaoin, 23 Meitheamh 2004.
Wednesday, 23 June 2004.*

Chuaigh an Cathaoirleach i gceannas ar 10:30 a.m.

*Paidir.
Prayer.*

Business of Seanad.

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

The need for the Tánaiste and Minister for Enterprise, Trade and Employment to provide increased industrial investment in east Galway.

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

The need for the Minister for Health and Children to address the closure of Carmichael House and the implications for the voluntary organisations and their clients using the centre.

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, Education for Persons with Special Educational Needs Bill 2003 — Second Stage, to be taken on the conclusion of the Order of Business until 1.30 p.m. with contributions of spokespersons at 20 minutes and other Members at 15 minutes; No. 2, statements on autism (resumed), to be taken at 2.30 p.m. and to conclude at 4 p.m. with the contributions of Members at ten minutes; No. 3, Criminal Justice (Joint Investigation Teams) Bill 2003 — Report and Final Stages to be taken at 4 p.m. and No. 4, Transfer of Execution of Sentences Bill 2003 — Report and Final Stages to be taken on the conclusion of No. 3 and to conclude no later than 5 p.m.; and No. 18, motion No. 19, to be taken from 5 p.m. to 7 p.m. There will be a sos from 1.30 p.m. to 2.30 p.m.

Mr. B. Hayes: Senator Quinn spoke yesterday on the Order of Business about the report published in Britain on police and vetting procedures following the Huntley case, and the appalling lack of vetting procedures for persons who work with children. Does the Leader agree this matter is

urgent in our jurisdiction? My party published a White Paper on this issue over six months ago and received a commitment from the Government that legislation would be forthcoming as soon as possible to introduce a proper vetting procedure for teachers, health care workers and those involved in non-governmental agencies who work with children to provide a safe environment for them. We must ensure that people in contact with children are properly vetted and that procedures are observed. Following the example in Northern Ireland where a good procedure was recently introduced, when will legislation be forthcoming here? Does the Leader agree it is urgent that we protect children wherever they are and ensure that those in contact with them are of the highest standard, do not have a criminal record and that there is nothing untoward in their background? We have much to learn from the Huntley case and this is a priority for the Government.

In light of a second issue raised on the Order of Business yesterday, concerning persons who enter the country legally but find it virtually impossible to bring their family or friends here for a short holiday, will the Leader invite the Minister for Justice, Equality and Law Reform here to discuss this? I came across a case recently in my constituency of a Nigerian who has been naturalised and is married to an Irish citizen, with whom he has two Irish citizen children, experiencing such difficulties.

Ms O'Rourke: We are all getting those cases.

Mr. B. Hayes: Recently this man's father, who is a judge of the Nigerian court, attempted to visit his grandchildren and was refused entry. If a judge from another country is refused entry, how difficult must it be for everyone else? We need to debate this matter with the Minister. It seems that people from some countries are automatically refused on the basis of their location. The Minister should come into the House to explain policy in this area and amend it where appropriate to ensure that those who come here legally are entitled to bring their families and friends here for a short time.

Mr. O'Toole: Yesterday on the Order of Business speakers on the Government side raised the question of the additional costs to people of the NCT. Senator Feighan raised this issue a few months ago when he said the testers were under pressure to fail more cars in order to generate more income. The Minister for Transport, Deputy Brennan, is considering privatising speed camera operators on a similar basis. We have seen the result of the privatisation of parking control in Dublin, its cost to drivers and the officious and unfriendly way in which it is being implemented. It would be very helpful, particularly for the Government side, if we had a discussion on the cost of privatisation to the consumer. It would allow us to see the direction in

[Mr. O'Toole.]

which the Government is heading and where market forces are leading us. It might be of assistance if the Minister for Communications, Marine and Natural Resources, Deputy Dermot Ahern, came to the House for that debate in order that he could make a contribution.

The issues we are considering currently make one wonder who is in charge and what will be the outcome of the various decisions being made. One Minister is going to drive a motorway through the Hill of Tara, while another is going to smash up three airports with one blow. There was a time when Fianna Fáil backbenchers would defy the whip if somebody interfered with one airport. Now, however, one can bury three of them and everybody just takes it and blames the Progressive Democrats. Who is in charge—

Mr. Ross: The trade unionists are in charge.

Mr. O'Toole: —and where is the plan? It is time we discussed this matter. Senator Ross might also have a contribution to make to the debate.

Mr. Ryan: If only the trade unions were in charge.

Mr. B. Hayes: Perish the thought.

Mr. Ryan: A member of Cork City Council who is not a member of my party came across a line of clamped cars recently in an area where signs indicating that there was no parking were not in evidence and where there were no double yellow lines etc. When he volunteered to photograph the clampers while they removed the clamps and innocent citizens paid up, the clampers promptly took off the clamps and absconded without further difficulties. There is a problem with privatised agencies whose sense of what is the way to enforce the law is different from that of the public service. This is becoming a major issue.

Another issue where difficulties are arising relates to the grading of guesthouses. This is now done by a privatised agency. The best guesthouse in the west Kerry Gaeltacht does not have Bord Fáilte approval because the inspector who viewed it took a different view from that of the health board about some facilities. She insisted that her view was superior to that of the health board and, as a result, the owner of the guesthouse stated she would do without Bord Fáilte approval. There is a difficulty with privatised agencies which believe they are above the law and which lack the ethos of the public service.

Mr. O'Toole: It used to be Fianna Fáil's ethos in the past.

Mr. Ryan: It has been a long time since Fianna Fáil and that ethos overlapped, not to mention coincided.

Mr. O'Toole: The Senator was raised in a Fianna Fáil household—

An Cathaoirleach: Senator Ryan should speak to the Order of Business and should not heed interruptions.

Mr. Ryan: By definition, I was raised a long time ago.

Would it be possible to have a serious debate on the issue of equality at some stage? There has been an outbreak of compassion on the opposite side of the House which has, in turn, produced an outbreak of self-righteous rhetoric from the minor party in Government. Some of that rhetoric deserves to be debated within a political forum in which people can be challenged. It is frustrating that all of these great philosophical speeches are being made outside the Houses of the Oireachtas where serious debate cannot take place. I call for a debate on this matter because I would like to hear how somebody in Government can justify the sustaining of inequality as an incentive. I would also like to be informed as to how a member of Government could believe that Ireland is somehow superior in the way it does its business to countries such as Sweden, Denmark, Norway, Finland, Austria and The Netherlands. People are saying outside the Houses of the Oireachtas that we have done better than those countries. We have not done so and the people are aware of that fact.

In the local and European elections, the people made a statement because they know what prosperity should provide and they are aware that this has not been provided. The fundamental issue in this country is that of inequality and the institutionalisation thereof. It is time this matter was debated in the House by Government and Opposition Members rather than being exclusively monopolised by Government Ministers making speeches, as Senator O'Toole stated, largely to party workers.

Mr. Morrissey: Will the Leader arrange a debate with the Minister for Health and Children, prior to the summer recess, to discuss the ever-growing epidemic of queues of people in A & E departments waiting to get on to trolleys? This phenomenon is usually experienced during the winter months but it is now happening during the summer. What is the Government doing to remedy it? Each day, millions of euro are rolling back into the economy as a result of tax evaders making settlements with the Revenue Commissioners. What will the Minister for Health and Children do regarding emergency provision during the summer months? That an overcrowding in accident and emergency departments can be permitted in a prosperous country like this must be addressed in this House before the summer recess.

Ms Terry: The Government should open more accident and emergency facilities.

Mr. Finucane: I support Senator O'Toole's remarks on the NCT. I recently participated in a protest march at a local testing centre in Abbeyfeale. Some 500 people participated in that march, which was symptomatic of the frustration people feel about the NCT and the perception that vehicles are being failed for minor reasons. If one wishes to analyse the results of the local and European elections, the poor showing of the Government parties is a consequence of a combination of small issues like this which are causing great frustration to the general public. There is amazement that a private company has received the NCT contract for the entire country. Senator O'Toole is correct when he speaks of the bestowal of responsibility for speed testing etc. on a private company and the possibility that speed cameras will be placed in secret locations that will be difficult for motorists to identify. Currently many gardaí are pinpointing the areas on modern motorways where there are no traffic hazards and a very low incidence of accidents and are often going for the soft option in terms of penalising people with penalty points. People are becoming increasingly frustrated and there is a perception that big brother is constantly watching them.

Mr. Ross: Hear, hear.

Mr. Finucane: A combination of all these factors is driving people frantic and people regularly approach me to express their views on them.

Labhrás Ó Murchú: I recently made representations on behalf of a young Irish person living in England who wanted to visit the United States. I am currently involved in the case of a young Irish man who married an American citizen while he was in the United States. They both returned to Ireland and are currently experiencing immigration difficulties. I found the United States Embassy exceptionally helpful, courteous and humane. I contrast this with the case of the young Pakistani doctor working and living in Ireland, married to an Irish woman who is expecting their first child and was refused a visa to allow his parents to visit Ireland for the happy occasion of his child's birth. It is important that the impression does not go abroad that we are constantly making representations for Irish people who wish to visit other countries but are not prepared to reciprocate when the shoe is on the other foot.

Mr. B. Hayes: That is right.

Dr. Henry: I support Senator Brian Hayes and Senator Ó Murchú in their call for a debate on the rationale or lack of regarding the issuing of visitor visas. Recently a member of the Nigerian Government could not visit Ireland for the occasion of his son's conferral at the Royal College of Physicians of Ireland. A senior official from the EU's Danube Waterway project was refused a visitor visa, presumably because he is Romanian, to attend the marriage of his son, who

is employed in an important role in the Irish health service, to an Irish citizen. A retired Russian doctor whose daughter is married to an Irish citizen and who has been employed in our universities for the past 12 years was also refused a visitor's visa. The list goes on and it is shameful.

Mr. Ryan: Absolutely.

Dr. Henry: People are refused entry to this country for a number of days, often for important family occasions, without being given an explanation for this refusal.

Mr. Leyden: I support the discussions due to take place this weekend between the Taoiseach and the President of the United States, Mr. George W. Bush. I remind the House of the request I raised last January, which was conveyed by the Leader and her office to the Taoiseach. This issue relates to the many young undocumented Irish people resident in the United States who are unable to return home for funerals, weddings or other family occasions. I spoke to one woman who has three daughters in the United States for five years, four and a half years and four years, respectively. Irrespective of whether one agrees with the visit of President Bush, who is welcome here as far as I am concerned, his visit presents a great opportunity to welcome the leader of the United States as he meets the potential President of the European Union on an equal footing.

Mr. B. Hayes: The Taoiseach is President of the European Union.

Mr. Leyden: He is also potentially the President of the Commission. Our Leader has used her office very well in conveying issues raised here to Departments. I request that she convey to the Taoiseach that he should mention the plight of the many Irish in America who cannot come home.

Mr. Ryan: What about all the people here who have no rights?

Mr. Leyden: We deserve some return for our co-operation with the American Government on Shannon Airport. Surely there should be some response in this regard.

An Cathaoirleach: The Senator has made his point.

Mr. Leyden: The visit of President Bush on Saturday provides a great opportunity. The President of the European Parliament, who is Irish, will be present. We have been good to America and it is time America was good to us.

Ms Terry: I support what Senator Morrissey said about the dreadful state of accident and emergency departments and hospitals in general. I remind him that he is a member of a party in

[Ms Terry.]

Government. In his area of west Dublin, an accident and emergency department has been completed for up to 12 months but has not been opened.

Mr. B. Hayes: Shame.

Ms Terry: Senator Morrissey's party is a partner in the Government which cannot deliver another €5 million to open that accident and emergency department.

Mr. Ryan: It will not deliver.

Ms Terry: It is a bit rich for a member of a Government party to ask the Minister for Health and Children to do something about accident and emergency units and hospitals.

An Cathaoirleach: That is his entitlement.

Ms Terry: I agree, but it is also my entitlement to point out the irony.

Will the Leader ask the Minister for Justice, Equality and Law Reform to allow time to debate the recent SMI report? The report includes details on the closure of some Garda stations but we do not know which stations are due for closure. The only thing we know is that they will not be in Laois or Offaly because the Minister of State at the Department of Finance, Deputy Parlon, told us that. It is important that the Minister would come in here and that we would have a general debate on the deployment of Garda, the delivery of 2,000 extra gardaí, the closure of Garda stations and related matters. I would welcome such a debate as soon as possible.

Dr. M. Hayes: I am sorry if I lower the tone of the debate by not being abusive of anybody. I strongly support Senators Ó Murchú and Henry on visas, particularly for temporary visitors. It is shameful how we treat people. It is extremely difficult for the Taoiseach to ask for special treatment for Irish people in America when we are denying the same sort of thing to people here. I accept that problems exist but I do not see any difficulty in some of the cases I wrote about. It should be possible to work out a sensible system of guarantees, sureties or other such measures.

I also support the plea of Senator Brian Hayes for urgent attention on the vetting and checking system for people working with children. One can get odd jobs in life. I was involved in developing the Northern Ireland system after Kincora some 20 years ago and the model that was developed in response to that could be used. It is important that it should be looked at in tandem here and in Northern Ireland because as well as protecting our children here, the movement of trained personnel North and South requires that they be subjected to the same degree of checking and vetting. Whatever is done should be done in consultation with the Department of Health, Social Services

and Public Safety in the North. It would appear to be a suitable matter for a North-South body.

Mr. Norris: Will the Leader give an indication of when we might take motion No. 18 in the names of the Independent Senators? The motion notes the favourable report of the Oireachtas Joint Committee on Transport which investigated the proposal for a metro in Dublin, a project in which this House has taken a consistent interest.

I support Senator Morrissey and I regard it as commendable of him. It shows he is a man of conscience and is prepared to raise these questions which are not comfortable for Government, although every Government has to deal with them. It is extraordinary that so many modern facilities all over the country are lying idle and are not staffed.

There was a classic case in the past few days of a man waiting several days on a hospital trolley. He went to the lavatory and his trolley was taken. The nursing staff suggested he find another trolley for himself. Matters have reached a terrible state of pressure.

I support my colleagues with regard to the granting of visas. An impressive list was given by Senator Henry. International academic conferences often encounter this trouble. A distinguished young woman from Beirut, who is a Joycean scholar, was arbitrarily refused a visa, presumably because they saw the word Beirut and associated it with being a hot spot 20 years ago. My office made representations and she was immediately given a visa. She was pathetically grateful but it made me feel that we are presenting ourselves as a Third World country if a proper vetting system is not in place.

I ask the Leader to seek an opinion from the Attorney General on the status of President Bush while he is in this country. Some senior lawyers have suggested he might be vulnerable to arrest because he has clearly broken international law. He has broken the precepts of the Nuremberg trials by declaring an unprovoked, aggressive war. He has broken his own domestic law, international law and human rights law. Many people are of the opinion that he could be indicted under Irish law which requires that people involved in torture are investigated. There is no doubt he was involved in torture, despite the recent squirting out of a smokescreen about torture in the past day. I wish to know his status. I am not asking the Attorney General to arrest him but, on a legal point, is he vulnerable theoretically to arrest on Irish soil?

Mr. Feighan: I ask the Minister for Health and Children to come to the House to explain his position on the recent proposed increase of 3.8% in charges by the VHI. This comes on the back of increases of 8.5% and 18% in the past two years. The VHI made a profit of €34 million up to the end of February 2003 and I regard it as a little rich of the company to look for a further

increase. This will be an extra burden on the taxpayer and on those who need health insurance.

It is confusing that Irish delegations can go to the United States on St. Patrick's Day and meet with the Governor of New York and the President of the United States, yet when President Bush comes to Ireland, all politicians and business leaders seem to be excluded from meeting him. Are we allowed to meet him when he comes to our country or must we go to the United States all the time?

Mr. Finucane: At least President Clinton met us.

Mr. Quinn: Once again yesterday I was approached by young people with open buckets looking for charitable donations. I raised this matter in the House on occasions in the past. There is a need for some extra controls on charities. In An Agreed Programme for Government in 2002, the Government stated the need to reform the law relating to charities. In 2003 the Law Society reported on the need for reform of the law on charities. A Government White Paper on supporting voluntary activity was published in 2000. A consultation paper was issued by the Department of Community, Rural and Gaeltacht Affairs, entitled Establishing a Modern Statutory Framework for Charity. There has been much talk and many promises but very little action. Will the Government carry through on what has been promised?

Mr. Coonan: I support my colleagues who asked for a debate with the Minister for Health and Children. It is an urgent matter and a crisis has been reached. I welcome the response from Senator Morrissey and from the distinguished Minister for Defence yesterday in the other House when he acknowledged that a problem exists. It is not good enough for a Minister to acknowledge the problem; the Minister for Health and Children needs to do something about it. He should come before the House to debate the issue and inform us, now that the local elections are over, as to where the Hanly report stands and whether it will be implemented in full.

I ask the Leader to seek an explanation from the Minister for Health and Children as to the reason a ward in the Mid-Western Regional Hospital in Limerick was closed for a week and patients booted out when there is a crisis in the mid-west region, with thousands of people waiting for a bed in the hospital. They must now put up with the consequences of a ward being closed to facilitate the Bush entourage.

An Cathaoirleach: The matter would be more appropriately raised on the Adjournment.

Mr. Coonan: This is a desperate measure and an awful example of discrimination against the ordinary people of the mid-west. It is unacceptable and unnecessary in view of the cur-

rent crisis facing the regional hospital in Limerick where people are lying on trolleys in corridors. To close a whole ward and virtually a full wing of the hospital is unacceptable and I ask the Leader for an explanation.

Ms O'Rourke: Senator Brian Hayes, as Leader of the Opposition, raised an issue Senator Quinn referred to yesterday, namely, the vetting procedures for those caring for children at all levels. I understand this has proved a thorny issue. I discussed the matter with a member of the Government yesterday who informed me the Government is approaching a resolution, although I do not know what will be the details. The Senator asked when legislation would be forthcoming. The example set in the Soham case in England is a timely one for us and we need framework legislation to address the issue. The highest standards must apply to those in charge of vulnerable people. I will seek a decision or an update on the matter.

I am amazed the issue of visas has been raised by all sides. I am currently dealing with two such cases. Senator Norris appears to have secured instant action on his application for a person to come here to visit a person legally resident here. Are decisions on allowing people to come here made in an arbitrary or random matter? A framework should be in place. We have heard about judges, members of governments, physicists and ordinary parents who want to visit their grown up children here. I had not realised the issue was such a problem but that is clearly the case. I will endeavour to speak to the office of the Minister for Justice, Equality and Law Reform to obtain information on the standards applied.

Mr. Norris: Splendid.

Mr. Ryan: Nobody will answer the telephone.

Ms O'Rourke: It would be wrong if these decisions were arbitrary, even worse than not allowing anyone to enter the country. Senator O'Toole raised the extra costs arising from the privatisation of the NCT and the proposed privatisation of speed cameras. The latter proposal would be a serious development. We are grumbling about being penalised for travelling at 33 or 34 kph in a 30 kph zone but privatisation would result in being penalised for travelling at 31 kph in a 30 kph zone. The citizen would lose out if a private agency was given responsibility.

It was interesting to note Senator O'Toole point out that Senator Ross could reply to his points in a debate. It is good to have such individuality among the Independents.

Mr. Ross: I think she means insanity.

Mr. O'Toole: Senator Ross is trying to find the names of trade unionists among the list of tax dodgers in today's newspapers.

Ms O'Rourke: Senator Ryan also raised the issue of privatisation, citing a west Kerry guest-house which did not receive approval because different people had different ideas and the privatised agency responsible for inspections does not operate a standard. I confess to a private interest in this issue as my second son was involved when Bord Fáilte inspected hotels and guesthouses. I used to receive constant calls from people complaining about decisions but always told callers that the matter had nothing to do with me and they should take it up with my son. He is no longer with the organisation and inspections are now in the hands of a private firm.

As regards Senator Ryan's request for a debate on equality, the matter was raised in the House about two weeks ago when we had a lively discussion of the topic on the Order of Business, with Senators taking different views on it.

Mr. Ryan: I was otherwise engaged.

Ms O'Rourke: We could ask the Minister for Justice, Equality and Law Reform to come before the House to discuss the issue.

Senator Morrissey called on the Minister for Health and Children to explain what is happening regarding the accident and emergency unit at Blanchardstown hospital. This is a free Chamber in which Members can raise issues and the Senator has raised this.

Senator Finucane again raised the issue of national car testing. People are frantic about the changes that are taking place in road safety regulations and they do not know quite where they stand. A total of 200,000 people have received notification of penalty points and they were silent during the election campaign. Who will tell a candidate calling at his or her door that he or she has been docked two points?

Mr. Ryan: It was raised with me.

Ms O'Rourke: Mostly it was not raised. If one is travelling at 80 mph in a 60 mph zone, one should be penalised, but if travelling at 52 mph in a 50 mph zone or 33 mph in a 30 mph, it is entirely silly to be penalised. I did not get my penalty point notification yet for being over the speed limit in a 50 mph zone but it is on the way. The Senator also referred to the people with whom he wished to deal.

Senator Ó Murchú is one of five Members who raised visa difficulties. Senator Henry cited the case of a member of the Nigerian Government, a Romanian engineer and a physicist, all of whom could not get into the State. It is elitist to refer to such individuals but at least they can prove their place in society in their countries of origin. It beggars belief that somebody who wished to attend a wedding was refused a visa. We give out about other countries but we are operating this system ourselves.

Senator Leyden referred to undocumented Irish people in the US saying this should be on

the agenda of the meeting of the next President of the European Commission and the US President. I will forward that to his office because it would be useful.

Senator Terry agreed with Senator Morrissey regarding the €5 million needed in their constituency to open the accident and emergency facility, which has been ready for some time. The Senator sought a debate with the Minister for Justice, Equality and Law Reform on the SMI report which deals with the closure of Garda stations and Garda strength. The Minister remains firmly committed to recruiting extra gardaí and creating a fuss about that.

Mr. Ryan: He is not creating a fuss about many other issues.

Ms O'Rourke: I hope the commitment will be implemented in the short term. The programme for Government stated the gardaí would be recruited over the five-year term. The Minister remains committed to this and there will be movement shortly.

Senator Maurice Hayes referred to the visa system and highlighted his experience of the vetting of people in care.

Senator Norris raised motion No. 18 tabled by the Independent Members regarding the report of the transport committee, which recommended the construction of a metro system. That has always been the Senator's policy. He also referred to the visa policy. He asked me to inquire about the status of President Bush when he is here and I will do that.

Mr. Norris: I thank the Leader very much.

Ms O'Rourke: Senator Feighan raised the proposed 3.8% VHI price increase. This is modest compared to other years but it will impose a burden. He also asked why President Bush would not meet us all but he will only be here for a short time. He would not have time to meet us all.

Mr. Ryan: Many of us do not want to meet him.

Ms O'Rourke: Senator Quinn referred to the need to reform legislation relating to charities, collections and so on. Various Governments have talked about this and various documents have been published. There was an effort to reform this legislation in 1997 but it did not come to anything. It should be done because, while somebody may legitimately represent a charity and conduct collections, one wonders sometimes what it is about, where the money is going and whether the collections are regulated. They should be properly regulated rather than adopting regulations that are a nuisance to people. I will endeavour to speak to the Minister for Finance or the Minister for Social and Family Affairs about this.

Senator Coonan mentioned the health crisis and sought a debate on the mid-west. The Cathaoirleach said that would be suitable for an

Adjournment debate if the Senator had a particular case in mind.

Order of Business agreed to.

Education for Persons with Special Educational Needs Bill 2003: Second Stage.

An Cathaoirleach: The Title of the Bill has been changed from the Education for Persons with Disabilities Bill 2003 to the Education for Persons with Special Educational Needs Bill 2003.

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

Minister of State at the Department of Education and Science (Mr. B. Lenihan): This Bill comes here after rigorous scrutiny in the other House. After substantial debates on Committee and Report Stages, where over 700 amendments were moved, the Minister for Education and Science believes that this Bill represents the best possible solution to the needs of children with disabilities and their parents. What is proposed here is a comprehensive system to address their rights to an education comparable to that available to their peers who do not have special educational needs. When this Bill is enacted we will be a lot closer to the realisation of a system of education which properly reflects the rights of children enshrined in the Constitution. This system will be one which will, in the words of the High Court judgment, allow children with special educational needs to make the best possible use of their inherent and potential capabilities, physical, mental and moral, however limited these capacities might be.

These proposals will mean a continuation of the unprecedented levels of investment in special needs education, an undertaking that children with disabilities will as far as possible be educated in a mainstream setting, and a guarantee for parents that their children will get the education they need. In addition, parents will be involved at every step and they will have an appeals process with real teeth. On the enactment and commencement of the Bill, children with special educational needs arising from an educational disability will have a right to an assessment, a right to an individual education plan and a right to have the plan implemented with all the services required. Parents will have a right to be involved and consulted at every stage of their child's development.

The right of the child and parents to services is copperfastened by the right of appeal to the Special Education Appeals Board against any incorrect or inadequate statement or description contained in his or her education plan and against any failure by a school or health board to implement any part of the plan. For the first time the Bill provides that the Ministers for Education and Science and for Finance will have statutory

duties to consider the requirements for funding, education and support services for children with special educational needs and to make adequate resources available to discharge the State's duties to these children. In section 13 there is an acknowledgement of the constitutional duty of the State to ensure the equal and fair treatment of all children so that children with special educational needs have the same opportunities as children without disabilities.

The Bill requires the Minister and the Minister for Finance to be mindful of this requirement in particular when determining how resources are to be allocated. This represents a revolution in the way resources are to be made available for special educational needs and is the first time that primary legislation has dictated so directly how resources are to be allocated to a specific need such as this one. The availability of services and health and education professionals to provide them will depend on a range of factors. It is anticipated that full implementation will require a number of years. It will be a function of the National Council for Special Education to advise the Minister on the pace of implementation. The Bill provides that all its provisions must be fully implemented within five years.

There has been significant developments in the funding of special needs from the Department of Education and Science. As Senators will know, the Minister for Education and Science recently announced the creation of 350 new teaching posts in the special education area. This is part of a new system for the allocation of resource teachers which has been agreed with the education partners. This system involves a general weighted allocation being given annually to all schools on the basis of their pupil numbers. This weighted allocation will cater for pupils requiring learning support as well as pupils in the less acute disability categories of borderline, mild and mild general learning disability and dyslexia.

Schools will also be given specific teacher allocations for children with more acute disabilities in accordance with the current criteria. This will enable the Department of Education and Science to provide a more efficient and speedy response to schools and their pupils. By the same token, schools will be able to plan and deploy resources more effectively. For the disability categories in question, it will put resources permanently in place thereby providing a genuine automatic response.

The Bill has many features which will directly affect the way children with special needs and their parents deal with the education system, from diagnosis and assessment through to provisions to deal with the transition from youth to adulthood. At the heart of the system is the premise that every child with special needs will be educated in an integrated and inclusive setting unless this would not be in the best interests of the child or the effective provision of education for other children. This will not only benefit the child in question, but will also help to create greater

[Mr. B. Lenihan.]
understanding of disability within the entire school and in the broader community.

Schools will have a range of new duties in respect of children with special educational needs. They must respect the principle of inclusive education; ensure that parents are consulted regarding their child's needs; co-operate with the National Council for Special Education; ensure that teachers are aware of the special educational needs of the students and the importance of identifying children with those needs; and inculcate in students an awareness of the needs of people with disabilities.

A key feature of the Bill is the drawing up of education plans tailored to meet the educational needs of children with special educational needs. Through the planning process, disabilities can be identified, needs assessed, goals decided upon and progress monitored. Where a school principal believes that a child is not benefiting from the regular education programme, he or she must take measures to meet the child's needs. If these measures do not succeed, the principal must consult the parents and arrange for an assessment of the child. School based assessments must be completed no later than three months from the time the principal formed his or her opinion about the child. Where an assessment establishes that a child has special needs, the principal must ensure an individual education plan is prepared within one month and that, in preparing the plan, the parents, special educational needs organiser and any other relevant person is consulted.

It is intended that a school will draw up the plan where the child's needs are relatively uncomplicated. However, the principal and his or her staff will be able to call on the assistance of a special educational needs organiser. A formal planning process will be undertaken by the National Council for Special Education for children whose needs are more complex. In the case of a plan prepared by the council, a special educational needs organiser will convene a team of people which must include the child's parents and may also involve the child, school principal and a psychologist. While the plan focuses on educational needs, it must have regard to any other needs identified in the child's assessment and must be consistent with those needs.

Education plans will be reviewed at regular intervals. Schools have the primary responsibility for this and must report on it to the child's parents and the council. If the special educational needs organiser takes the view that goals in the plan are not being achieved, the team may be reconvened to review and, where necessary, amend the plan.

The provision of appropriate education services to children with special educational needs involves close co-operation and co-ordination of activities between education and health authorities. The health boards have a key role to play in providing support services such as the various therapies which those concerned need. Children

and others with disabilities often reside in health board facilities or attend day care services. The Bill is intended to resolve current difficulties in co-ordination between the health and education sectors. In addition, the National Council for Special Education will be empowered to request a health board to take specified actions where it considers this to be necessary for the preparation or implementation of an adequate education plan or necessary, more generally, to assist the council in carrying out its functions.

Between publication and the start of the debates in the Oireachtas, a wide range of groups interested in the education of young people with disabilities and special educational needs has been consulted. As a result of that process and following careful consideration of the views of Members of the Lower House, as expressed there on Second Stage, a number of amendments were tabled on Committee Stage. The debate on Committee Stage was comprehensive and members of the Select Committee on Education and Science made a substantial number of suggestions for amendments. Those suggestions formed the basis for the vast bulk of the 70 amendments submitted by the Minister on Report Stage.

The most obvious change to the Bill is that its Title has changed from the Education for Persons with Disabilities Bill to the Education for Persons with Special Educational Needs Bill. This is reflected in a new definition of special educational needs, which has removed what was seen by some as negative phraseology in the Bill. The debate on the Bill so far has convinced me that this change will greatly improve the Bill and promote the Minister's wish that special needs education should, as far as possible, take place in the mainstream. This view has been reinforced by submissions made by many interest groups, of which I am sure Senators are well aware.

Concern was expressed in some quarters that the Bill as originally drafted would not encompass those with certain conditions, such as dyslexia, ADD and ADHD. On reflection, I felt there was much to be gained by disposing of the usual definition of disability applied in legislation and to work to the more appropriate concept of special educational needs.

In a similar vein, the Minister agreed, when it was put to him on Committee Stage, that a reference to children failing to meet the goals expected of them was an inappropriate concept and that where there is a failure in the process, it may be caused by many factors. These may relate not to the child, but rather to the plan itself.

The Lower House has also made changes to the time limits for assessments, education plans and the appeals system to ensure that each child can avail of his or her rights without undue delay. As part of the discussions on Committee Stage, we agreed to look at the timescales in the original version of the Bill with a view to tightening them up. Significant improvements have been made to provide parents with a degree of certainty about

the time to be taken at each step of the processes described in the Bill.

Section 38 introduces a new concept of mediation to special education litigation. This will do much to ease the burden on parents who feel compelled to take proceedings to ensure the rights of their children to an education under statute and the Constitution. There has been a dramatic growth in such cases and while I regret that parents feel compelled to take such measures, I respect their absolute right to do so. Nothing in this Bill will diminish the right of parents to seek redress before the courts where they feel that their rights and the rights of their children have not been given full expression.

The new process introduced by this amendment will give parents and the State parties an opportunity to air their respective positions and to seek to reach agreement without the need for an expensive and time consuming court action. As a bolster to this process, if either side refuses to take part or does so in an obstructive manner, the courts will be entitled to take that into account in dealing with later issues as to costs but not, I emphasise, regarding the substantive issues in the case. This will encourage the parties to reach an early compromise to ensure the welfare of the child and will also ensure that more of the resources available to the system can be used directly for the benefit of children with special needs, rather than finding their way into the lawyers' pockets.

In conjunction with the Comhairle (Amendment) Bill and the Disability Bill, the Education for Persons with Special Education Needs Bill will be a vital component in tackling disadvantage resulting from disability. It will address, once and for all, the gaps in our education system. I look forward to completing the legislative process as soon as possible and getting on with the work of implementation.

The Bill will, for the first time, set down a legislative framework within which the constitutional rights of children with special needs will be guaranteed. It will ensure that all children with special needs get the services they deserve and to which they are entitled. It will help to provide them with greater opportunities to participate in society. I thank Senators for dealing with the Bill and I look forward to the forthcoming debate.

Mr. U. Burke: I welcome the Minister of State, Deputy Brian Lenihan. Senators are presented with Bills on various topics throughout the parliamentary session. It goes without saying that all legislation is important because of its impact on people's lives. However, this Bill is of special and critical importance because it impacts on children and their parents, schools, teachers and families and gives our deliberations a keen edge. I am pleased the House finally has the opportunity to examine in detail the provisions of the Education for Persons with Special Needs Bill 2003. It is of great significance to thousands of people around the country.

I agree with the Minister of State that the Bill has been extensively scrutinised in the other House, but it does not take a true rights-based approach to the individuals at the centre of the educational process. Instead it retains the existing normative educational structures and attempts to graft on additional structures and processes in an attempt to address the educational needs of people with disabilities and special needs.

The Bill is shackled with overbearing resource constraints, which were highlighted repeatedly in the Minister of State's speech, and was formulated on the premise that efficiency must be achieved through forcing people with disabilities to fit existing or somewhat modified structures and processes instead of designing them from the individual out. Moreover, these additional structures have been designed in a manner which will inevitably lead to unnecessary bureaucracy and inertia in service delivery, or worse, provide cover for officials to hide behind when they cannot deliver. If this Bill is to achieve the objectives set out in its Preamble, it will require a radical rethink of how we approach educational processes in this State. We have an opportunity to do so and we should take it.

In the 1990s, the report of the Commission on the Status of People with Disabilities found that all children, including those with disabilities, have a right to a free and appropriate education in the least restrictive environment possible. The commission found that every individual has an equal right to educational provision and that every child is capable of benefiting from education. This latter point is critical and it is clear the State is responsible for providing the assistance required by children with special educational needs to enable them to reach their full potential. Anything less than this is a failure which amounts to a serious negation of one of the most pressing and primary obligations.

Unfortunately, this is an obligation which has not been met. In every school in the country there are children who require psychological evaluation or special educational resources. However, these services are not being delivered. This comes down to the simple matter of prioritising resources where they can be of most assistance. Unfortunately, children with special educational needs must get used to being low down the Government's list of priorities. Why should the Minister for Education and Science and the Minister for Health and Children require the consent of the Minister for Finance to provide funds for their allocated budgets for the implementation of such educational plans? Why should the Minister for Finance have any hand, act or part in the formulation of policies to do with the educational needs of people with disabilities?

These same provisions are not to be seen in the Education Act 1998. The Act requires that the Minister, in carrying out his or her functions, shall have regard to the resources available. Is it not discriminatory in the extreme to impose a more draconian and interfering requirement of fiscal

[Mr. U. Burke.]

responsibility on persons with disabilities than their peers? How does it fit with the stated objective in the Preamble of the Bill to provide that people with disabilities shall have the same rights to avail of and benefit from appropriate education as their peers?

Unless the resources are put in place, all the best legislation will not ensure that those with disabilities can fully participate in our education system. It is difficult not to be sceptical that this legislation will provide the type of appropriate and resource services which are so badly needed.

Recently Fine Gael conducted a survey of more than 400 schools around the country, approximately one tenth of the total school network, and found the average waiting time for a child to receive a psychological assessment through the National Educational Psychological Service was 6.5 months. With more than a quarter of the children waiting more than nine months, in some cases students would have to wait up to five years to get an assessment. Can the Minister of State guarantee this will not continue in the future? The guarantee has been written on paper but while the resources are not available, how can the Minister of State stand over this guarantee? The record stands. A psychological assessment can be critical in determining the type of specialised assistance a child may need to reach his or her educational potential. Without an assessment it can be difficult to ascertain exactly what type of assistance a child may need to progress at school.

Given the long waiting times, the educational potential of so many children is being squandered or hindered. The waiting time does not stop there. Since February 2003, the Minister for Education and Science has received more than 8,000 applications for special education resources in his Department. However, the vast majority of these, more than 88%, have not been sanctioned, leaving children who are in need of some form of assistance at school without the help they require.

This failure indicates the critical resources and administrative bottleneck the Minister for Education and Science has been unable or unwilling to tackle in a real way. The difficulty we face today is that the best legislation in the world, if expected to function without resources, will not provide the support students with special educational needs require. Legislation needs the support from Government that comes with both the delivery of resources and the political will to clear the bottleneck that obstructs the critical services. A comment by the National Federation of Voluntary Bodies clearly indicates that the potential impact of the proposed legislation will be significantly diminished unless there is a legislative imperative associated with the appropriate provisions of support and resources. That clearly outlines its fear because of the record of the past. It is abundantly clear the Minister for Education and Science has neither sanctioned the resources nor cleared the bottleneck.

I welcome the change in the Title of the Bill. Many of those who came before the Joint Committee on Education and Children had difficulty with the term "educational disability". In particular, those with physical disabilities pointed out that they do not, *per se*, have an educational disability. The original Title, Education of Persons with Disabilities Bill, focused clearly on the negative. The amended Title, Education for Persons with Special Educational Needs Bill 2003, directs attention to the specific requirements of those with special needs. Instead of being concerned with meeting the requirements of any given disability, the amended Title shows the need to assist people with special needs, whether these needs change over time as people approach maturity or under any other circumstance. The needs of people with special educational requirements are open-ended and should be met at all stages within the education system. I acknowledge the work of Deputy Stanton who was instrumental in having the Title of the Bill changed, as the Minister of State acknowledged.

During earlier Dáil debates and scrutiny of this legislation, there was considerable concern at the definition of "disability" included in the Bill. My colleagues, Deputies Enright and Stanton, tabled amendments to define "disability" according to the Education Act 1998. That Act defines "disability" according to a number of criteria, one of which included a condition or malfunction which results in a person learning differently from a person without a condition or malfunction. Therefore, the 1998 Act gave a broad enough definition to allow for the inclusion of conditions such as ADD, ADHD, dyslexia and dyspraxia. We must ensure the definition proposed in the legislation cannot be used to restrict access to any service or assistance to those who need it.

The Fine Gael amendments were specifically designed to ensure that those need help would get it, as well as the children who have conditions such as ADD, ADHD, dyslexia and so on. I am also concerned about the use of the word "enduring" as part of the definition of special educational needs. The Dyslexia Association of Ireland has a similar concern and said it was not convinced that dyslexia would qualify as an enduring physical, sensory, mental health or intellectual impairment in a court of law.

It may be the case that a child has a special educational requirement that may be pressing and for which assistance may be needed. However, if that requirement is not considered to be as a result of an enduring condition, to what assistance will the child be entitled? I am concerned that such a prescriptive definition of disability may not allow children to access services they may need from time to time during their education. When examining the Education for Persons with Special Educational Needs Bill 2003 it is clear the remit of this legislation applies only to those under the age of 18 years. For example, "child" means a person not more than 18 years of age. I am concerned about future students

who, for whatever reason, may not complete second level education by the time they reach 18 years of age. It is conceivable that a child who has a special educational requirement may start school slightly later than his or her peers, or may progress at a slower pace through the school system. What protection will such a child be afforded if he or she does not finish full-time schooling before reaching 19 or 20 years of age?

The Government may say its long awaited disability Bill will provide protection for such a person. However, this is not good enough. Today we must examine the Education for Persons with Special Educational Needs Bill without the benefit of knowing what the forthcoming disability Bill will contain. The Government has continually promised to bring forward the disability Bill but has not acted on these promises. In April 2003, the Taoiseach made a commitment to publish the disability Bill as soon as possible, but last March the Tánaiste was unable to say when the Bill would be completed. Moreover, the Taoiseach's recent excuse that ongoing consultation was the reason for the delay in the publication of the disability Bill is not supported by members of the consultation group who say that is not the issue on hand. The Government has stalled long enough in bringing forward the disability Bill. The Bill must be published as a matter of urgency, particularly as the Bill before the House has no force for a person over the age of 18 years. Those over 18 years of age must have their rights vindicated through the disability Bill and must have their educational needs fully met.

Dealing with support services or State agencies on behalf of one's child can be a daunting task for many parents. As representatives we are in frequent contact with our constituents who all know that bureaucracy and administration can deter people from applying for assistance to which they are entitled in many cases. In these instances we should ensure parents have the support of an advocate who can advise them of the assistance available for their child. Furthermore, in cases where parents feel intimidated by officialdom, such an advocacy service should be able to liaise with the relevant support services or agencies and make a case on behalf of the child in question. This type of support service is badly needed and should have been incorporated in the Bill.

The Education for Persons with Special Educational Needs Bill 2003 also puts considerable extra pressures on school principals. I am calling on the Minister for Education and Science, Deputy Noel Dempsey, to outline in detail the supports not only in terms of finance, but also of training and administration and administrative assistance that will be made available to both primary and secondary schools in the implementation of the Bill. Part of a letter I received from a school principal in County Galway states:

Ulick, what can a principal do when teachers come in tears to you because they perceive themselves as failing the Special Needs child? I

know these teachers are doing an excellent job, but I can acknowledge their perception — they have absolutely no training for dealing with children who are Mildly Handicapped, Downs Syndrome or Autistic. Parents are very demanding and the current Special Needs situation in Primary schools is abysmal. In fact any courses available to the general body of teachers in most of the Special Needs areas have been provided not by the DES but by individual teachers who have up skilled at their own expense — and they feel pretty foolish listening to the current Minister's comments on our teaching as being in the Dark Ages. What has he provided to improve these areas?

That comment from a school principal states the reality.

Last October the INTO stated that this legislation would not be worth the paper it is written on in the absence of a Government guarantee of resources to implement it. In addition, the National Association of Principals and Deputy Principals stated that children with special needs in second level schools were not being given the resources they require now, even before the legislation is to be considered in the Seanad. The Minister for Education and Science must ensure that meeting the requirements of special needs students is the core part of teacher training programmes running today and provide all necessary assistance and upskilling to working teachers who may require further training in this area.

I wish to refer to the role of parents in the education of their children and welcome the Minister's guarantee of their involvement. It is important that parents are kept involved at every stage of the decision making process and can make representations. The Education for Persons with Special Educational Needs Bill 2003 established a National Council for Special Education consisting of a chairperson and 12 ordinary members appointed by the Minister. I consider that it is of paramount importance that parents and their representatives should have a strong voice on that council. Parents are battling day in day out to access the services their children need and their views and concerns must be represented on this council. I am concerned also that by choosing the route of arbitration or mediation, a parent or child's right of access to the courts will not be diminished.

It would be preferable to think that the legislation will be resourced properly and with all due care and respect for those with special educational requirements, which would negate the need for legal action in so many cases. However, with the track record of the Government, I have nothing other than continued concern for the children with special educational needs. I welcome the Second Stage debate and I will table amendments to the Bill at a later stage.

Mr. Fitzgerald: I welcome the Minister of State, Deputy Brian Lenihan. This significant Bill is very welcome. Following its publication, the Bill

[Mr. Fitzgerald.]

was debated at length among various organisations, at the Joint Committee on Education and Science and during its passage in the Dáil. One of the greatest challenges to our education system down through the years and in recent times is the inability to respond to children with special educational needs.

Educationalists, policy makers, Governments, Ministers, consultants and teachers have all subscribed to the principle of providing equality of educational opportunity, providing equality of access to the best available services in education and providing equality of opportunity to every child in the State to reach his or her potential. Article 42 of the Constitution, to which Members referred, asserts the rights of children to such equality of treatment. Legislation, resources and various mechanisms have been targeted at these inequalities with varying degrees of success. In fairness, pilot projects were put in place, such as special classes in mainstream schools. I recall being involved on the periphery of two of these classes in an inner-city school ten minutes walk from Leinster House during the 1970s. There were special schools dedicated to particular disability groups and remedial services were put in place for children on the margins of disability. With the greatest of respect to all the professionals involved, expertise was scarce, both in the Department and on the ground, and up to this day there are major lacunae. Resources in many cases were even scarcer. There was very poor planning, little or no co-ordination and, by today's standards, it was a hit and miss service, existing as the Cinderella of the primary education service.

In more recent times, and particularly since 1997, the service has been transformed. The changes that have come about reflect a more holistic, enlightened, mature, determined and targeted approach to the widely varying forms of educational disability. The level and quality of response through education to children at risk of being marginalised and suffering disadvantage has been spectacular, even if it is still inadequate.

Mr. U. Burke: Repeat that again.

Mr. Fitzgerald: There is a determination, and this is very evident in the past number of years, to bring this service to the centre and to the heart of the education service in general. It was very much on the periphery. It was the case of a nod and a wink and a sometimes best forgotten service. Now it is being brought rapidly to the centre of the education service and that is to be greatly welcomed.

In regard to three or four key developments that have taken place recently, in 1998 a programme of funding was put in place to significantly enhance the level and the quality of the service. It started with a decision to give all primary school children automatic entitlement to a response to their needs and this was a defining

moment in Government education policy. A rapid expansion in the level and quality of professionals followed, for example the number of special resource teachers in schools increased from 104 to in excess of 2,000. The number of special needs assistants went from a few hundred to approximately 5,500. The learning support teacher service was extended to every primary and post-primary school in the country. There are more than 1,500 learning support teachers employed in education. The expansion of the service through access to a variety of support services has made the system more responsive to the various levels and types of need. The significant reduction in the pupil-teacher ratio over that period within mainstream schooling, special classes and across special schools has further enhanced the quality of the response.

Mr. U. Burke: The Senator should read the list today.

Mr. Fitzgerald: There are individual disparities, difficulties and imbalances within that service but overall that has been the thrust of this development.

I pay tribute to two groups which made a significant contribution to promoting awareness of children with special needs and disabilities, to asserting their right to equal treatment and to realising their potential. Enabling children with special needs to reach their full potential is at the heart of the service. I commend their parents and the voluntary groups who have been to the fore in fighting beside the parents and lobbying for these rights for many years. I also commend the teachers and other professionals who have worked so hard to provide a meaningful response to these special needs, very often over the terms of various Governments with meagre or almost no resources. I saw this at first hand during the 1970s and into the early 1980s. I especially compliment the 54 organisations and individuals representing these children's needs who made detailed written submissions to the Oireachtas Joint Committee on Education and Science concerning this Bill. Senator Ulick Burke was extremely active in responding to those submissions. The oral presentations were equally illuminating and provided me and other members of the committee with invaluable insights in considering the Bill. I readily concede that my few modest words are the fruit of deliberations on some of the exchanges in the committee.

While the rights of all our children are clearly enshrined in Article 42 of the Constitution, the Equal Status Act 2000 and the Education Act 1998 vindicated those rights in law but despite that vindication, constitutional and legislative, there was one large lacuna. The service lacked a structure to guarantee those rights. The word "guaranteed" has irritated Senator Ulick Burke and prompted many questions, some of which I hope to respond to later. This Bill addresses that lacuna through the establishment of the national

council for special education. For the first time the special needs education service is being provided with a framework within which the education of these children can be guaranteed as a right enforceable in law. Senator Ulick Burke is concerned about resources and whether the Bill is rights-based, another issue that has prompted serious discussion. This is a central issue guaranteeing a right enforceable in law which has pre-occupied parents, voluntary groups, politicians, Ministers, consultants, various others and the courts. We are all aware of it and I will not bore Senators with the details. It is a central and fundamental issue which has been much discussed since publication of the Bill.

The Minister of State has outlined the services which the Bill provides, such as the national council for special education, a planning process for individual education plans and a central role for parents in every step of the process, assessment procedures, resources, rights and reviews of plans. The Minister of State and Senator Ulick Burke have commented on the necessity to have such reviews at regular intervals. The duties of schools and principals is key in the Bill. The Minister of State and Senator Ulick Burke covered in detail the appeals and mediation procedures. The role of health boards is also crucial because it refers specifically to a targeted and co-ordinated approach which was markedly absent until recently. It also refers to the five-year lead in time for implementation.

Issues were raised on all of those topics and concerns were raised on most of them following publication of the Bill and during its lengthy passage through the other House. Many representative groups expressed concern about the availability of funding and the question of resources versus rights, which are not mutually exclusive. I hope to show that in this Bill, as amended in the Dáil, there is no such thing as mutual exclusivity in this regard. The rights-based commitment about which so many are concerned will flow from section 13. This section is a landmark development in answering these concerns and is quite revolutionary in the history of legislation.

Mr. U. Burke: With the consent of the Minister for Finance.

Mr. O'Toole: The Senator cannot have read the section.

Mr. U. Burke: Subject to that it will be a landmark.

Mr. Fitzgerald: People may be irritated by the term "revolutionary".

Mr. O'Toole: The Senator may use all the terms he wishes.

Mr. Fitzgerald: People will have plenty of time to articulate their irritation as will Senator O'Toole following my very humble contribution.

Mr. O'Toole: The Senator is getting over-excited. It is not a bad idea but it is not revolutionary.

Mr. Fitzgerald: I am sure Senator O'Toole will find it——

Mr. O'Toole: The Senator should read section 13 again.

Mr. Fitzgerald: ——more than satisfactory to articulate that irritation.

Mr. B. Lenihan: Senator O'Toole is concerned about an ATM.

Mr. Fitzgerald: Since I first witnessed or commented on legislation in this House in 1981, I have not seen such a fundamental shift with regard to commitment to resources to fund the services proposed in a Bill——

Mr. U. Burke: Subject to the consent of the Minister for Finance.

Mr. Fitzgerald: ——as defined in section 13 of this Bill. The new section 13 in the amended Bill imposes a statutory onus on the Minister for Education and Science, the Minister for Health and Children and the Minister for Finance——

Mr. U. Burke: That is the rock on which it perishes.

Mr. Fitzgerald: The truth sometimes hurts.

Mr. U. Burke: That is for sure.

Mr. Fitzgerald: Some irritation or hurt is causing this disturbance and unrest among the Opposition. I beg the Leas-Chathaoirleach for protection to make my humble contribution and disabuse the Opposition of some misguided notions on this.

Mr. U. Burke: Time will tell.

Mr. Fitzgerald: This legislation imposes a statutory onus on the Minister for Education and Science, the Minister for Health and Children and the Minister for Finance to have regard to the constitutional imperative. This has always existed under Article 42 of the Constitution. There is now a statutory onus on these Ministers to have regard to that and to provide for the educational needs of all children. They must ensure that the level of support provided for children with special educational needs is comparable in effect to that provided for children without such needs. Parents and representative groups are significantly empowered and strengthened in their ability to ensure the resources needed to implement the Bill are made available.

I received clarification on this through speaking to certain people last night, to the effect that there are considerable grounds for the possibility

[Mr. Fitzgerald.]
of a judicial review of alleged failures on the part of one or all of the Ministers specified in the section to provide for the funds deemed appropriate for the provision of the service or services outlined in the Bill.

Mr. U. Burke: It is a pity that advice was not available to the Sinnotts or the O'Donoghues.

Mr. Fitzgerald: The range of services for which the Bill provides is no longer aspirational. Most Bills, except those from the Department of Finance, contain a list of aspirations, which is good because they are the principles espoused by the Bill but the services are defined or set down within the Bill in a committed but aspirational form. That aspirational dimension is set aside here.

Mr. U. Burke: The Senator can continue dreaming.

Mr. Fitzgerald: The section provides somebody, whether a professional, a parent, voluntary organisation or representative group, with real teeth to seek a judicial review of a decision or decisions by the Ministers. That is a significant difference. I congratulate the Minister, Deputy Dempsey, on securing this ground-breaking measure from his Cabinet colleagues. I am confident the implementation of the section will allay the concerns of parents and representative groups.

Many services are provided for in the Bill and a great deal of debate has also been generated about assessment procedures and individual education plans. Anyone who ever had the slightest contact with education, whether as a parent, teacher or whatever, will be all too aware of the disastrous situation which has obtained in respect of assessment procedures, the timescales involved and waiting lists. All politicians will have been approached, from time to time, by parents seeking assistance in having their children assessed because he or she was deemed to have a particular or special difficulty at school. Everyone will have been confronted with the same problem on most occasions, namely, the waiting lists. Senator Ulick Burke referred to the timescales involved in this regard. It is true that waiting lists remain in place.

Mr. U. Burke: That will continue to be the position.

Mr. Fitzgerald: I have evidence that they exist in my constituency. When I am at home, my better half constantly informs me of the difficulties that exist. Such difficulties impinge most at junior infant level.

Everyone agrees that justice delayed is justice denied. However, we should also agree that the delay of a service to a child with a special need is a right denied. The damage caused by such a failure can have lifelong consequences. Failure to

provide services has a major ripple effect. If an essential service is not provided at the appropriate time, it can cause lifelong damage to a child. In practical terms, it also means that the child in question, who might be extremely disruptive, will be left in a mainstream class until assessed and, subsequently, appropriately placed. This can cause major difficulties for children who can learn in the normal way because the child who needs a special placement might be extremely disruptive in the classroom. There are many matters which must be taken into account in this area.

I welcome the commitment in the Bill to engage with this issue head-on. Where a school principal makes a judgment that a child is not benefiting from the class programme, he or she must take steps to meet that child's educational needs. If the alternative programme that is provided does not meet those needs or the goals the principal deems are appropriate to be set, he or she must assure that the child is assessed within three months. People's representatives will state that we are placing the onus on principals. In official terms I remain a principal and I believe that principals are statutorily responsible for carrying out such duties. The duties to which I refer should not be entrusted to any other member of staff or any other professional. The buck should stop with principals. Other matters, factors, implications and issues relating to resources, etc, must be worked out and I am sure that this will happen. I compliment the Minister on holding firm in respect of the fact that the buck should stop with principals.

I also compliment the Minister on the provision which states that there will be no more waiting lists. There is a five-year implementation period in respect of the Bill. There can be no more waiting lists for assessments and referrals because within one month of an assessment, an appropriate education plan must be in place.

I welcome the principle of integrated education. Taking the approach of providing such education for children with special needs has been a vexed question for many years and it has caused a great deal of controversy. It sometimes comes down to a question of integration versus specialisation and which would be better for a particular child. There are merits on both sides of the argument but I do not believe that these approaches are mutually exclusive. The Minister's plan to favour an integrated approach except in instances where the interests of a child with special educational needs or the ordinary mainstream class are not best served is most positive and will prove most conducive in terms of promoting the development of interpersonal and life skills among children with such needs.

The Bill is a substantial milestone. Despite the doubts, concerns and negative approach of the Opposition, I am extremely confident that the landmark development defined in section 13 will ensure that the framework that is being put in place will operate well in terms of responding to

the serious and sensitive needs of children with special educational difficulties.

Mr. O'Toole: I welcome the Minister of State. I agree with the comments he and the relevant spokespersons made to the effect that the Bill is much improved. However, I would place it in the same category as the Sermon on the Mount or the principles of Christianity or those of socialism. It will be great if it gets the opportunity and is given the resources to allow it to work.

Mr. U. Burke: Hear, hear.

Mr. O'Toole: I have a major doubt that this will be the case. I cannot accept that there is anything revolutionary about section 13. If there is anything revolutionary in the Bill, it may be contained in section 9(7) which states that a principal shall make resources available. That is new but, unfortunately, its effect is immediately emasculated by section 13.

The Minister of State was correct to indicate that the Bill has been changed substantially. I listened to much of the debate in the Lower House and I must state that the Minister took an extremely co-operative approach. The latter was also the case when the Bill, in its original form, was taken in this House. The Minister accepted a number of crucially important proposals from me at that time, including that relating to section 9 and the fact that resources shall be made available.

I wish to consider how the Bill will work. If we take a child-centred approach to the operation of the legislation, how can we make it work? If a child at pre-school level or junior infant level presents with a learning problem or an special educational need of some description, under the legislation the principal will be required to become involved. During my contribution, I will return to the additional demands being made on principals because some recognition must be given to the fact that support structures must be put in place for principals and staff. It is not good enough to merely dump work on them without also considering how they will deliver within the circumstances in which they find themselves and the time available to them.

If, as already stated, a child presents with a particular problem or need, the principal must take control. Under the legislation, he or she will be required to have an assessment carried out. Let us consider how a psychological assessment might be carried out. There are three ways in which this can be done, first, the National Educational Psychological Service can carry out the assessment; second, a private assessment, in respect of which the Department will refund costs, may be commissioned; and third, the board of management of the school or the parents pay for the assessment which, appallingly, is becoming increasingly common.

I wish to pose a question, the answer to which will clearly indicate whether Senator Ulick Burke

is correct about the issue of resources. Let us consider a situation where a principal wants to have a child assessed but his or her school does not come under the NEPS scheme or, in terms of private assessments, he or she is restricted to two per 100. Section 9(7) states that a principal shall be given resources for the preparation and development of an education plan. Having an assessment carried out is part of that preparation. The only interpretation that can now be made in this regard is that the principal or board of management, in consultation with the parents, can arrange for a private assessment to be carried out and will be entitled to seek the resources for doing so from the Minister for Education and Science. Is that the case? That is a simple question and I look forward to the Minister of State's reply.

If the answer to this question is not a clear "yes", that is the first indication that section 13 is not revolutionary and that we are being presented with the same old story, namely, a lack of resources. If it is the case that a principal can proceed with an assessment and ensure it is carried out within the one to three month period stipulated in the Bill, I acknowledge that is a huge step forward. Senator Burke would also acknowledge that. He referred to the letter from a school principal outlining the difficulty of observing a child with special needs and being unable to meet his or her demands and the frustration and worry shared by the child's parents and the board of management. This sense of frustration is something which Members from both sides of the House have experienced.

Suppose the assessment is concluded and the result is conveyed to the principal. Either the principal or a designated teacher shall then "cause to have prepared" the education plan, originally termed an individual education plan. There is a set of objectives for the education plan, stipulated in section 9(2). Nobody can argue with these objectives and I acknowledge the Minister accepted amendments to improve them. They constitute a fine set of goals. I want to focus on two of them, however. Section 9(2)(e) specifies as an objective that "the special education and related support services to be provided to the child to enable the child to benefit from education and to participate in the life of the school". Paragraph (f) reads "where appropriate, the special education and related services to be provided to the child to enable the child to effectively make the transition from pre-school education to primary school education". These provisions are clear and certain and that is something both Senator Ulick Burke and I welcome. They address the needs of the child, which could be a variety of things such as support from an educational psychologist or perhaps even a clinical psychologist if appropriate. The provision certainly envisages the necessity for the assistance of a therapist of some kind, speech or otherwise. Some remediation may be required or even counselling in the case, for example, of a child who

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has gone through some traumatic experience that has led to his or her special education needs.

Section 9(7) states that:

The principal of the school concerned shall implement an education plan, and, for the purpose of preparing and implementing that plan, that school shall be provided with the necessary moneys and support services in accordance with section 13.

Unsurprisingly, however, section 13 states that the agreement of the Minister for Finance is necessary. I shall let that pass and will not rain on the Government's parade at this time. I am prepared to sit back and reserve judgment until I see that my doubts and scepticism are utterly unfounded and that cheques will flow from the Department of Education and Science to the schools around the country which need this sort of support.

Mr. B. Lenihan: Senator O'Toole was never a sceptic.

Mr. O'Toole: I was always a sceptic but never a cynic. I am prepared to accept that I may be wrong about this.

Ms O'Rourke: Senator O'Toole is an attractive sceptic.

Mr. O'Toole: This comes down to resources. I mentioned the resources in terms of providing the specific set of additional support services outside the school. There may be requirements for the class teacher to provide additional types of assistance and support structures. In a situation where more demands are put on the child's class teacher, it is inevitable that attention will be diverted from other children in the class. We must get this balance right. It is perfectly acceptable to present the specific needs and goals of a child with special educational needs to his or her class teacher but we must also accept that the fulfilment of those needs will require time and resources for that teacher. This Bill must stipulate that the resources required by the school include a recognition that the additional levels of assessment, administration, planning, case conferencing, paper work and organisation will require more administrative effort for the principal or designated teacher. The Minister of State is well placed to appreciate this necessity as some 95% of the schools in his constituency have less than 100 pupils.

Let us consider a small school with which the Minister of State may be familiar in the Gaeltacht region of the Galway West constituency. Will be there a room for the case conferences to take place? Is there a medical room in the school? A space in the school for the principal to sit down with the people who will be conducting the case conferences in order to develop the education plans is a simple but necessary requirement.

There was a time when every school was entitled to a medical room where parents could talk to teachers about their children's needs in private. If a principal is taken from regular school work to attend a case conference, or a class teacher is removed from the classroom for the same purpose, and I am not objecting to this in any way, there are some 20 other pupils in the class who need to be looked after during that time, some of whom may require additional support. We are back to the issues of resources for the school in order to make this approach feasible and it is crucial that we recognise what needs to be done.

Another practical concern is that this Bill will establish a new system of support structures for schools in the form of special educational needs organisers, as stipulated in section 26. The description of their role is quite vague, although I recognise that it is difficult to be specific at this stage in the formulation of the legislation. However, there is a flip side to the provision that the board of management, principal, teachers and all relevant members of staff must co-operate fully with the requirements of the special educational needs organiser namely that the special needs organiser in turn must co-operate with the organisation of the school, the school plan and the principal's and class teacher's work. He or she must be part of what we call in the rules of national schools "an foireann scoile".

One of the difficulties with this Bill and similar legislation is that it must take cognisance of the cultural background of the children. Go mórmhór tá mé ag díriú isteach ar leanaí atá ag teacht as na Gaeltachtaí agus leanaí a bhfuil Gaeilge acu mar ghnáth-teanga an lae sa bhaile. Tá daltaí mar sin ag teacht isteach faoin Acht seo, agus caithfear educational plan a chur le chéile dóibh. Tá assessments á ndéanamh ar a son nó orthu. Caithfidh pé duine atá á ndéanamh sin bheith sáite i gcultúr an linbh le tuiscint ar cad atá ar siúl in áit dúchais an duine óig sin. Is cuimhin liom, tuairim is deich mbliana nó dosaen bliain ó shin, go raibh muid ag féachaint ar na deacrachtaí a bhain le múinteoirí cabhrach a chur ar fáil do scoileanna Gaeltachta i ndáilcheantar an Aire. An uair sin, chuir Muintearas i Leitir Mór feachtas ar bun chun díriú isteach agus taighde a dhéanamh ar na deacrachtaí agus na coinníollacha chun múinteoirí cabhrach a chur ar fáil do leanaí Gaeltachta. An uair sin, cuireadh tuarascáil le chéile atá sa Roinn, agus bhí an Roinn an-tógtha léi. Nuair a cuireadh le chéile í, dúradar go rabhadar in ann tacaíocht a thabhairt di. Tá sé sin ar fáil.

Ba mhaith liom go ndéanfaí taighde den tsórt céanna ar chur i bhfeidhm an Achta seo. Tá sé sin thar a bheith tábhachtach ag an bpointe seo. Ba chóir bheith cinnte i gcónaí that the cultural, linguistic or other background of the child is taken into account. Anyone here with a background in teaching would support that. I ask that this be considered as a possibility and will table an amendment to that effect on Committee Stage. I will be very careful about it and will not relate it to the Irish language only, because in terms of

the issues we are currently dealing with, it could relate to children from a variety of backgrounds in this era of multiculturalism. It is important that we would look at a requirement that the operation of this Act would take into account a child's cultural background and linguistic needs. Tá sé sin an-tábhachtach, agus tá a fhios agam go dtuigfidh an tAire an tábhacht a bhaineann leis sin agus go mbeidh sé féin sásta tacaíocht a thabhairt don moladh sin, más féidir in aon chor é. Tá sé thar a bheith tábhachtach. Senator Fitzgerald correctly stated that, as it is written, the plan is state-of-the-art. If the resources are provided for this to be fully implemented, it could solve huge problems. This is the time to do it.

I referred earlier to the National Educational Psychological Service. There is a gap in the NEPS in counties in the mid-west, in particular, such as Limerick, Donegal and places in between, but perhaps not the county of the Minister of State, Deputy Fahey.

Mr. U. Burke: That also applies to Galway.

Mr. O'Toole: The service does not exist in some places and we should address the matter. There is another reason we should move it forward. An unintentional impression is created in the Bill that an educational psychologist carries out an assessment and is then off the scene. In most other European countries, for instance in the North and the rest of the UK, educational psychologists are also involved in the delivery of educational plans. This cannot be done at the moment here because psychologists in the NEPS are run off their feet doing assessments and never have time to get involved in the delivery of the plans and proposals which they develop. I know Senator Fitzgerald shares my views as we shouted for years for educational psychologists to be made available to schools. They are now coming in so let us make the best use of them.

As Minister, the Leader started that process many years ago. It has taken a long time for it to be put in place and has still not come to fruition. Successive Governments of all parties and shades have tried to move this forward. We are now close to at least being able to provide a full educational psychological service. That should be done and we should move to fill all the vacancies in the National Educational Psychological Service and ensure it is available to all. We must also extend the authority of schools to have assessments of children done privately by properly qualified professionals if they do not have access to the NEPS. Will school principals and school authorities be entitled to have an assessment done or will they be entitled to claim back the costs if it is done privately? This challenge will come up within a week of the Act being ratified. Judging by the correspondence I received on the matter, I assure the House that there will be a school that needs to assess a child but will not have access to the National Educational Psycho-

logical Service or be able to privately commission an assessment, which it should be entitled to do.

An Leas-Chathaoirleach: The Senator has one minute remaining.

Mr. O'Toole: I have more than one minute, because when Senator Fitzgerald was informed by the Chair that he had one minute remaining he continued for at least four minutes. He has eaten into my time.

Mr. Fitzgerald: I would never do that.

Mr. O'Toole: I am aware that you are flexible, a Leas-Chathaoirleach, and will not take advantage of your good nature.

An Leas-Chathaoirleach: I am going on the basis of the clock in front of me.

Mr. O'Toole: I think you started the clock when Senator Fitzgerald was supposed to finish, rather than when he did finish. That is the problem.

There is not a great deal of difference between either side of the House on what is being sought in this legislation. The only difference that has emerged is on the question of resources. Senator Fitzgerald is confident they will be made available. Senator Ulick Burke doubts that and I am also sceptical about it.

Mr. Fitzgerald: The Senator can take my word for it.

Mr. O'Toole: I want to see principals of small schools getting resources. The vast majority of principal teachers have full-time class responsibility. They are now being lumped with a significant additional workload on the basis of this legislation. I want that to be recognised through the allocation of the necessary additional resources for this purpose. The same applies to class teachers and schools in general.

This could be the start of a bright new future but the operation of the educational plan must be done in a fair and open way. A great deal of recognition is given to parents, which nobody would argue against, but the position of teachers has been somewhat diminished in the Bill. If one goes through the issues relating to the goals of the educational plan, they are all specifically professionally oriented. There are decisions on which parents should certainly be consulted and in which they should be involved, but these decisions can only be made by professionals, either teachers, psychologists or various other people. The role of parents is to establish the need, describe the problems and indicate how they can be part of the solution. It is important that they be involved and I would not suggest that it should be otherwise.

The educational plan is core to this matter and must be specific. Resources must be made available. I will believe it when I see it. The reason I

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say this is that section 13 was not necessary unless somebody had bad thoughts about making the money available. If section 13 were removed we could all hold hands and sing "ring a ring a rosie", hail the bright new future and the solving of the problem and walk out of here. However, I do not suspect the Government will be prepared to drop section 13 and leave it to section 9(7), which requires that funding be made available.

I wish the Bill well and will be supporting it in the main, although I intend to table some amendments.

Ms O'Rourke: I am happy to speak on the Bill and outline what I see as its good characteristics as well as ways in which it could still be altered to meet many of our aspirations. I praise the change of Title. It was wonderful that the Minister and his advisers changed it to Education for Persons with Special Educational Needs. This was a good change which apparently took place during the consultation period between the Bill being launched and its Second Reading. That period of time is always a very useful one if there is no immediate rush to get the Bill into either House. It allows for those who would be materially affected by the Bill to meet the Minister and his officials and make their points known. Such points are highly relevant. The Minister of State, Deputy Brian Lenihan, pointed out that the change took place in the course of such a consultation period. I was aware that the Title had been changed but I did not know how or why it had happened. The Title is infinitely preferable to the previous one and is more embracing.

Uniquely, both the Minister of State, Deputy Fahey, and I were the Ministers involved in the early stages of much of this type of thinking. Similarly, Senator Fitzgerald, the party spokesperson on education, was very much involved with me in the years in opposition, 1983 to 1987, when we worked together to formulate our policy papers. They make very interesting reading, not from a historical point of view, but because many of the points we made have come to fruition as matters of policy over the years and particularly in the Bill. I pay tribute to Senator Fitzgerald for the four years in which we worked in great harmony together. Our overriding aim was to put the Government out of office. I wish to pay tribute to the excellent advisers which both Senator Fitzgerald and I had at that time. Senator Fitzgerald reminded me that some of the points made in the House were formulated in the mid to late 1980s. It is proof that education stands the test of time. Senators O'Toole, Ulick Burke and other speakers in the debate are aware that education requires an evolutionary policy and cannot be changed overnight. It takes time and is an evolution of reflection leading to policy-making.

Senator O'Toole's contribution demonstrated his excellent intellect with regard to education. He was one of the leaders of the INTO with whom I had ongoing consultation and with whom

I discussed many of the points being made today. It is fortunate to have in the House people who were heavily involved at that time. I recall difficult debates with the INTO. However, the overriding consideration was always the welfare of the child and the position of the child at the centre of whatever provision could be agreed with the Department of Education.

Senator Ulick Burke is a respected secondary school teacher who is respected not just in his own constituency but in the midlands in general. He is respected for his views on education as it affects the child or student. This House will do credit to this Bill even if Members have different points to make. I am not saying this because we are all teachers. However, teachers always retain the tenets of teaching and of a child-centred viewpoint.

The Minister has displayed an open mind on this subject during the debate and this is admirable. I followed the debate in the other House. Over 700 amendments were tabled which shows great interest on the part of the Deputies who contributed. The Minister accepted many amendments on Committee Stage which I acknowledge would be changed on Report Stage by the Office of the Parliamentary Counsel. However, in many cases the amendments were accepted in spirit. I am reliably informed this Bill is vastly changed from that which entered the Dáil on Second Stage. That is admirable as legislation is better for scrutiny and if the Government is prepared to consider fair points made. No Department or Minister has the last word on any Bill because that would be ridiculous. The period of reflection has been very important and I am pleased this House has the benefit of it.

Senators Ulick Burke and O'Toole asked whether resources will be provided to allow for all that is required for children. Senator O'Toole wishes to see the removal of section 13. There is no Bill which does not include this type of section because a Government will need the financial hand at the helm. However, strong stipulations regarding the needs of the child or of its parents or guardians are enshrined by statute in the legislation. That certainty would not have been present in any other Bill.

Senator Fitzgerald obtained the legal interpretation of many of those points from the legal adviser to the Department of Education and Science and he spoke about it in his contribution. I am particularly interested that it is the first time a provision places a statutory duty on the Minister for Finance to allocate funds to a service in accordance with a policy laid down in statute. I never saw a provision such as this before.

Mr. U. Burke: It is in response to the track record.

Ms O'Rourke: The effect of the provision will be to provide parents and others with a further mechanism to ensure resources are made available to implement the Bill, as a failure to make

adequate resources available may result in grounds for a judicial review of the actions of the Ministers. The Bill allows for a judicial review, which is a strong provision. We can all express sympathy and concern but resources are the issue.

The Dyslexia Association of Ireland is a wonderful group with which I have had many dealings as is the group which deals with attention deficit disorder. We were aware of dyslexia but the other terms are modern terms for educational needs; they were always there but they did not have a title. Every teacher who has ever taught knows the pupils in his or her class with those needs. The teacher had no way of addressing those needs and could only try to give extra time or be helpful in some way to those students. There were no means for the teacher to address the special needs of that child even when help was needed. The child's potential is very important.

In 1990 during the Irish EU Presidency, I was responsible for the Education Council. We brought forward the directive on inclusion of children with special needs in mainstream classes in cases where it was of benefit to the child. The other children also benefited from being in daily contact with a child with special and different needs to theirs. There is a place for everyone. I always treated that directive with a sense of caution and caveat. Every parent wants the best for their child. I was fearful there might be an emphasis on pushing a child who was not able for it into mainstream education. However, that is dealt with in the legislation. The children are within the ambit of mainstream education but with special needs education provided if necessary. There is a right to assessment and to an educational plan for the child and a right to be considered and to use the appeals mechanism. There is also the ultimate right of going to court to secure education if it is not provided. It is to be lamented that cases have arisen where parents were forced to go to court to achieve the constitutional right to special education services for their child.

I am pleased that a time span of one to three months is provided for the review and the plan. If at the end of that time, the plan has not been provided, the family can go further in the appeals mechanism. Bureaucracy can be a waste of time and resources. If bureaucracy allows for a delay while plans are being formulated or a review is being carried out, there is a further redress. This is all contained in this complex legislation. The steps to be taken by the child and his or her parents or guardians are clearly laid out. The Bill is a charter of rights for children with special needs and is long overdue. I look forward to participating on Committee Stage and making a helpful contribution to this legislation.

I welcome the opportunity to contribute to the debate and look forward to further good debates on the issue in the House. I also look forward to the enactment of the legislation, which I hope will be operable by September when the new school year begins.

Ms Tuffy: I wish to share time with Senator White. I welcome the Minister of State and the legislation as well as the work done on it in the Dáil. I was involved in some of the hearings on the Education for Persons with Special Educational Needs Bill held by the Joint Committee on Education and Science. Considerable work has been done on the legislation since then. As Senator O'Rourke stated, many amendments were tabled, some of which were accepted in part, while others were rejected. I hope the Minister of State and the Minister will see fit to accept further amendments in this House and to examine issues which were not resolved in the other House.

As part of my work on the Joint Committee on Education and Science, I visited Galicia in Spain with several colleagues to observe how similar legislation was being implemented there. As our visit lasted for only a few days, we saw only part of the picture but I was very impressed. The region appears to be much further advanced than us in special education needs provision and its legislation has been in place for a few years. It is much poorer than Ireland, unemployment, for example, is much higher, but has given priority to education for children with disabilities and spent significant sums of money on it. It appears to spend a great deal on education in general, including third level. We are moving away from our traditional approach of valuing education and need to return to that. Our success has been based on investment in education and the high value we placed on it. We must also value special needs education.

The system in Galicia was strongly geared towards the idea that integrated education is the best approach, which, to a point, is also the case with this legislation. The region has both special and integrated schools and experiments with a variety of approaches. For example, I visited a school for deaf children which has several levels of integration. Some classes are made up exclusively of deaf students, while others have perhaps just two deaf children. One child was the only student with hearing problems in a fully mainstream class. She had access to special technology which helped drown out background noise, one of the causes of her hearing difficulty. Galicia tries out various approaches, has different levels of integration and is prepared to provide the necessary resources.

I noted also that buildings there were very accessible. All the buildings we visited, including mainstream schools, were accessible. In one case, a special school and a mainstream school were located side by side and were integrated. Everybody benefits from integrated education. A child without special needs benefits from being educated alongside children with special needs in properly resourced facilities. A similar system should operate here.

We have many good special needs schools and the Government has made progress in this area but much more needs to be done. Recent pro-

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gress is largely due to parents and teachers pushing for it. In Lucan, for example, an Educate Together school provides classes for children with autism. The Department, if asked what it has done in this area, would claim this school as one of its successes. The fact is, however, that parents had to fight to get the school. They barged ahead and made the school a reality which forced the Department to come up with resources. It must show much more initiative by providing facilities without first forcing parents to fight for them.

Yesterday, I listened to an interview on Marian Finucane's radio programme with a woman whose daughter has Down's syndrome and started school last year shortly after the Special Olympics. She said she was full of hope after the Special Olympics but has since grown disillusioned. She decided to send her child to her local mainstream school but one year later she and her husband are paying for the child's special needs assistant. She also said her child was not receiving sufficient resource teaching, which is wrong. Has the case has been brought to the attention of the Department? If so, what action has it taken?

It is a fact of life in modern society that an increasing number of parents of children with special needs want them to attend local schools and be integrated into mainstream education. The Department of Education and Science and the Minister for Finance and his Department will have to grasp the nettle and acknowledge this will cost money.

Mainstreaming is a modern trend which benefits everybody and for which there are many reasons. People want it and it suits modern needs. Families whose children must travel long distances to school incur costs, as does the community, and are separated for long periods.

I agree with speakers who have argued that the legislation should be rights based. Section 13 should be revised to ensure that rights rather than resources are given priority. Has the Department determined the cost of making the Bill rights based? It would not be a bottomless pit. The Department must be in a position to produce an estimate of the cost and make decisions on provision on that basis. Following the local election results, the Government will probably embark on a spending spree before the next general election. Why not spend money on special needs education? It would be worthwhile and would stand to the Government.

I understand children do not have an absolute right to an assessment because principals are ultimately in a position to refuse them. This issue should be teased out in the House.

While it is very important, as Senators have stated, that parents are involved at every step, it may be even more appropriate to bring students, particularly older students, into the consultation process, provided they are suitable.

Some amendments were made on Committee Stage in the Dáil in response to concerns

expressed by principals regarding the heavy workload the legislation will impose on them. The House must examine this matter to ensure the Bill is worded in a way that sufficiently addresses principals' concerns.

Similarly, the definition of "disability", while it was addressed in the Dáil, needs to be teased out.

Ms White: I thank Senator Tuffy for sharing time and welcome the Minister of State and his officials.

Ireland has a come long way in the past few years following the introduction of anti-discriminatory and employment equality legislation and the publication of this special educational needs Bill. The purpose of this comprehensive legislation is to strengthen and improve special education. Hopefully, if the legislation is delivered on the ground and if resources are provided to support it, Ireland will be as advanced in this area as anywhere in the world. This critical legislation will make a difference in the lives of thousands of exceptional children and their parents.

Last October the Minister for Education and Science, Deputy Noel Dempsey, quoted John F. Kennedy who said, "Let us think of education as the means of developing our greatest abilities, because in each of us there is a private hope and dream, which, fulfilled, can be translated into benefit for everyone and greater strength for our nation". Those words are as true today as they were 40 years ago. While they apply to each of us, they have particular resonance for children with disabilities who are at risk of being marginalised and suffering disadvantage because of their special educational needs.

Our education system focused primarily on the majority of children who did not have such needs in the past. The legislation will ensure teachers are better trained to help children with special needs. My sister is deputy principal of the national school in Ballinteer and she said it is critical teachers who help special needs children are adequately trained to a sufficient standard because, in many cases, they are not specialised enough.

The legislation will provide for the involvement of parents in the education of their children. Strengthening, monitoring and enforcement of its provisions will allow schools and parents to resolve disputes fairly and quickly to help students with special needs to make the transition from school to life beyond.

A number of the effects of spina bifida such as poor hand-eye co-ordination, perceptual difficulties and lack of concentration can be ameliorated once they are identified and addressed at an early stage in a child's education. Representatives of the disability sector would like the Bill to have addressed aspects of continual education requirement for children with special needs. Continual education throughout their lives must be given greater recognition than at present. The spina bifida association believes the parents of children

with special educational needs will be eternally grateful in years to come for this legislation

Ms Cox: I welcome the Minister of State and his officials. I wish to focus on one aspect of the legislation. While I recognise great strides have been made in the area of disability over the past ten years, the good work cannot be maintained without this legislation and much more needs to be done.

The number of resource teachers has increased from 104 to 2,300 while the number of special needs assistants has increased from 300 to 5,500 since 1997. Meanwhile, spending on education for children with special needs has increased from €671,000 to €3.2 million. This is welcome and necessary.

However, my difficulty lies with the definition of a “child”, which is “a child means a person not more than 18 years of age”. That is not acceptable to me as a sister of somebody with a special need or to the parents of children with special needs. Let us recognise the practicalities. Such children do not enter school at the age of four. Children without special needs spend 13 years in the education system having spent their first four years at home. Some do not enter school until they are five and, therefore, are 17 or 18 when they leave school.

The parents of children with special needs bring their children to as many educational establishments as they can and they spend as much time with them as they can to ensure they are fit to enter mainstream schools, if that is their choice. Such children, therefore, are at a disadvantage before they enter the education system because they are usually six or seven before they attend school. That is the right age for them to do so because they are at a point where they can benefit from the resources that have been put in place in recent years.

If everything works out perfectly, they will be 20 before they leave the education system. If the legislation is enacted as drafted, such children will not have the right to support from the State once they turn 18. I accept the Minister of State’s statement that the State does not have a constitutional obligation but this does not mean it will fail to provide support. However, the State only provides support when it has enough money. Educating children with special needs is costly.

It is up to the Ministers for Education and Science and Finance to provide resources. I have met Ministers for Finance from various Governments over the years, not only this one which has presided over a healthy economy for the past number of years. Various Ministers for Finance have told their Cabinet colleagues they must cut back on funding. The Minister for Finance has provided €3.2 million for special education this year and, as far as he is concerned, it is up to the Minister for Education and Science to resolve the special needs problem. The Minister for Education and Science must find the money to provide resources so that 19 year old children receive

the education to which they are entitled. According to the Minister for Finance, it is not his problem because he is providing the Minister for Education and Science with a budget. That is not good enough. The Government should not accept legislation that defines a child as a person of not more than 18 years.

Children with physical disabilities also start school late. They are in the same position. I acknowledge the hard work that has been done to address this issue. For example, the child’s education plan can be reviewed because he or she is about to turn 18. However, the plan could be reviewed when the child is 16 but, if he or she is sick for a year, he or she will not return to school until he or she is 18. The principal is charged with identifying the child’s needs even though he or she will be 19 when he or she finishes school and the principal is also charged with identifying the needs of four and five year olds. However, the 19 year old is still a child, irrespective of how “child” is defined in legislation. A child is what we have at 17, 18 or 19 years of age. What principal will be able to say to a four year old: “I am sorry but I cannot give you a special needs assistant because I must provide an assistant for another person”? If parents feel that is not fair they must enter the appeal process. Does anyone in the Department or the Minister’s office understand what it is like to rear a child who has special needs? Do they understand it is a 24-7 job, 52 weeks of the year? The parents of those children live in hope that their child will have some acceptable quality of life but then they learn they must appeal to a special committee or engage in a judicial review. Who is fooling who? All we are asking for is a proper definition that recognises the needs of the special children of our State. No Minister should tell me that it is not possible to have a definition of “child” in one Act which differs from the definition in other Acts, as we have examples of it throughout our legislative framework. “Employer” is defined one way in the Unfair Dismissals Act and differently in the working time Act.

I investigated this matter and felt we or the Opposition could amend the legislation, offering the Minister the chance to change the age of the child. That is not possible, because the amendment will be disallowed. The only people who can bring in that amendment are those in Government, and I want that to go back clearly to the Department. It is our responsibility as a Government to change the definition of a child as being a person of not more than 18 years of age. That is not acceptable and we are the only people who can act. We cannot wait for the Department of Justice, Equality and Law Reform to bring in legislation on disability rights. I have faith in a lot of people in the Government but I do not have faith in that Department to bring in legislation. I have never seen it go out of its way to bring in legislation to protect people, particularly the most vulnerable people in our society — children with special needs. I appeal to the Minister of State

[Ms Cox.]

and his officials to bring the message back loud and clear — there is no way that the Government can fail the children of Ireland by allowing this legislation to be passed with a definition stating a child is a person of not more than 18 years. It is not good enough for Fianna Fáil and it is not good enough for the country.

Mr. Cummins: I propose to share my time with Senator McHugh.

I welcome the Minister of State and I compliment everyone involved in the preparation of the Bill. We all know what the legislation intends to do but we question what it achieves. The report of the Commission on the Status of People with Disabilities, *A Strategy for Equality*, made recommendations on the subject of education for those with disabilities. It reaffirmed the right of every child, including those with disabilities, to a free and appropriate education in the least restrictive environment. The report states: “In Ireland every individual must have an equal right to educational provision.” The commission recognised that education was a process of sharing, developing, building, strengthening, encouraging and recognising the abilities of all people and its aim was clear, namely to enhance and enable a person to achieve his or her goals. However, the commission found that if it were to measure the status of people with disabilities according to their rate of participation and success in education, then equality was clearly a long way off.

That report is ten years old but the situation is the same in many instances. It is worrying that there seems to be little real attempt to bring equality into Irish education. Unless resources are put in place the best legislation in the world will not ensure that those with disabilities can participate fully in the education system. From the Government’s current record it is hard not to be somewhat sceptical that the new legislation will provide the kind of appropriate and resourced services which are so badly needed.

It was reported recently that the State’s secondary schools do not have the resources to teach the vast majority of special needs students or to implement the Bill’s provisions when it is enacted. The National Association of Principals and Deputy Principals has warned that schools still do not have the resources they need to teach incoming students with special needs. The organisation’s president said it would be little short of cynical on the part of the Government to enact this Bill when schools obviously do not have the resources to implement it.

How are people to react when on the one hand the Government presents legislation designed to improve the education of persons with disabilities while on the other hand it consistently fails to adequately resource the same people? While access to the appropriate educational resources is one major problem, access to proper assessment is another. Some parents still wait up to two years for assessment of their children. Access to

psychological services is very important and the appropriate intervention can have a very positive effect on a child for the rest of their education and for years afterwards.

The NEPS structures are in place but need to be expanded urgently. The waiting lists for educational psychologists are as long as ever, which is a worry for the many parents who require those services for their children. There are huge funding difficulties in the current education system and those with special needs have not received the kind of assistance and resourcing they need. Groups representing parents and children with special needs will need a lot more convincing that the introduction of this legislation will be matched by adequate resources.

The change in the Bill’s Title addresses points raised by the Dyslexia Association of Ireland, which I welcome. There is also a major emphasis in the Bill on co-operation between the Department of Education and Science, the National Educational Psychological Service and the health boards. The creation of multidisciplinary teams is something parents and children have long wished for, yet their experiences to date do not bode well. I have frequently been shown examples of assessments by NEPS psychologists, health board psychologists and private psychologists which make hugely differing recommendations. Why is that?

The Down’s Syndrome Ireland organisation represents over 2,500 families and is one of the largest representative groups for people with learning disabilities. That body is concerned that the Bill is seriously flawed and does not fully address the minimum requirements of those with disabilities and their families. I share that concern. There are also concerns about how the Bill is to operate in practice. On reading the Bill, one of the biggest concerns is how it will operate in practice. The Minister of State said it would take five years to put it in place but I hope it will be implemented in a shorter period.

The Bill has substantial implications for teachers and school principals. The role of the principal will be significantly expanded in a number of areas as a result of a number of sections of the Bill. We already know the difficulties experienced by principals, in particular teaching principals, because of their workload to which the Bill will probably add. Everyone desperately wants the legislation to achieve what it sets out to do and all children to have access to the services they need to achieve an education. The role of the principal in the Bill, as published, is paramount to achieving this but, unresourced, he or she cannot fulfil their obligations. Has the Minister considered how he plans to release teaching principals to allow them to carry out their newly envisaged duties?

What new upskilling and training will be given to principals to enable them to deal with their new role as envisaged in the Bill? Some principals have experience but others have little experience because of the need to date in their schools. I

share the concerns expressed by the INTO about the words “to the extent that could be expected of the student” in the Bill. This could exclude a child from some resource provisions and that should be addressed.

The concerns I have expressed in regard to the multidisciplinary approach to education plans can also be directed towards section 5 concerning assessments. It is paramount that the multidisciplinary approach is mandatory and not discretionary. That is an important point. The findings in regard to assessment should be made available to parents automatically. To ask parents to request these reports is needless bureaucracy and that should be addressed. Every parent will want the report and should not have to ask for it. It is the Minister’s stated policy that all teachers working with children with special educational needs will have the relevant training and continual professional development. However, the reality is that it is insufficient at present. What does the Minister intend to do to address this problem?

Section 13 states: “The Minister and the Minister for Health and Children shall each, with the consent of the Minister for Finance...” We are getting to the point at which Senator Cox came in. Everything seems to be dependent on the Minister for Finance. Relevant issues, which Senator Cox raised, should not come down to a question of money. The Minister for Health and Children and the Minister for Education and Science have a duty under the Bill, but it is subject to the consent of the Minister for Finance. If that is the case, where is the rights-based approach? Where are the rights if they depend on the amount of money the Department of Finance or the Minister for Finance puts in place? The Minister must have the power and the resources to implement the Bill. Rights can only be implemented if there is a will to do so. No one wants to see another stream of parents going to the courts to ensure their children are educated. The Bill does not confer many more rights on children than already exist under the Constitution. Resources will be the key to the implementation of the Bill.

Another aspect of the Bill is the sense of absence of any real attempt to deal with physical disability. This is a real issue which must be tackled. Most people with physical disability have no difficulty being educated from an intellectual point of view. The issue for them is access to education in a physical sense. A lack of physical access exists in some schools. I know of one instance where children in wheelchairs must be brought home to use the toilet because the facilities are not in place. Grants are available but they need to be speeded up. The area must be better co-ordinated.

We all hope the Bill achieves what it sets out to do. I wish the Minister and his officials well. Let us hope we can get it right and serve the people who need the facilities.

Mr. Kett: I wish to share my time with Senator Dooley.

I am proud to be part of a Government for the past seven years which has been responsible for an unprecedented level of resourcing in the area of educational disadvantage, particularly as it pertains to special needs. It is unfortunate that prior to that, this area was totally neglected by all Governments because they were pursuing other priorities. Unfortunately, this area was not given the due recognition and resources it required. It is no wonder that, as a consequence, the parents of children with special needs felt abandoned by the State and resorted to other means to get themselves out of the dilemmas in which they found themselves. The challenge this Government faced when it came into office in 1997 was of resources. In many areas, major dismantling and renewal of systems needed to take place. In other areas, there were no systems in place for people with special needs. The former Minister for Education and Science, Deputy Martin, did a marvellous job in resourcing special education.

I congratulate the Minister of State, Deputy Brian Lenihan, on bringing this Bill before us because, when implemented, it will provide a statutory framework for people with special needs to receive all their educational needs. These educational requirements will be guaranteed. The additional resources to go with the education of these children will also be guaranteed. It will be a right enforceable by law. That is a major step forward in this area.

The Bill sets out a range of services which must be provided starting with an assessment and moving on to an education plan for each child. If there is a debate about the education plan, there will be a system for mediation and appeal. That caters for every eventuality. The Bill recognises the role of the parent which is key. Every parent has a keen interest in the education of their child, not least the family of a child with special needs. Gone, or certainly disappearing fast, is the notion of a child going to a special school who is able to go to a mainstream one but cannot do so because of a lack of resources or systems. In the past, children in mainstream schools relied on their school pals to bring them to the toilet, one of the most private things one does. Unfortunately, however, there was no other system in place. We have come a long way in that regard and the Bill now places parents at the centre of the process.

The one note of caution I sound is that the parent of a special needs child is not always the most objective person to adjudicate on the child’s needs. I have seen this at first hand in many instances. Such parents obviously have a blind and unconditional love for their children but in some instances, they will step over the line and perhaps overvalue their children’s abilities in order to get them into a particular school. It comes down to the fact that they want their children to be in as normal a learning environment as possible, which is understandable. However, I have seen many rows between multidisciplinary

[Mr. Kett.]

teams and parents who differ on what particular children may be capable of doing. I have not read the entire Bill but I hope there is no facility in the overall assessment process whereby a parent might be able to veto an assessment made by all the disciplines involved.

We need to examine the training of teachers and other personnel working in the area of special needs. Ongoing resources are required and should be made available both for inservice and pre-service training. The cohort of trained teachers currently working in this area needs additional training because matters are moving on so swiftly with new approaches and individualised programmes coming on stream. The integration process is complex so people will need to be trained in that regard. Even teachers who have been working at the coalface for some years need to upskill.

I sincerely hope that in our desire to mainstream we will not undervalue the great work undertaken by special needs schools. I realise there is a great desire to mainstream, and rightly so, but the work of such schools has been invaluable over the years. They were achieving this work when mainstreaming was not a consideration, although it was always an issue. The expertise garnered by people working in special needs schools is second to none. Mainstreaming will get all the required resources but we must never lose sight of the abilities of trained personnel in special needs schools.

It is understandable that parents want their special needs children to go into a normal educational system. Special needs schools are not as attractive in that regard because there may be a certain connotation associated with such establishments. However, there are children who cannot be mainstreamed — it is as simple as that — and, therefore, special needs schools will always be required.

The legislation marks a tremendous step in the right direction and I am confident that nothing but good will happen as a result of special needs children being mainstreamed. I am equally confident, however, that others will continue to receive their education in special schools that are dotted throughout the country.

Ms O'Rourke: On a point of information, this debate is not concluding at 1.30 p.m., although that may not have been clear from my statement on the Order of Business. This is a roll-over debate so whoever is in possession at 1.30 p.m. will also be in possession when the debate resumes.

Mr. Dooley: On a point of clarification, am I sharing my slot?

Acting Chairman (Labhrás Ó Murchú): Yes, that is what I understood.

Mr. Dooley: How much time do I have?

Acting Chairman: Nine minutes.

Mr. Dooley: If Senator McHugh wants to go ahead, I will take up the debate the next day, if that is all right.

Acting Chairman: That is in order.

Mr. McHugh: I appreciate Senator Dooley's gesture and thank him for it. Having listened to Senator Cox earlier, it is clear that this sensitive and delicate issue transcends political differences. I have a difficulty with the 18 year cut off point for people with special educational needs. For the past ten or 15 years, the emphasis has been on lifelong learning from the cradle to the grave by encouraging people to re-enter the educational system. A person with special needs who wishes to return to education should be facilitated in doing so. I am not seeking an extension of the cut off point of 18 years, but it should be generally accepted that someone with a special educational need, be they aged 18 or 98, should be so facilitated. For example, a person with dyslexia does not lose that disability once they reach the age of 18.

Senator Cox transcended political boundaries in speaking eloquently and passionately about this issue. She emphasised the fact that we need additional legislation in this regard. The Bill is excellent and results from wide-ranging consultations with many people across the political spectrum. Major contributions have been made to the consultation process from people outside politics, including those represented by the teachers' organisations. They should be congratulated because we would not be having such an informed debate without their input.

I am delighted that the debate on the Bill is to continue. The legislation requires a financial input and the Minister for Finance, Deputy McCreevy, has the power to bring about the changes required to provide special educational needs. The Bill is excellent on paper but, hopefully, it will not be like the Chelsea football team at the beginning of last season — brilliant on paper, but it did not win anything. We need resources to eradicate primary and secondary level waiting lists. A six to nine month delay in assessing psychological needs is not good enough.

We are obliged to do our business by ensuring the Minister for Finance will deliver on this issue. We can be passionate about individual cases involving various schools but the emphasis lies with the Minister for Finance who has the power to allocate resources. He should make as much as possible available.

The Dyslexia Association of Ireland has established voluntary workshops around the country. The parents employ the teachers who work in these workshops, which is not good enough. Does the Minister of State think it is acceptable that parents must pay for a facility which should be provided by the State? Perhaps I am putting the

Minister of State in an awkward position but does he think that is good enough?

Acting Chairman: The Minister of State will respond shortly.

Mr. B. Lenihan: I will reply to the question but not until I respond at the end of the debate.

Mr. McHugh: I will raise the question again when we next debate the Bill. Should parents be paying for a service that should be provided by the Government?

Mr. B. Lenihan: Is the Senator referring to psychological assessments?

Mr. McHugh: No. I am referring to the dyslexia workshops throughout the country. I will not press the Minister of State into a difficult position today, but I will revert to him on the next occasion.

Debate adjourned.

Sitting suspended at 1.35 p.m. and resumed at 2.30 p.m.

Autism Services: Statements (Resumed).

Mr. U. Burke: I welcome the Minister of State at the Department of Health and Children, Deputy Tim O'Malley. The last occasion we debated this issue I expressed concern in regard to what was happening in the west as a result of a conflict of interest between the Irish Society for Autism and the Western Autism Society and the tragedy of the power struggle that took place for the control of property and institutions. Thankfully it has been resolved, not before the litigation proposed and eventual settlement prior to going through the courts.

Despite the fact that so many, particularly parents and siblings of children with autism, have given so much time and effort to improving the lot of such children, occasionally an incident such as this distracts from the focus of attention originally intended. It is important that all these well-intentioned groups continue to keep a focus on the original intention of improving services for those with autism. I said previously it was remiss of the Western Health Board which stood idly by not to move to resolve the situation when there was a clear necessity to do so. While a member of the Western Health Board I tried to encourage the management to participate to resolve the situation but, unfortunately, to no avail.

Until recently it was the parents who discovered their child was suffering from autism rather than the general practitioners. This was not the fault of the general practitioners but they were unfamiliar with the way in which they could diagnose the condition.

Since the last debate on the issue, I read with interest of Raun Kauffman who came to Dublin and gave a lecture. He gave his life story to the

meeting as he has done throughout the world. His case is similar to many of the tragedies with which we can associate ourselves as public representatives. When he was 18 months old he was diagnosed as autistic with an IQ measure of less than 30, which placed him as severely intellectually disabled. His parents were told to forget him, to go home and look after the other children and to leave him in the institution where the experts would be better able to manage him. They were told that in time, perhaps, he could be taught to dress himself or to use a knife and fork. He would never speak, have friends or go to school. His future was hopeless.

Thankfully his parents said no. They brought him home and started to work with him. For years they worked really hard with him and got their just rewards. Raun graduated from high school with honours and graduated from university and earned a degree in biomedical ethics. Raun now tours the world lecturing on what his parents did for him. The question must be asked whether this story is a miracle or a case of wrong diagnosis. Sadly, that is a situation that still exists in many instances throughout the country. If anything can come from this debate, the Department of Health and Children must initiate a thorough investigation into the causes of autism. Statistics and studies here clearly indicate an incidence of one to 166. That is a high occurrence of autism. If there is such a high incidence there is a need for services to help the parents and siblings of families who have a child suffering from autism. It is necessary to put proper facilities in place. It is unfortunate that the Ballinasloe advocates have had to come on deputations on several occasions to various Ministers over the years to seek a simple respite service to give them the break they need.

People only get a break of one day per month, never a weekend. How can parents continue to educate and do everything they can for their children at home when there are no reliable community facilities on which they can depend for a respite break? This needs urgent attention. Can one think of any need in society that demands higher priority than this?

Mr. Daly: I join in welcoming the Minister of State, Deputy Tim O'Malley, to the House. He will be aware that more than one year has passed since he outlined in a thorough way his Department's proposals and initiatives to deal with the issues facing people with these problems.

Today is a great day for people with special needs, because earlier in the day, the Minister of State at the Department of Education and Science, Deputy Brian Lenihan, outlined the details of the Education for Persons with Special Educational Needs Bill 2003. One of the difficulties is to try to precisely define who is responsible for what at the initial stages, when it is identified that a person has special needs. This may be manifested at a very early stage, before a child goes to school. It is at this initial stage when parents are

[Mr. Daly.]
distraught that they may be irritated and agitated by the response they get when seeking information. It is timely that the Departments of Health and Children, Education and Science and Finance and whatever other Departments are involved work together to address this.

I note that in the Education for Persons with Special Educational Needs Bill 2003, there are many references to dealings with the health boards, but very soon the health boards will no longer exist. In my view, the demise of the health boards will create a vacuum and issues of a local and regional nature will be dealt with differently. The health services executive is now taking shape, but already the spina bifida organisation has identified that it will not be catered for under a scheme. It is time a one stop shop was put in place where people could go for information and advice on how to deal with the issue confronting them, in particular in cases such as autism.

When the Minister of State opened the debate some time ago, he gave a comprehensive report on the number of entrants to the various professions but as he is aware, occupational therapists, speech therapists and psychologists are in short supply and in many cases, in spite of the positions having been advertised, the health boards, such as that in my area, have been unable to fill the jobs. Although we have adequate funding, and the jobs have been advertised, people have not taken up the positions. My colleague, Senator Dooley, mentioned that the Peninsula Carers who made very strong representation to us recently and outlined their frustrations and annoyance that a service on offer could not be provided because the staff were not in place. In my opinion, people are not interested in taking up positions in isolated locations. It is a source of annoyance when people cannot find the professional help they need at a time when they are most in need of support. One of the challenges facing the Government is how to provide a service in isolated areas, whether through outreach programmes from existing established centres or by making transport available to the centres where professional help is available. There is no doubt that parents and carers are frustrated and disillusioned when the professional help that is needed is unavailable. People expressed their frustrations and growing discontent with services generally during the local elections.

I do not know the solution to the shortage of human resources, but the Minister must take steps to deal with this. In other areas, ways and means were found to accelerate the number of professionals coming to the area to provide a service.

The voluntary organisations are doing tremendous work. A person telephoned a local radio station recently and said that her child would not have received any service but for a voluntary organisation. The person did not make the point that the voluntary organisation was being funded substantially by the Mid-Western Health Board.

The health boards provide significant finance to voluntary organisations, but are the first to come out and say enough is not being done and point the finger at the Department of Health and Children. That is not acceptable.

I hope that something will be done for isolated families in remote areas such as the Loop Head peninsula. There is a necessity to co-ordinate activities and I am not certain the new proposal will deal with the immediate problems that arise before a child goes to pre-school or primary school. If autism is to be dealt with successfully, it must be diagnosed and managed as early as possible and certainly before the child goes to primary school.

Research in this area is essential. While there has been a great deal of research into autism there is no substantial evidence yet of a cause. Important research has been conducted in the United Kingdom and the United States on various related issues. Some funding should be provided for major research into the cause of autism, whether through the budget for education or for provisions introduced under the health Bill, promised by the Department of Health and Children, to give local bodies an influence on and a say in the delivery of health services. No one can explain the significant incidence of people with various intellectual disadvantages and the escalating number of children with autism at a time when we have one of the most sophisticated health services in the world. I would support a Government initiative to put substantial funding into research on the causes of these disadvantages.

Mr. B. Hayes: I welcome the Minister of State to the House and thank him for returning for this resumed session of statements on autism. As Senator Daly said, it is good that today the attention of the House is virtually exclusively focused on special needs and people who have autism and how the parents of many children must cope with that. It is important that the Minister of State is present to hear these statements.

Some years ago in my constituency a large group of parents with problems not properly addressed by anyone in the Irish medical service, such as dyspraxia, attention deficit disorder and mild forms of autism, organised a major conference. We were invited to attend as public representatives. It was an amazing conference one Saturday in the National Basketball Arena in Tallaght which more than 1,000 people attended. The day was organised into modules led by various experts, many from the United States and elsewhere, describing various intellectual and mental disabilities suffered by children. It was astonishing to hear one parent after another identify cases presented by the experts with their children. People have a deep yearning and need for information on this issue.

One area where our health service falls down is in following up on young parents and their chil-

dren. While vaccinations are administered at an early age very often the first formal interaction between the child and the State is in national primary education. One lesson we can learn from other models of medical service, particularly in the European Union, is the need for early intervention by the State to ensure that where difficulties emerge the parent is given this information. The conference revealed the parents' deep need to discover if their child's difficulty is part of a pattern and whether it can be identified and fits with some of the major diagnoses of mental or intellectual disability. Early intervention is crucial in this area, particularly between the ages of one and five, to see if the pattern is such that one can identify the particular problem a child presents.

Senator Daly made the interesting point that there is sometimes a failure on the part of voluntary groups to recognise that they receive funding from the State and various health boards in order to help parents, particularly those with autistic children. Many of these organisations stress that their funding is given on a year to year basis. One recommendation to emerge from the White Paper on volunteerism is to move to multi-annual budgeting. In other words, an organisation working in the Mid-Western Health Board Area would know its funding on a three-year basis rather than year to year. We must do that because many of the organisations helping parents through this difficult time need to know their budget with a degree of certainty over a few years. If the Minister of State could guarantee the financial status of these numerous organisations, they could fulfil their plans over time. Could the Minister of State address this with the various authorities to organise it on a more concrete basis?

Senator Ulick Burke said that the high incidence of autism is a cause of great concern. He said that one in 166 children presents with some form of autism. Senator Daly made the point that we need to commit funding to research the reasons for this. I am not aware of any other country in western Europe where the incidence of autism is as high as it is here. We must commit funding to that soon. The Tánaiste has committed substantial funding to research on the economy and has rightly said that the Government wants to concentrate on this. The Minister of State must commit greater resources to research in this area to see whether there are particular conditions here which have not been met to reduce that incidence.

The main bugbear for parents in my constituency, and this is reflected across the floor of the House, is that there is no single agency to which they can turn for help. If one has a child presenting with a form of autism there is no agency which will give the financial, moral or psychological help one needs. I hope the Minister of State will turn his attention to this. I do not propose a one-stop-shop, as some have suggested, in each county area. Several officers should be

charged with co-ordinating a plan for the child, including the provision of finance for the child and its parents, ensuring intervention and contacting the parents to tell them the State cares about their dilemma. That is the most important issue brought to my attention as a public representative; people want a representative of the State to call and say it cares, and to co-ordinate the services. Every family in this position needs such a response. Respite is a serious issue for parents of a child with autism to enable them to get away for a week or a weekend to rest and take time off from their task of rearing the child, with all its attendant difficulties and challenges. One of the best initiatives of the Government in its last term was the introduction of a respite care grant through the then Department of Social, Community and Family Affairs. It was very beneficial to carers but unless there is a place where one can leave one's loved one with confidence that the person will be well cared for, parents often cannot get away for even a few days. Could the Minister of State ensure that officers at various health boards would be responsible for various parents and intervene earlier to help them?

One reason we are learning so much about the area of special needs and autism is that we are catching up. We have a great deal to learn from our EU partners as recent investment catches up on minimal investment over the preceding 20 or 30 years. Often in the past these problems were not recognised as educational difficulties. We are running to stand still in terms of our recognition of the issue here.

If, as Senator Ulick Burke stated, the fact that someone has a form of autism is recognised when they are at an early age, that child will have massive potential in terms of breaking through the educational difficulties to which I refer and the outlook for them in later life will be great. There are amazing stories about people with autism and other forms of disability. If we can intervene at an early stage, ensure that the correct resources are in place and draw up educational plans for such people, there will be opportunities for their lives to be transformed. We must get this extremely positive message across.

The major issue relating to many of the special needs within our education system is that of early assessment. As Senator Daly correctly pointed out and as the Minister of State is aware, there are not enough speech therapists or people involved in the area of ongoing psychological assessments. If we cannot produce them locally, we will have to enter the marketplace in Europe to recruit them.

Speech therapy courses are available at Trinity College. Has there been an increase in the total number of places on offer in the undergraduate courses at the college in recent years? We must double, treble or quadruple the number of places on offer there to ensure that there will be an adequate number of professional staff in place to deal with this matter in the future. We will, otherwise, be obliged to carry out a massive recruit-

[Mr. B. Hayes.]

ment campaign in England, France and Germany to ensure that the assessments that are needed are actually carried out. I welcome this debate and I thank the Minister of State for his attendance.

Ms Cox: It gives me great pleasure to contribute to the debate on autism. It is indicative of the importance given to this matter by people at all levels that we are debating it now, following this morning's debate on the special educational needs legislation.

I am sure the Minister of State has noted with interest the agreement that has emerged between Members who have spoken during this debate and earlier debates on this matter regarding the issues faced by the parents and carers of children or persons with autism. Those with autism do not remain children; they grow up and become adults and need ongoing care for the remainder of their lives.

Almost every speaker referred to the complete lack of adequate respite facilities for people with children, young adults or persons with autism in their families. Access to respite beds for any period is practically absent throughout the country. We need to address that matter. When the need for respite care beds for the elderly arose, we entered into public private partnership type arrangements with tax incentives to encourage the provision of such beds. Perhaps the Department should discuss this matter with the Department of Finance. Would it be possible to address it in the next finance Bill and put in place some form of tax incentive? There are now many nursing homes throughout the country and there is an adequate supply of step-down facilities. Would it be possible, perhaps in association with the new regional structures that will be put in place, to create tax incentives using the private facilities already in existence to provide for respite places? We could then provide adequate training and backup resources to allow parents to take some much needed time off.

It is not just parents who have a need for respite, it is entire families. Autism is a particularly difficult disability if one is a sibling. If one has grown up with an autistic sister or brother, one's entire family will have been affected because such siblings require more attention. This creates a range of issues for the wider family. It is not just the parents or carers who need the respite, it is the entire family. It is important to bear this in mind in terms of our attitude and approach to how we intend to deal with the area of respite care.

The issue of education was discussed this morning during the debate on the Education for Persons with Special Educational Needs Bill. I do not intend to rehearse the arguments I put forward this morning. However, I made one point in the debate on the legislation which I wish to reiterate, namely, that the definition of a child as someone who is not more than 18 years of age is not

acceptable. It must be stated repeatedly, and loud and clear, that it is not acceptable that people with special needs are defined, for educational purposes, in legislation as children and are only catered for until the age of 18.

Major strides forward have been taken in the education sphere, particularly in terms of autism services. Special classes have been established in national schools throughout the country. Such classes are made up of six or eight children, special needs assistants are provided and wonderful methods of education are employed. The results achieved have been great. To the teachers who provide these classes and the parents who send their children to them I say "well done". There are also special classes, some of which follow different methods. It is important to monitor the different methods and identify which is the best model to employ. The latter might incorporate a number of models to cater for each child's need, his or her family's circumstances and the location of the school.

As someone stated in this morning's debate, needs and levels of access are different throughout the country. Senators Brian Hayes and Daly referred to speech therapy. Trinity College is no longer the only institution producing speech therapists. A course has been established at the National University of Ireland Galway, on which physiotherapists, speech therapists and others in the paramedical area are being trained so that much needed resources can be provided.

We must also take cognisance, however, of children whose first language is Irish and who are growing up in families which speak it daily. These children will enter schools where their friends and teachers will also speak Irish. This creates an additional set of needs in this area. The challenge the Government, the Minister of State and the Department face is to ensure that we cater equally for people who have particular needs as regards the Irish language. This is something to bear in mind as regards the emphasis in the training and education programmes we put in place to produce the necessary human resources. The term "human resources" is the wrong one to use because these people are specialists and are dedicated to what they do. Anyone who works in the area of disability must have a vocation because they go far beyond the call of duty in terms of the dedication, loyalty, commitment and love they show towards these special people.

Senator Brian Hayes referred to analysis. Parents bring their children to public health nurses for check-ups at three months, 12 months and again just before they begin attending school. These check-ups are extremely important but more is required. It must be made clear that if people feel there is a small difficulty with their children, they should know where to go and should not be ashamed, embarrassed or left to wonder whether it is too early to seek assistance. We must alter people's perceptions. Asking questions does not make one a good or bad parent and it is nothing of which to be ashamed. If par-

ents believe that something is wrong, they need immediate access to some form of analysis so that their concerns can be allayed. There is nothing worse for a parent than spending six months worrying about whether their child will be diagnosed with autism or whether there is anything wrong at all. Sometimes those six months can be wasted.

Immediate access to diagnosis and to a range of services that will show people how to move forward is required. Ireland has developed enormously in terms of its recognition of special needs and also in respect of what it does for the families of and children or people with special needs. However, that information must be shared. Families do not have the time to worry about their entitlements, such as medical cards and grants, where their children will attend to school or the facilities that are available. Parents cannot afford to have such concerns because they must care for their children at home on a daily basis and try to do their utmost to help them. Early diagnosis and intervention and the formulation of a pathway and plan for the child through all the stages of his or her life are very important.

Senator Daly spoke about the vital area of research. The research environment that pertains in Ireland is part and parcel of the issue and how we deal with it. We cannot always operate in the American mould; we need to have our own mould and devise our own models. To do that, we need to conduct our own research. The message to the Minister of State today is that all Members are speaking with one voice. Some of us think we are doing a better job than others in terms of the services we provide but everybody recognises that we have more to do, particularly in this area. The Minister of State is faced with a challenge.

Ms Terry: Everybody here is of one mind on this subject and we all wish to see an improved service for the parents of autistic children. None of us appreciates our healthy children until we meet somebody who has an autistic child. I met some of these parents during the recent campaign and they have so many different concerns about their children's futures depending on the current age of each particular child. I can only imagine what it must be like to have an autistic child and to worry about his or her future, particularly when parents are frustrated in their efforts to deliver the necessary services for their children. Even accessing the services is difficult, as Senator Costello observed, because some parents do not even know where to go to get help. We should be able to make it easier for people to access those services.

I met one couple whose five year old child had been diagnosed with autism spectrum disorder, ASD. I shall speak to the Minister of State on another occasion to see what can be done about this particular case. These parents' concern was that their child needs speech and language therapy but is not receiving it. Although he is

attending a special school, which has been granted €30,000 in funding by the health board for the provision of this service, the therapists are simply not available. At first the school was prepared to give the parents money to bring the child to a private speech and language therapist but the health board withdrew approval for this option. The parents, who can ill afford it, are now paying €50 per half-hour for twice-weekly therapy for their child. The Minister of State will agree it is unfair that in a society which prides itself on its economic strength, we cannot look after our most needy citizens. These parents have been assured that if their child receives the help he requires he could have a successful future. It is at this critical age that he needs this assistance. I use this child only as an example because his case mirrors those of many others. We need to consider how the speech and language service can be delivered to the people who really need it.

The parents to whom I referred also mentioned their conviction that their child should be entitled to a medical card. He has one currently but it is only for a 12 month period. This is another issue we need to consider if we are to fulfil the needs of these families and their children as they grow into adults.

The other area of concern concerns accommodation and respite. As parents grow older and children become adults, we must consider how we can prepare for the possibly long-term accommodation of the latter and, in particular, to provide respite so that parents can get the help they need. This has been referred to by many Members here today.

In terms of education, the most important issue is early intervention; delivering the necessary services to children at the earliest possible time. We must ensure that the service is there and that parents who are trying to do their best for their children should not have to seek out assistance only to be told that it is unavailable. That the service cannot be delivered is the most appalling aspect of the current situation regarding autistic children and indeed any people with special needs. The Minister of State has a sincere interest in this issue and I hope that he will be able to improve the existing services. That is what every Member wants and we speak with one voice on this matter. We are aware that it will cost money and that such improvements cannot be delivered at the drop of a hat but we have been talking about this for a long time and there are still people who cannot access the service they deserve.

I ask the Minister of State to continue to work on this and I will speak to him later about the individual case to which I referred, which is representative of the plight of many parents with autistic children. If the Minister of State is unable to deliver the necessary services, such as speech and language therapy, he might consider permitting parents to secure such services in the private sector, particularly where money has been identified for that purpose. That is the only option we can pursue until we have the required number of

[Ms Terry.]

qualified people in the health service to cater for the needs of autistic children.

Ms O'Rourke: There has been much talk of compassion which the Minister of State has demonstrated clearly since the beginning of the debate on autism. This is the third debate in the House on this issue; the first lasted three hours and the second some two and a half hours. Many Members still wished to speak and so we are concluding the discussion today. We are appreciative that the Minister of State has attended each debate.

I wish to speak on autism from several perspectives. First, I wish to return to the matter raised by Senator Daly. Why is there is such a high incidence of autism in Ireland, more so than in any other European country? I am sure the Minister of State will have some facts on this issue in his reply. This high incidence begs the question as to cause. We are told there is some malign gene with which the child is born. Is there a predisposition in the parent or is there something in the environment, diet or otherwise that gives rise to the condition?

Autism is one of the most awful deprivations a child and his or her family can suffer. I speak from personal knowledge. My brother Paddy had a son Caoimhghín who was cared for in a wonderful place in County Galway until his death at 22 years of age. He was a fair-haired young man of 6 ft. 2 in. in height who was diagnosed with the most destructive variant of autism at a very early age. The child did not set out to be destructive but he was born with that gene. His story had a very sad ending. He was a wonderful swimmer and if he had not suffered from autism he may well have made his mark in that sport. He availed of the pool in the place in which he was cared for but one night he got up and pulled back the tarpaulin — he was a very strong young man — and drowned in the pool as a consequence of a fit. It left a huge impression on his family and relations who were devastated; we had all known him as he grew up and he was a beautiful, handsome young man.

At that time it was in vogue for families to go to Boston to avail of a special regime involving parents and helpers donating time to assist with autistic children. I saw parents who were absolutely frustrated. My brother and his wife did not go there, but I know other parents who did. Hundreds of volunteers were involved in providing exercise, massage and so on. The programme did not work out and everybody was more disturbed than they had been before.

This is a day to highlight education for people with special needs and I hope the needs of those with autism are fully taken into account when the special needs budgets are worked out. If a rigorous programme is implemented with kindness early on, great steps can be made in terms of social interaction.

Autism varies in degree of severity and there are also related conditions such as dyspraxia, ADD, which is a version thereof, ADHD and other variants which previously were never spoken about because people were unaware of the terminology. Inherent in the condition of autism is a great deal of intelligence gone wrong within the child's brain. I gather from reading about it that the intelligence is often way beyond the IQ level for the age group to which the child belongs. The intelligence cannot be corralled and channelled in the correct educational way, which then leads to highly destructive behaviour in the educational system.

We would be well served if comprehensive research were undertaken on the subject of autism, which could help to forestall the predisposition to it. It would also give hope to parents who usually do not know if autism is present when a child is born. It takes some months before it becomes apparent. Parents are pleased with their children no matter what. It would be wonderful if the Minister could find money for research in this area.

I thought it important to speak on this matter because of my personal experience of it over 22 years. My nephew grew up at the same time as my two children. I was aware of his growing isolation and the growing isolation of his family because of the lack of services available to him even though he was in a wonderful adult care centre. I endorse the point made by Senator Terry that the lives of other family members are completely engaged in the care of such children which can affect other relationships within families. It is heroic the way they continue to provide care. I am interested to hear what the Minister will say in his reply.

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I thank all Senators who contributed to this debate which, as Senator O'Rourke reminds me, took place over three days. I applaud them on some wonderful contributions and for their interest in the subject of autism. It is only when one gets into individual cases, such as that of Senator O'Rourke's nephew, that it is brought graphically to our attention what people have to put up with when a family member is autistic.

I am delighted to inform Senator O'Rourke, and other Senators who raised the issue of research, that we are endeavouring to participate in an international autism genome project. We are currently discussing this with the National Alliance for Autism Research, a parent-funded group in the United States, and I hope there will be participation by Irish researchers in this project. I agree that there has been a significant increase in the prevalence of autism and I will do everything I can to ensure sufficient funds go to research in this very important area.

Senator Terry referred to speech and language therapy. We are educating more speech and language therapists, among other therapists. Unfortu-

nately, there are not enough of them at present. If Senator Terry speaks to me about the case to which she referred, I will see what I can do.

Members raised many other points. Respite is an issue that is frequently brought to my attention. The Government has invested a great deal of funding in this area in recent years. I am currently looking into the matter of autism services on the Loop Head peninsula referred to by Senator Daly.

Senator Brian Hayes referred to a matter that is close to my heart, multi-annual funding. When I came to the Department I could not understand the lack of multi-annual funding, especially in the area of disability. My departmental officials would love to have multi-annual budgeting but, unfortunately, the Department of Finance does not listen attentively to us. I hope we will make progress on the matter. The more Senators and other people outline the advantages of multi-annual budgeting, the sooner we will arrive at that position.

The Government is conscious of and has acknowledged the difficulties faced by families caring for persons with disabilities, including those with autism. It is for that reason the Government identified these services as a priority area for funding. Since 1997, additional funding amounting to €643 million has been invested in health-funded support services for people with intellectual, physical and sensory disabilities and those with autism. This includes an additional €25 million in current expenditure which was made available by the Minister for Finance in the 2004 budget for services for people with disabilities.

Additional revenue and capital funding of €388 million has been provided for autism and intellectual disability services since 1997. This has provided a broad range of new and enhanced services around the country and includes an investment of approximately €16 million since 1998 in the early intervention, pre-school and multi-disciplinary support services for children with autism and those with an intellectual disability.

Services to people with intellectual, physical or sensory disabilities and those with autism is one of the limited number of areas in which additional revenue funding has been provided by the Government to any Department over 2003 and 2004. In respect of services to persons with autism and intellectual disability, this funding, amounting to €43 million up to the end of 2004, was specifically provided to meet costs associated with the provision of emergency residential placements, extra day services, particularly for young adults leaving school, and to enhance the health-related support services for children.

I wish to address some of the issues raised during the debate. One such matter was access to pre-school services. The direct provision of pre-school services which are educational in focus is not part of the remit of the health services. However, in the past, within the resources available to them, health boards grant aided some

special needs specific pre-school services, in addition to assisting individual children with disabilities to attend mainstream pre-school services.

The role of the educational services funded through the Department of Education and Science in respect of the provision of pre-school services for children and in particular children with disabilities is a fundamental issue which requires to be addressed. My Department has advised the Department of Education and Science that the health services are very anxious to work with the educational services to enhance access to pre-school services for children with disabilities, including those with autism.

The Education for Persons with Special Educational Needs Bill 2003 will provide a statutory guarantee of education services for people with a disability. It will provide a statutory framework within which the education of children who have special educational needs because of a disability can be guaranteed as a right enforceable in law. The Bill was considered carefully by the Dáil and a number of changes were made to ensure the delivery of appropriate support services. It was passed by the Dáil on 26 May and Second Stage commenced in this House earlier today.

A number of Senators raised questions related to school supports for children with special educational needs, including those with autism. The Minister for Education and Science, Deputy Noel Dempsey, has approved the allocation of an additional 350 teaching posts for special needs and a new system for the allocation of resources for special needs in primary schools. The new system will involve a general weighted allocation for all primary schools to cater for pupils with higher incidence special needs, those with learning support needs, borderline mild and mild general learning disability and dyslexia. It will also allow for individual allocations in respect of pupils with more acute needs.

The general weighted allocation system will greatly reduce the need for individual applications and supporting psychological assessments and will put resources in place on a more systematic basis, thereby giving schools more certainty over their resource levels. This will allow for better planning in schools, greater flexibility in identifying and intervening earlier with regard to pupils' special needs, as well as making the posts more attractive to qualified teachers.

The question of the current level of uptake of the MMR vaccine was raised during the debate. I have arranged for copies of a reply to a parliamentary question on this subject, which was answered on 21 June, to be made available to those interested in this issue. In accordance with a commitment in Sustaining Progress, the social partnership agreement running from 2003 to 2005, my Department is required to carry out a strategic review of existing service provision, in consultation with relevant interests, with a view to enhancing health and personal social services to meet the needs of people with intellectual, physical and sensory disabilities and autism.

[Mr. T. O'Malley.]

This review is particularly timely for the following reasons. A considerable period of time has now elapsed since the publication of the relevant policy documents in this area. Account must be taken of the effect of Government policy in respect of the mainstreaming of services. The level of additional funding invested in the services in recent years makes an examination of the results of the funding timely and necessary. The implications for disability services of the publication in 2000 of the health strategy, Quality and Fairness — A Health System for You, and the primary health care strategy should be examined. The health services reform programme approved by Government and published in June 2003 will also have far-reaching effects which will influence the delivery of services for people with disabilities. The new legislative measures being introduced in the area of disability will have a profound effect on the future planning and delivery of services.

The strategic review will examine a number of specific areas of service provision. My Department sought and received initial advice from various stakeholders regarding the format and content of the review. Taking this advice into account, a number of specialist study groups have been established to look at particular topics, identify relevant issues and make recommendations on future policy in respect of the specific topic. Some examples of these topics include assessment, early intervention and pre-school services; management of health services for persons with autism; links between education and health-related support services; access to mental health services for people with intellectual disability and those with autism; disabilities and older people; mainstreaming; protecting vulnerable people; supported living and personal assistance; information and databases; training and sheltered work; value for money; and funding.

Significant resources have been provided by this and the previous Government to enhance the overall level of support available to people with disabilities, including those with autistic spectrum disorders. These resources have been provided through the health and education services in addition to other measures such as mainstreaming, which will also impact positively on the lives of people with disabilities. This is very visible evidence of the Government's commitment in this area. Despite the very significant levels of additional funding which I have outlined above, the Government has acknowledged that further significant additional investment is required over the coming years if we are to meet the identified needs of people with disabilities and their carers. Much progress has been made but the Government is not complacent. Much more remains to be done and it shall deliver on its commitments.

I acknowledge the contributions made by all Senators who spoke during this debate. It is through opportunities such as this, in sharing

knowledge and information, that we can assist in moving issues forward in a positive manner.

Sitting suspended at 3.35 p.m. and resumed at 4 p.m.

Criminal Justice (Joint Investigation Teams) Bill 2003 [Seanad Bill amended by the Dáil]: Report and Final Stages.

Acting Chairman (Ms O'Meara): 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 amendment made by the Dáil. This is looked upon as a report of the Dáil amendment to the Seanad. The only matter, therefore, which may be discussed is the amendment made by the Dáil. For Senators' convenience, I have arranged for the printing and circulation of the amendment. Senators may speak only once on Report Stage.

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

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I am grateful to the Acting Chairman for circulating the amendment made by Dáil Éireann in this matter. I come before the House today to seek approval of a Government amendment to section 5(4) of the Criminal Justice (Joint Investigation Teams) Bill, which was approved on Committee Stage in the Dáil. I will outline to the House the terms of the amendment.

Section 5(4) as initiated provided that, where a joint investigation team has been established by member states other than this State, this State could join the team on such terms and conditions as the Irish competent authority might agree with the competent authorities of the state which established the team. Following an amendment approved by this House on Report Stage, the Irish competent authority had also to be satisfied that the criminal conduct under investigation occurred either partly in the State and partly in another member state or states, or that the investigation thereof had links with the State.

In addition, the competent authority had to be satisfied there were reasonable grounds for believing that it would be in the public interest, having regard to the benefit likely to accrue to the investigation into the conduct, to join the team because it is likely that in order for the investigation to be more effective, part of it would have to be conducted in the State, or the investigation would require co-ordinated and concerted action by the member states concerned, including this State. However, in making that amendment in this House the reference in the original subsection to the effect that the State

would join such a joint investigation team on such terms and conditions as the Irish competent authority might agree with the competent authority of the other member states concerned was inadvertently omitted. As such, in making an amendment, we inadvertently omitted other important material. The subsection was, therefore, further amended by way of a Government amendment on Committee Stage in the other House to provide accordingly.

The amendment also brings the provision in section 5(4) of the Bill into line with section 5(5) of the Bill, whereby another member state may join a team already established by more than one member state, including this State, on such terms and conditions as its competent authority may agree with the competent authority or authorities of the other member state or states concerned. The amendment made in the other House also clarifies that it is the conduct already being investigated by the team which is at issue.

I hope Senators will agree that the proposed amendment provides greater accuracy and clarity in relation to section 5(4). I thank all Members who contributed to the debate on the Bill and I look forward to the legislation being enacted.

Ms Tuffy: I do not have a problem with the amendment as it makes sense and seems logical.

Ms Terry: I thank the Minister for tabling the amendment. I have no problem with it and agree with its contents.

Mr. J. Walsh: Senators will have to admit that we should perhaps have spotted the oversight when discussing the Bill on Report Stage. We must acknowledge that the amendment, the necessity for which was identified before enactment of the Bill, is eminently sensible. Obviously the competent authority here should be in a position and have discretion to agree terms with the competent authority of the other state.

The purpose of the Bill is to have effective policing to bring those who commit crimes to justice, regardless of jurisdiction. It is appropriate and significant legislation given the debate on crime and, in particular, last week's development in achieving a constitution for the European Union. Perhaps I differ from the Minister in this regard but I believe the greater the degree of harmonisation of legislation in the area of policing, the better.

Organised crime is a real threat to society across the European Union, particularly in the accession countries which have sophisticated organised crime gangs consisting of people who were previously involved with some of the communist regimes. It is essential that the forces of law and order are equipped to effectively pursue such people and bring them to justice, rather than inhibited in any way by national boundaries or geographical considerations.

I commend the Minister for introducing the amendment. Senators had an excellent discussion

on earlier Stages of the Bill. It is good legislation and I welcome it.

Mr. M. McDowell: I thank Senators for their positive attitude towards the amendment. As regards Senator Jim Walsh's comments, I have no objection in principle to harmonisation where it is necessary but I have a slight fear, which I have always expressed, regarding involuntary harmonisation where others consider it necessary and we have good reason to oppose it. That is why I was pleased that under the IGC text on criminal justice measures, where QMV applies, a state such as Ireland could, if a measure significantly amended our own criminal law arrangements, invoke an emergency brake procedure, refer it to the Council of Europe and if the Irish position was maintained, the other states could give us an opt-out, which would allow them to proceed on the basis of enhanced co-operation.

That is a sensible approach to the development of the criminal law systems of member states. We are the best judges of whether something would be seriously damaging to our system and we have given ourselves a little elbow room in the context of the introduction of QMV to protect our system from involuntary change which goes against its fundamental values or procedures. I thank Senators for their attitude and I am grateful to the House for receiving and noting the amendment.

Question put and agreed to.

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

Transfer of Execution of Sentences Bill 2003: Report and Final Stages.

Acting Chairman: I remind Senators that a Senator may speak only once on Report Stage, except the proposer of an amendment who may reply to discussion on the amendment. On Report Stage, each amendment must be seconded.

Amendment No. 1a is related to amendment No. a1 while amendment No. 32a is consequential. Amendment No. 32b is consequential on amendment No. 1a and all may be discussed together.

Ms Tuffy: I move amendment No. a1:

In page 3, 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".

These amendments are technical. Will the Minister accept them?

Ms Terry: I second the amendment.

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I am grateful to the Senator for tabling the amendments but I oppose them.

[Mr. M. McDowell.]

They propose that the full text of the additional protocol and the Schengen Convention should be added as Schedules to the Bill. I do not propose to accept them because the additional protocol does not give effect to the full protocol. While the protocol contains nine articles, only two contain substantive provisions — articles 2 and 3 — and Ireland proposes to operate article 2 only. In those circumstances, it would be inappropriate to schedule the entire protocol when only part of it will be given effect. Given that the main convention was not scheduled in the 1995 Act, scheduling the convention might be odd and might lead to confusion about the exact legal position. Such an outcome would defeat the purpose of the amendment.

The Schengen Convention consists of 142 articles. The Bill gives effect to only three articles, namely, articles 67, 68 and 69, which deal with the transfer of the enforcement of criminal judgments. Furthermore, Ireland is only opting into parts of the convention, such as police co-operation, mutual assistance in criminal matters and extradition. Ireland is not implementing provisions such as cross-border hot pursuit. Scheduling the entire convention, including those parts Ireland will opt into, might give rise to confusion, particularly among those trying to understand our law and who read the Statute Book. If they print the statutes, they might wonder whether this is part of domestic law. If confusion resulted, it would defeat the purpose of the amendment, which I presume was tabled for clarity.

It would be inappropriate to schedule the entire convention to this Bill when we are only dealing with a small part of it. For example, if the amendment were accepted, objects such as cut flowers, chrysanthemums, roses, fresh citrus and so on would go on the Statute Book. It raises a serious question in terms of the purpose of the legislation. It is not necessary to schedule such material to give it legal effect.

I had to pilot through emergency legislation in response to a High Court judgment stating that incorporation by reference was unsatisfactory and all material had to be included in legislation *in extenso*. Curiously, the Supreme Court decided earlier that the High Court was wrong in the first place. All the fuss was based on a judgment which has eventually been reversed. There is no legal reason for setting out these materials, although this impression might have been created by the High Court judgment, which stated materials cannot be incorporated by reference only. We are in a happier position.

Ms Tuffy: Is the practice of non-incorporation adopted in all legislation or is it particular to this legislation?

Mr. J. Walsh: Legislation would be extremely cumbersome if all references had to be incorporated. It would also be difficult to understand and could give rise to higher fees for the legal pro-

cession. Are the documents coded using specific references so that later editions would not have to be covered by retrospective legislation?

Mr. M. McDowell: The documents are original and have been signed and dated. They are not regularly updated, except by other instruments.

Senator Tuffy asked about the policy on annexing or scheduling texts. It is desirable to do so in principle if the terms of a convention are being incorporated into Irish law. In circumstances where somebody is interpreting the Irish provision, he or she should be in a position to consult the original document. It is desirable in principle that one should do so. In this case the Schengen Convention is so extensive and the parts of it we are incorporating are so non-extensive that it would be unnecessary to put all the additional material onto our Statute Book. That would make for a very cumbersome Statute Book, particularly as people would point out that the great majority of it was not applicable to Ireland.

In the circumstances, while I agree with the Senator that in general terms it is desirable that if there is any incorporation by reference then there should be a statement of the material being incorporated by reference or, where it is useful to interpret something, it should be available to somebody consulting the statute, in this case it would be disproportionate to put the entire instrument into a Schedule when only tiny fractions of it are being incorporated into Irish law.

Amendment, by leave, withdrawn.

Acting Chairman: Amendment No. 5 is consequential on amendment No. 1 and both amendments may be taken together by agreement.

Ms Terry: I move amendment No. 1:

In page 3, between lines 25 and 26, to insert the following:

“‘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;”.

Ms Tuffy: I second the amendment.

Ms Terry: The concept of a relevant authority is central to the Bill and should be clarified at the outset. I have taken these words out of section 5 as they are more appropriate to the definitions section. The words I propose to delete in amendment No. 5 are clearly more appropriate to the definitions section, which is why I propose they are not removed but relocated in section 2 so the reader can understand the concept of the relevant authority before getting into the detail of the Bill.

Mr. M. McDowell: I am grateful to the Senator for tabling the amendments, but having con-

sidered them, they are not necessary. Section 5(1) already deals in very clear terms with this matter, making it clear who the relevant authority in the sentencing state is, therefore there seems to be no advantage in attempting a definition of relevant authority in the interpretation section. The existing wording in section 5(1) is very clear and the amendment repeats that wording and puts it in the interpretation section. If the substantive section is clear on what it is talking about then it is unnecessary and redundant to repeat a definition in the interpretation section.

Ms Terry: I defer to the Minister.

Amendment, by leave, withdrawn.

Acting Chairman: Amendment No. 1a has already been discussed with amendment No. a1.

Amendment No. 1a not moved.

Ms Terry: I move amendment No. 2:

In page 4, between lines 18 and 19, to insert the following:

“2.—The purpose of this Act includes the giving effect to the following—

(a) Article 2 of the Additional Protocol to the 1983 Council of Europe Convention on the Transfer of Sentenced Persons, and

(b) Articles 67 to 69 of the Schengen Convention.”.

It is always useful to find a purpose provision in a Bill. It not only helps us as legislators, it is even more helpful to the lay person, who can then find out the purpose of a Bill by reading one section. I disagree with those who say the Long Title of every Bill expresses its purpose, which is simply not true. An example is the National Monuments (Amendment) Bill 2004, the Long Title of which reads, “An Act to amend and extend the National Monuments Act.” A sentence like that is of little use to the reader and tells us nothing of the Bill’s purpose. Every Act should have a purpose provision, which is a small step towards making our legislation more understandable, and I ask the Minister to accept this amendment.

Ms Tuffy: I second the amendment.

Mr. M. McDowell: I fully accept that every Bill should at some stage state its purpose, but there has been a long tradition that the Long Title of a Bill is the place in which to set that out. The particular example cited by the Senator may be one where it would be desirable to have a more ample statement of the purpose of the Bill in the Long Title or to have a separate purposes section somewhere in the Bill. However, in this Bill the draftsman has stuck to the traditional mode of setting out the purpose of the Bill in considerable detail in the Long Title. In these circumstances it is not desirable to repeat that.

The real question, the policy issue which arises from Senator Terry’s observations, which I fully respect, is whether we should have Long Titles at all. If we are to go down that road, why not have a Short Title and a purposes section in every Bill? That is a decision which I am not going to make on the hoof today, as I would have to think long and hard about it. I would want to consult the Attorney General and the Parliamentary Counsel as to whether it was desirable in future to simply have Short Titles and purpose sections in every Bill for the guidance of the reader and the courts. That is too serious a decision for me to express a view on today and I do not want to cause alarm and despondency in the parliamentary counsel’s office by even hinting at sympathy with the Senator’s suggestion. It occurs to me that the practical situation is that if we are going to have Long Titles then they should have some purpose. If we are to have purpose sections, why do we have Long Titles? Why not just have Short Titles? That is a decision for another day but I will discuss it with the Attorney General at some stage and I will raise the issue of whether it would be easier from now on to have a Short Title and purposes section and to abandon the principle of Long Titles.

The courts, as Senators know, have used Long Titles as an interpretative aid. I do not know if this is simply a matter of switching from one system to another, like turning off an electric light at the switch. I do not know if it would be as easy as that but it is an issue which might be considered. I cannot go much further than that.

Ms Terry: I thank the Minister but perhaps we should have consistency in all our Bills. Section 5 of the Water Services Bill 2003 contains a purpose provision, on which my amendment is modelled, and section 2 of the Air Navigation and Transport Act 2004 contains a purpose provision. It may be time to look at this again to achieve consistency in our Bills.

Amendment, by leave, withdrawn.

Acting Chairman: Amendment No. 3 is out of order.

Amendment No. 3 not moved.

Ms Terry: I move amendment No. 4:

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

Ms Tuffy: I second the amendment.

Ms Terry: I thank Senator Tuffy for seconding my amendments.

In our legislation there is a presumption against extra-territorial effect. In order to rebut this presumption, very clear words must be used. I propose this amendment in order to guarantee that this Bill will apply to sentences imposed outside

[Ms Terry.]
the State and I hope the Minister accepts the amendment.

Mr. M. McDowell: Again, I am grateful to Senator Terry but I am advised that there does not seem to be a need for this amendment, as the existing wording in sections 5(1) and 6(1) makes it very clear which sentences are being referred to in each case, the Irish sentence or the foreign sentence. The present formulation is satisfactory. It has been suggested to me that the amendment could introduce a level of uncertainty and confusion.

The Bill clearly deals with two separate situations. Section 5 deals with a request for execution of Irish sentences in a designated country and section 6 deals with a request for execution of foreign sentences in the State. Each section makes clear the sentence being referred to. In addition, the Bill does not apply to all sentences imposed outside the State and only applies to those imposed in designated countries. Therefore, the advice given to me is not to accept this amendment on the basis that sections 5 and 6 are adequately clear as they stand.

Ms Terry: Again, I defer to the Minister and withdraw the amendment.

Amendment, by leave, withdrawn.

Acting Chairman: Amendment No. 27a is related to amendment No. 4a and is an alternative to amendment No. 28. Amendments Nos. 26 and 27 are consequential on amendments Nos. 27a and 28. Amendments Nos. 4a, 26, 27, 27a and 28 may be discussed together by agreement.

Ms Tuffy: I move amendment No. 4a:

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”.

Amendment No. 4a refers to a slightly different issue in that it deals with whether one can apply this legislation retrospectively. I do not believe the Minister has dealt with this issue in any of the Government amendments and I would like to hear his response. Will he reconsider not applying this legislation retrospectively in the way it proposes? The wording, as it stands, is that this Act applies in relation to sentences, whether imposed before or after its passing. Is it necessary or fair to include such wording? We are looking for an amendment which would at least allow the High Court to decide that it would be unjust to apply the Act retrospectively. I do not know if there is an alternative way to deal with it and perhaps the Minister might comment on whether there is such a way.

Government amendments Nos. 26 to 28, inclusive, deal, in part, with the issue we raised in amendment No. 27a. I thank the Minister and his

Department for taking on board the issue we raised on Committee Stage. The amendments deal with the issue surrounding the European Arrest Warrant Act 2003 but do not deal with the issue of a person’s constitutional rights and whether the High Court could take those rights into account. Perhaps the Minister might comment on whether that is protected by the legislation.

Ms Terry: I second the amendment.

Mr. M. McDowell: Section 2 of the Bill provides that it applies in regard to sentences imposed before or after the passing of the Act. The idea that the High Court could disapply it where it would be unjust to apply it raises a series of questions as to by reference to what does the term “unjust” mean. If it were by reference to some constitutional principle, under the canon of construction, there is a presumption of constitutionality and the Act would be construed in some way so as to exclude something, the result of which would be unconstitutional. If the injustice is sub-constitutional or simply on balance fair rather than less fair or something like that, then it gives the High Court an undesirable discretion and makes the law uncertain in a sense that is not required by constitutional principles or the like.

The same applies to the European Convention on Human Rights. As we know, the courts are directed to interpret legislation, whether passed before or after the enactment, in a manner compatible with the convention, if at all possible, and I have no doubt they will do so. I am not clear in my mind that there is a problem here or that giving the High Court that provision will do anything other than introduce a new uncertainty and a cause of argument which is not particularly needed.

In regard to amendments Nos. 26 to 28, inclusive, the official amendment is a significant one because it provides that the safeguards available under the European Arrest Warrant Act 2003 and under the Extradition Acts also apply to cases under this Bill. Section 9(2) lists a number of specific matters the High Court must take into account before making an order committing the person to prison. The Bill, as currently framed, does not contain any express general provision granting a wider discretion to the High Court on whether to order the enforcement of the foreign sentence in Ireland. This is being left to the inherent jurisdiction of the court.

As the provisions in the Bill can be seen as an alternative to extradition, that is, a sentencing country can seek a person’s extradition or request the enforcement of the sentence, it is now being explicitly stated that the protections available under the European Arrest Warrant Act 2003 or the Extradition Acts will also be available to persons subject to proceedings under the provisions of this Bill. This clarifies the situation and makes it clear that a person is on the same footing regardless of whether he or she is subject to an

application under this Bill or to an extradition or surrender request.

Accordingly, the court, in addition to the specific matters already listed in section 9(2), must also be satisfied that if the person's surrender had been sought under the European Arrest Warrant Act 2003, the surrender of the person would not be prohibited under Part 3 of that Act. There is a corresponding provision in regard to Extradition Acts. In other words, the same protections apply here as in the case of the European Arrest Warrant Act.

I have noted several of these protections and they include adherence to the European Convention on Human Rights and its protocols as well as numerous protections relating to ethnic origin, religion, sexual orientation, nationality and the like. I am aware of comments made by the Human Rights Commission on the Bill, particularly in regard to the application of the European Convention on Human Rights and its protocols. I am sure this amendment will address many of those concerns. I might add that the safeguards in Ireland's legislation on the European arrest warrant are recognised as among the strongest in any member state of the European Union. As a result of amendment No. 28, those safeguards now apply under this Bill.

Amendment, by leave, withdrawn.

Amendment No. 5 not moved.

Acting Chairman (Mr. U. Burke): Amendments Nos. 7 to 10, inclusive, 13, 14, 17, 18 and 25 are cognate on amendment No. 6 and all may be discussed together. Is that agreed? Agreed.

Ms Terry: I move amendment No. 6:

In page 5, line 25, to delete "6 months" and substitute "one month".

The effect of these sections is that we will not pursue people who have less than six months of their sentence to serve. We have often spoken of the integrity of our citizenship but if we are committed to preserving and securing the integrity of the courts and of sentences imposed, those who have unserved sentences must be pursued. I agree we do not want to spend resources, and expect other states to do so, chasing a person who only has a few days of his or her sentence left to serve but six months seems unduly lenient. These amendments propose that we reduce the length of time from six months to one month. Amendment No. 20 ensures that a warrant cannot be varied after it has been executed. I would like to hear what the Minister has to say, having considered the amendments.

Ms Tuffy: I second the amendment.

Mr. M. McDowell: I am grateful to the Senator for tabling the amendments. However, I believe they contravene the terms of the parent convention. The six month threshold is set out in Article

3.1.c of the 1993 Convention on the Transfer of Sentenced Persons, which is the parent convention.

The additional protocol and the Schengen provisions are to be read in conjunction with the convention, so the six-month threshold in the 1983 convention applies in this Bill as well.

In practical terms, I have to question the value of operating this legislation at such a low level as is proposed by the amendment. For instance, if somebody had a remaining sentence of six or seven weeks, is the State supposed to engage in an elaborate procedure in the courts to seek the person's incarceration for a short period, as in those circumstances? We must have regard to the realities of life, one of which is the fact that this matter is time consuming because it involves legal, court and prison administrative time to put it into operation. The six-month threshold is provided for in the convention to show an element of seriousness. Although in general terms I agree with the Senator's motivation in saying we should not leave titbits of sentences lying about, nonetheless, given all the circumstances, we must be mindful that this is not a simple process to put into operation because it takes a lot of time. If court officials and others are dedicating their time to proceedings under this legislation, they will not be doing other things. Should we have a threshold of seriousness which is to be different from that provided for in the parent convention? My instinct is to say "No" and to leave the threshold, as envisaged as a matter of international law, in operation, rather than to unilaterally impose on ourselves potential obligations and resource issues that are not necessary under the legislation.

Debate adjourned.

Visit of German Delegation.

Acting Chairman: With the permission of the House, before we proceed further, I would like to extend a most sincere welcome to the members of the New Media Development Sub-Committee of the Committee on Culture and Media of the German Parliament, who are present in the Visitors Gallery.

Transfer of Execution of Sentences Bill 2003: Report Stage (Resumed).

Debate resumed on amendment No. 6:

In page 5, line 25, to delete "6 months" and substitute "one month".

—(Senator Terry).

Ms Terry: We are sending out a message to people who have a sentence of six or seven weeks remaining that they will not be pursued to complete their sentence. I understand it takes resources to do so but we should be enforcing legislation. By not accepting my amendment, the Minister is admitting that we will not be pursuing

[Ms Terry.]

people if they have six or seven weeks of their sentences left to serve.

Mr. J. Walsh: I cannot let that point go without commenting upon it. The Minister has emphasised that the convention itself makes provision for this specific area concerning people who have a short part of their sentences left to run. In this instance, we are obviously also talking about pursuing people who have been involved in reasonably serious crimes, so that their sentences would have been far in excess of the period left to run. Therefore, they would have served the vast majority of the sentence imposed on them for a criminal offence. Some people may consider that one, two, three or four months is a reasonable cut-off point. However, if the parties to the convention agreed that six months was a reasonable cut-off point, it seems eminently sensible for us to replicate that in our legislation. I see no reason for deviating from that course. In the normal course of events people should serve their full sentences but this is a new area whereby people can be pursued to serve their sentences within the jurisdiction for crimes committed elsewhere. The proposal is sensible and we should accept it.

Amendment, by leave, withdrawn.

Amendments Nos. 7 and 8 not moved.

Ms Tuffy: I move amendment No. 8a:

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

This issue was also raised on Committee Stage. The amendment seeks to make the paragraph read more logically because the person who is to serve their sentence here should be in the State. Section 6(1) refers to “a person who fled to the State”, but it does not clarify whether the person would still be here. That clarification is necessary in the section, so will the Minister re-examine it?

Ms Terry: I second the amendment.

Mr. M. McDowell: This 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, I would have to be satisfied the person had not only fled from the sentencing state, but that he or she was in this State. The amendment is unnecessary as the Bill already refers to a person who has fled to this State. I do not think there is a real problem there and it is highly unlikely that I will be inundated with requests to enforce sentences against people who have fled to this State and have since disappeared somewhere else. Whatever about wasting our time, I presume that most other member states will not waste their time by asking me to do the impossible.

Amendment, by leave, withdrawn.

Amendments Nos. 9 and 10 not moved.

Government amendment No. 11:

In page 6, line 13, to delete “the offence under the law of the sentencing country” and substitute “under the law of the sentencing country, the offence”.

Mr. M. McDowell: This is a simple text amendment to make the meaning of the words in the section clearer. It puts them in a slightly different order, which clarifies the position.

Amendment agreed to.

Acting Chairman: Amendments Nos. 12 and 16 are related and may be discussed together, by agreement.

Government amendment No. 12:

In page 6, line 16, to delete “he or she” and substitute “the Minister”.

Mr. M. McDowell: These amendments seek to make clear the purpose of sections 6 and 7. Both amendments seek to delete “he or she” and substitute “the Minister” to make it quite clear that we are talking about the Minister.

Amendment agreed to.

Amendments Nos. 13 and 14 not moved.

Government amendment No. 15:

In page 6, line 25, to delete “which” and substitute “that”.

Mr. M. McDowell: This is a grammatical amendment to remove the word “which” and insert the word “that”. My computer, which in addition a spell-check facility also has a grammar check, is always telling me to take out “which” and put in “that”. Sometimes I feel slightly offended by it, but apparently it has also happened to the parliamentary counsel on this occasion.

Amendment agreed to.

Acting Chairman: Amendment No. 16 has already been discussed with amendment No. 12.

Government amendment No. 16:

In page 6, line 35, to delete “he or she” and substitute “the Minister”.

Amendment agreed to.

Amendments Nos. 17 and 18 not moved.

Government amendment No. 19:

In page 7, to delete lines 25 and 26 and substitute the following:

“(d) the address of the place in the State at which the person is for the time being residing (if that is known).”.

Mr. M. McDowell: This amendment is to remove the phrase “the address of the place at which he or she resides in the State, if that is known” and substitute “the address of the place in the State at which the person is for the time being residing (if that is known).”. It makes it slightly clearer.

Amendment agreed to.

Ms Terry: I move amendment No. 20:

In page 7, line 36, after “time” to insert “prior to the execution of the warrant”.

I spoke to this amendment earlier, inadvertently.

Acting Chairman: The Senator mentioned it inadvertently.

Ms Terry: Perhaps the Minister would comment on the issue of ensuring that warrants cannot be varied after their execution.

Mr. M. McDowell: I disagree with the principle of the proposed amendment. The Minister should be able to apply to the High Court at any time, even after the warrant is issued or executed if the Minister becomes aware of information which would justify him or her going back to the court to seek a variation in the warrant. This amendment would limit the Minister’s discretion in that regard and is an unnecessary constraint.

Amendment, by leave, withdrawn.

Government amendment No. 21:

In page 8, line 13, to delete “(if any)”.

Mr. M. McDowell: This amendment seeks to delete the words “(if any)” from line 13 on page 8 of the Bill.

Amendment agreed to.

Government amendment No. 22:

In page 8, line 14, after “residing” to insert “(if that is known)”.

Mr. M. McDowell: This amendment seeks to insert “(if that is known)” after “residing” so that where it is not known, it does not become a basis for argument that the procedure is not being complied with.

Amendment agreed to.

Ms Tuffy: I move amendment No. 22a:

In page 8, line 38, to delete “in custody”.

The purpose of this amendment is to delete the words “in custody” after “remand the person”. It seeks to rule out the possibility that the person would not be remanded in custody. I raised this matter on Committee Stage and want to hear the Minister’s response.

Ms Terry: I second the amendment.

Mr. M. McDowell: The amendment relates to situations in which the person has been provisionally arrested pending receipt of the formal request from the sentencing state. The existing proposal in the Bill is that the court should remand the person in custody. The amendment proposes to delete the requirement that the remand should be in custody, instead merely stating that the person should be remanded. I am unable to accept the amendment because 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 situation seem appropriate since the procedures provided for in the present Bill are in many respects an alternative to extradition or to surrender with the benefit that the person gets the opportunity to serve the sentence in his or her home state.

It must also be remembered that the person has already absconded from the sentencing state and so has shown a propensity for fleeing. If the person had not fled, he or she would 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. Therefore, I do not propose to accept the amendment.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 23, 24 and 32 are consequential on amendment No. 29 and amendments Nos. 29a, 30 and 31 are alternatives. Amendments Nos. 31b and 31c are alternatives to amendment No. 32. Amendments Nos. 23, 24, 29, 29a, 30, 31, 31b, 31c and 32 may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 23:

In page 9, line 20, after “sentence” to insert “less the deductible period”.

Mr. M. McDowell: This is the Government’s response to an issue which was very helpfully raised by the Opposition at an earlier point. The primary purpose of the Government amendments is to allow credit for the time served which is called the deductible period. Account will be taken of entitlements earned, including as a result of the time already served, if any, by the person

[Mr. M. McDowell.]

whether in the sentencing state or in Ireland. In other words, it can include time served in Ireland while on remand pending the making of the order as well as remission or other entitlement earned abroad, if any.

Once the person is imprisoned here, the Irish rules on remission, which is a quarter compared with the UK which is one third, will be applied to the time served here. The amendments to subsection (1), namely, amendments Nos. 23 and 24 and to subsection (3) — amendment No. 29 to section 9 — ensure that in making its order in respect of the period to be served, the High Court takes account of what I have just described as the deductible period. A new subsection (7) is being added to section 9 via amendment No. 32, which defines the deductible period along the lines that I have just outlined.

Amendment agreed to.

Government amendment No. 24:

In page 9, line 24, after “unserved” to insert “less the deductible period”.

Amendment agreed to.

Amendment No. 25 not moved.

Government amendment No. 26:

In page 9, line 39, to delete “and”.

Amendment agreed to.

Government amendment No. 27:

In page 9, line 42, to delete “State.” and substitute “State,”.

Amendment agreed to.

Amendment No. 27a not moved.

Government amendment No. 28:

In page 9, between lines 42 and 43, to insert the following:

“(f) circumstances exist whereby—

(i) had the person’s surrender been sought pursuant to a European arrest warrant, the surrender of the person would not be prohibited under Part 3 (other than section 38(1)) of the European Arrest Warrant Act 2003, or

(ii) had the person’s extradition been sought, his or her extradition would not be prohibited under the Extradition Acts 1965 to 2001 (other than section 10(1) or 10(1A) (inserted by section 11(a) of the Extradition (European Union Conventions) Act 2001) of the Extradition Act 1965).”.

Amendment agreed to.

Government amendment No. 29:

In page 9, to delete lines 43 to 47 and in page 10, to delete lines 1 to 17 and substitute the following:

“(3) Where a person who was sentenced in the sentencing country to a sentence that is greater than the maximum term of imprisonment to which the person would be liable if he or she was convicted in the State of an offence corresponding to the offence of which he or she was convicted in the sentencing country, the High Court may, upon the application of the Minister, commit the person to prison pursuant to an order under *subsection (1)* for a period not exceeding—

(a) in the case of a person who fled from the sentencing country before he or she began serving the sentence concerned, the said maximum term less the deductible period, or

(b) in the case of a person who served part of the sentence concerned but fled from the sentencing country before he or she completed serving that sentence, the said maximum term less -

(i) the period of the sentence actually served by the person in the sentencing country, and

(ii) the deductible period.”.

Amendment agreed to.

Amendments Nos. 29a, 30 and 31 not moved.

Ms Tuffy: I move amendment No. 31a:

In page 10, lines 24 and 25, to delete “, if the High Court so directs,”.

I would like to hear the Minister’s response to this proposed amendment.

Ms Terry: I second the amendment.

Mr. M. McDowell: This amendment relates to the powers of the High Court to ensure any aspect of a sentence other than duration that is less favourable than the equivalent Irish sentence shall not be imposed. The amendment seeks to remove the discretion of the High Court and would simply state that no provision which is less favourable should be applied here. While that might seem reasonable, the issue remains that someone might decide what aspects of the sentence are less favourable. If the court is not empowered to do so, it becomes a function of the Minister. At this stage, two questions arise. First, the Minister’s decision would be open to judicial review if it became a matter for a court and, second, matters relating to imposition as opposed to administration of sentences are in the power

of the court and it would seem preferable to leave those arrangements intact. For those reasons, I do not propose to accept the amendment.

Amendment, by leave, withdrawn.

Mr. J. Walsh: I propose that the Order of Business be amended to extend the finishing time of this Bill past 5 p.m. in order to complete it as we are just a few minutes from doing so.

Acting Chairman: Is the amendment to the Order of Business in respect of the time extension agreed to? Agreed.

Ms Tuffy: I move amendment No. 31b:

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

I welcome the earlier Government amendments which dealt with some of the issues we raised. However, the Government amendment does not deal at all with the issue of remission which was the purpose of this amendment and amendments Nos. 31b and 31c. Has the Minister reconsidered that aspect or is he happy that remission will be factored in when a person is serving his or her sentence in this State?

Ms Terry: I second the amendment.

Mr. M. McDowell: I apologise to the House. I had intended to deal with that amendment when it was grouped earlier but I forgot to do so. While

5 o'clock I recognise the intended purpose of the amendment, I think the amendment I have introduced to section 9, providing for account to be taken of the deductible period, already addresses the substance of this amendment. The implications of the amendment may not be fully realised. Paragraph (ii) might mean, for example, that a person who has served part of a 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. It may not be as soft or as liberal as the Senator contends. In fact, it might be counterproductive.

Amendment, by leave, withdrawn.

Amendment No. 31c not moved.

Government amendment No. 32:

In page 11, between lines 9 and 10, to insert the following:

“(7) In this section ‘deductible period’ means, in relation to a person to whom this section applies—

(a) the period (if any) spent by the person in custody in the State pending the making of an order under this section, and

(b) the part (if any) of the term of the sentence that, under the law of the sentencing country, the person is not required to serve.”.

Amendment agreed to.

Amendment 32a not moved.

Acting Chairman: Amendment No. 32b is incorrectly numbered 13 on page 7 of the list of additional amendments and was discussed with amendment a1.

Amendment No. 32b not moved.

Bill, as amended, received for final consideration.

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

Mr. J. Walsh: Crime is an issue that concerns the Minister and all of us involved in politics. The sophistication of many of those involved in it means that greater co-operation is required to tackle it. I compliment the Minister on bringing forward this legislation and all the other items of legislation he has introduced. This Bill will be particularly useful and effective because those involved in serious organised crime do not recognise national boundaries. Therefore, it is important that the forces of law and order have the scope to deal with crime. This Bill means those who are called to account in other countries will have to serve their sentence because of greater co-operative arrangements between states. That is welcome.

Ms Terry: I thank the Minister and his staff for the time and effort put into this Bill. Certainly it will lead to greater co-operation between member states and will ensure people serve their due sentences. The whole legal process will be better served as a result of the enactment of this legislation.

Ms Tuffy: I thank the Minister and his Department. Obviously we welcome the general gist of the Bill. Even if the person had not absconded, it is positive that he or she should serve their sentence in their own state. I thank the Minister for taking on board some of the issues raised on Committee Stage and incorporating them in his own amendments.

Dr. Henry: As one who has long been concerned with the rights and treatment of prisoners, I welcome the Bill. It is extremely useful. I wish to raise with the Minister a matter which has been of great concern to the House. Can he assure us that untried and unsentenced people are not being brought through Shannon from goodness knows where to Guantanamo Bay? We raised this issue in the House several times—

Acting Chairman: Senator Henry—

Dr. Henry: —and it has been a cause of real concern to us because many Irish citizens would not like to think that was happening.

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): Obviously, I have no notice of that issue, although, apparently, the Senator has raised it on other occasions in the House. Any person who is on the soil of Ireland is entitled to the protection of our Constitution. No person can be brought through the soil of Ireland in the custody of any other state except in accordance with international law. If the Senator has reason to believe any person has been transited through Irish territory, in unlawful custody, particularly to Guantanamo, I would be interested to hear it because I would respond to it immediately. We have our Constitution and the right of the freedom of the individual is not confined to citizens; it applies to all persons. Therefore, it would cause me grave concern if I thought people were being smuggled through Irish territory in circumstances that amounted to unlawful detention in Irish law or in international law for that matter.

I thank Senators for their thoughtful and positive contributions to the Bill. It was a pleasure to meet many of the points raised in the earlier Stages of the Bill in Government amendments. I echo the thanks of Members to my officials for doing such a good job in getting the legislation through the House. I hope it gets onto the Statute Book as early as possible.

Question put and agreed to.

Genetically Modified Foods: Motion.

Mr. Quinn: I move:

That Seanad Éireann, in view of recent developments at European level in regard to genetically modified foods, requests the Government to initiate a national debate on the potential benefits and potential dangers of such foods, in order to underpin any position that Ireland takes with a full process of democratic consultation.

I welcome the Minister of State at the Department of Health and Children, Deputy O'Malley. I worded the motion specially so that it would not require an amendment. I am pleased an amendment has not been tabled and I hope it is not the intention to do so.

This topic was last debated here in February 1999. I was reminded of that because of two incidents recently. At a food marketing conference three years ago in Florence I met Hugh Grant, not the film star but the head of Monsanto, who had come from the United States. In debating with him the concerns of Europe I found a closed mind, a mind that was not listening and was not willing to accept anything other than the view Monsanto held. One may think I am travelling all the time but last week I was in Rome attending a

food conference in the Hilton Hotel where there was a protest by Greenpeace. Its representatives climbed onto this huge hotel and tried to take down a big banner. It had approximately 20 protesters outside the hotel with a loud speaker to interrupt the conference. They argued against genetically modified foods. I found that they too had closed minds. To a certain extent what I suggest is that the Irish people keep an open mind on the issue of genetically modified organisms.

In 1999, we debated the issue of genetically modified foods in this House and the reason I am raising the issue again is the danger that it will slip below the threshold of public consciousness if we do not do so. If the public were to lose touch with this issue, it would be very bad for the country. Sooner or later we must take hard decisions; we have already made one or two decision on genetically modified foods and in my opinion the decisions should be taken out in the open with the full knowledge and full approval of an informed public.

Members will recall that genetically modified foods are a battleground that has put the EU and the US on different sides of the fence. The technology of GM foods was first developed approximately ten years ago in the United States, where it received what many people see as a hasty and ill-considered blanket approval from the Food and Drugs Administration of the time. Under the terms of that approval, genetically modified foods got what I would call a "blank cheque" and were treated on exactly the same basis as existing non-modified foods with virtually no restrictions on their growth and no mandatory requirements to label, even in America, any products as containing genetically modified ingredients. This encouraged certain chemical producers, mainly Monsanto, to promote genetically modified products very aggressively in the United States and particularly in American agriculture and they sought to expand the use on a global basis. The American Government became a partner in this operation in that it consistently supported Monsanto's export marketing and pressurised overseas governments to accept genetically modified foods. This ran into a brick wall in Europe, where governments, particularly driven by public opinion, united in opposition to the hasty introduction of this new technology. It is fair to say that the European reaction was influenced by our experience in the 1970s with thalidomide, an experience the Americans were very fortunate to escape. They escaped it because of the strength of feeling of one particular Canadian woman who was in charge of the Food and Drugs Administration section and refused to allow it. In addition, our more recent experience with BSE has added to the caution that Europe brings to bear on any new technology developments in food.

Overall the European approach has been driven by what I call the precautionary principle. Instead of rushing in and then discovering problems we have not anticipated, the precautionary

principles encourages us to find out as much as we can before we do anything at all. This means researching the long-term effects and the side effects of any new technology, both on food safety and the environment. It also means separating genetically modified foods from the rest of the food chain so that full traceability would be in place, if anything happened to go wrong. It means clearly labelling all genetically modified ingredients so that customers can know exactly what they are buying and make informed decisions about them.

In support of the principle, the European Union imposed a moratorium for several years on the approval of genetically modified products. It was not a permanent ban, it was a moratorium and it was always intended to review it when more information became available. In the meantime, the United States has increased its pressure on Europe to lift this effective embargo on these products which the Americans see as simple protectionism. This year the European Union has taken two decisions in the area, one allowed the growth of a certain genetically modified grain and the other, which is a much more recent decision, maintained the existing ban on another product.

Both of these decisions were made in the relative obscurity of Community decision making, which means they virtually passed unnoticed in Ireland. In Europe, the people must make up their minds on genetically modified products. This is an issue that faces the European Union as a whole and Ireland in particular and we will have to make some of the most important decisions that will have far reaching consequence for the next generation. We stand at what I term a critical cross-roads and the path we choose may determine to a very large extent our economic future. That is the reason I argue that the public must become engaged with the issue. It should not just pass by without attention.

This is not a decision that can be made behind closed doors, as I think tended to happen in Europe. It is a matter that must be faced in the full light of day. Let me try to clarify my lack of position. I honestly do not know which direction we should take in this matter, but I am very certain that we cannot continue to avoid choosing one direction or the other. With past experience to guide us, it is unthinkable we would walk into a genetically modified future with our eyes closed to any potential downside, either in terms of food safety or our environment. I am not suggesting that anybody is proposing that. The real division comes between people who want to ban genetically modified goods completely and forever, and those who are prepared to admit them on the basis of very strict food safety and environmental guidelines and tight control. The people who argue for a total ban say that no controls can be really effective either in food safety or in the environment. There is a great deal of evidence already to back them up on this. Clearly it is easier to have a totally GM-free environment and food chain than it would be to police the environ-

ment or the food chain in which a certain penetration of genetically modified foods was tolerated. It is difficult to argue against the practical reality of that approach, but I cannot help having an uneasy feeling that in completely banning genetically modified products, we may be trying to hold back an inevitable wave of progress, a wave that may well revolutionise the shape of the world in the years to come and the shape of the world economy from which we may cut ourselves off at our peril.

The human genome has been mapped completely for the first time. This opens up entirely new possibilities for the human race, which reach far beyond the narrow issue of genetically modified foods. It may be that biotechnology will become as important or perhaps more important to the 21st century as digital technology proved to be in the 20th century. Take this example, if we could re-programme the human body to grow replacement organs, the way a lizard will grow a new tail, we would by that single act totally transform medical science as it is practised today. I am sure Senator Henry is not in favour of this. Children in the United States used to pull the tail off a lizard but the tail grew again because of a particular gene in the lizard. Suppose we were able to find that gene and transpose it safely to humans, so that when one lost a thumb, a finger or an arm, it would grow again. Think of the marvel of science such as that. This may sound out of this world, but it is not compared with other things that have happened. In Ireland we made the digital revolution our own and I am very conscious that the same people, the IDA, who identified digital technology as an area for Ireland to focus on in our economy, have made the same decision in regard to biotechnology. That is the reason biotechnology is one of the small number of fields into which we are pouring a great deal of money into research. I do not think we can have it both ways. We can hardly hope to make biotechnology a central part of our economic future while at the same time taking what would be regarded as a Luddite attitude to the part of the technology that applied to genetically modified foods. Taking an attitude that totally excludes genetically modified foods would fatally undermine the credibility of our desires to make Ireland a world centre of excellence in biotechnology. We are heading towards a dilemma quite fast. We cannot fudge our decision and have it both ways. We cannot put off the decision until we know all there is to know. Like all tough decisions this one must be taken in a situation of considerable uncertainty. Future generations would not thank us if we unleashed on them a catastrophe similar to that unleashed by thalidomide. Equally, they would not thank us if we closed off their opportunity to prosper in a new world economic order that we saw coming but on which we deliberately turned our backs. I do not know which way we should jump. Many others may share my indecisiveness. That is why we must start to discuss this issue in all the depth and

[Mr. Quinn.]
seriousness it deserves. I hope this debate will begin the process. I commend the motion to the House.

Dr. Henry: I welcome the Minister of State. I thank Senator Quinn for putting down this motion and for asking me to second it, which I do now. The definition of genetic modification produced by the US-based SCOPE research group is as follows:

The techniques of modern genetics have made possible the direct manipulation of the genetic makeup of organisms. In agriculture, genetic engineering allows simple genetic traits to be transferred to crop plants from wild relatives, other distantly related plants or virtually any other organism.

Recombinant DNA technology thus has brought a new precision to the process of crop development, which traditionally selects desired traits through crosses between crops and their wild relatives (a laborious and relatively imprecise method).

Genetic modification can be used in many ways to control a variety of traits of plants and the consequences of one manipulation may be completely different from another based on the traits modified.

Most of the debate in Ireland has focused on the modification of plants. I ate genetically modified food today: the Irish cheese I had for lunch contained vegetarian rennin made from a recombinant protein. I have heard no one on this island say we should go back to squeezing the rennin out of calves' stomachs to use in the food industry. That would provoke a great deal of distress, particularly after the terrible problems caused by BSE. Most cheeses in Europe are made using what is described as "vegetarian rennet" which probably goes down better with people — excuse the terrible pun — than describing it as "genetically modified rennet". We are all eating genetically modified products, even if we do not know it. As a pharmacist, the Minister of State knows that 50% of drugs taken in this country are genetically modified. For example, insulin, whose use is rising with the terrible increase in the number of diabetics here, and most vaccines, are made by genetic modification. This is already part of our life.

The Monsanto shareholders should tell Hugh Grant what to do after meeting and ignoring Senator Quinn who is such a successful retailer of food. I have never seen anything worse promoted than the genetic modification of soya, maize and wheat. These modifications were sold as being of benefit to Monsanto and perhaps to farmers because they could use less pesticide or herbicide and they need use only Monsanto's Roundup. One did not have to be too bright to realise this was the best of news for Monsanto and not particularly good news for others. Reports of the amount of herbicide and pesticide required if

genetically modified grain seeds are used do not show much improvement on the traditional crops. The only triumph is that one must use Monsanto's Roundup. There was little increase in crop yield. The only success was a reduction in soil erosion because one had to harrow fewer weeds. Those who propose genetically modified crops as the solution to starvation in the Third World know little about what causes that starvation. It would not matter to the people of Darfur tomorrow what sort of grain they had to sow. They are being moved around the country so fast they would not have time to see it even start to germinate. This sort of argument for genetically modified food destroys the case and people should not use it. I have seen no evidence that plant protein is transformed in the body in any way that is deleterious to the human frame if genetically modified crops are used but people are entitled to refuse to eat them if they so wish.

That is why I welcome the paper which Mr. Byrne, the estimable Commissioner for Health and Consumer Protection, brought to the European Parliament on his proposal for the regulation of genetically modified food and feed. This is very important because it concerns not only human food but also animal feed. Past experience has shown us that animal feed, particularly with trace elements, especially iodine, can cause serious problems. Senators may have heard that in the United States there was a problem about the excess of iodine in animal feed. This went into the animal milk which was used in the manufacture of milk for babies who in turn received an excess dosage of iodine that was not good for them. Commissioner Byrne says quite rightly that there is no question of GM food being put on the market as safe or unsafe and labelled thus. If it is unsafe it will not be put on the market.

We urgently need labelling, particularly for people with allergies because even small traces of a brazil nut gene may cause problems for people with a nut allergy. While Commissioner Byrne allows for a 1% contamination level, we must be very sure this is present on labels if there is the possibility of a nut product being present in food because it can have a terrible effect on those with the allergy. Rennet has been a great success but Senator Quinn is right in saying we must consider genetic modification very slowly because there was a disaster in the early 1990s with bovine somatotrophin. As the Leas-Chathaoirleach, Senator Ulick Burke, may recall from his part of the country, there was a milk lake at the time. Bovine somatotrophin could make a cow that produced five gallons of milk produce eight gallons. I am not sure what we were to do with the remaining three gallons. It was not taken up here but was most enthusiastically adopted in North America. After some years the Canadians stopped using it because they found it caused mastitis problems in the cows which then had to be given antibiotics and their milk had to be withdrawn from sale, so it was not cost-effective. Animals kept on it for many years developed serious hind hoof prob-

lems because their udders were so heavy from this massive production. It is not used much anywhere now, even in the United States. The last time I heard of it was in Holstein herds which were kept indoors in North Dakota and were all slaughtered at four years, which seems a terrible thing to do to a nice cow. We must judge all these developments on a case-by-case basis because they will not all be successful.

The food debate has concentrated on genetic modification of crops and food. We must look more closely at other issues such as salt. It is very difficult to know from the way salt is labelled on products if one is taking a large amount of it. How does a certain number of grams per packet of crisps feature for a child? We must have top levels which are definitely safe. The Minister of State is well aware of the terrible dangers involved in the excess intake of salt. I refer to cardiovascular disease, high blood pressure, stroke, etc.

A similar position obtains in respect of sugar. As the Minister of State knows, approximately six months ago the sugar producers of North America tried to get the World Health Organisation to agree that 25% of the human diet could be consumed in the form of sugar. They threatened to withdraw US funding from the World Health Organisation if it did not agree to this. Mercifully, however, the WHO stuck to its guns and the level of 10% remains in place.

There is also a difficulty as regards food additives. It appears that the large number of flavourings and colourings put into foods are affecting children. As some people have been suggesting for a considerable period, such additives may be having a greater effect on them than originally thought. It would be sad if children's hyperactivity and the necessity for some of them to take Ritalin were caused by the fact that they were consuming products which were having an adverse effect on them. I suggest that the debate on food should not merely focus on genetic modification. Salt, sugar and additives — fat has always had a bad name — should also be considered in the equation because they are desperately important.

Mr. Patrick Wall, for whom I have great respect and who was head of the Food Safety Authority for a considerable period, some years ago stated that rich people are fat, poor people are thin and right-minded people worry about starvation. Nowadays, rich people are thin, poor people are fat and right-minded people worry about obesity.

Minister of State at the Department of Health and Children (Mr. T. O'Malley): As Minister of State with responsibility for food safety, my primary concern is public health and the safety of food consumed by the public. I, therefore, welcome this debate on genetically modified foods and I intend to clarify the position taken by the Government in respect of GM foods.

Since taking office, the Government has attached great importance to the issue of food safety in general and to the concerns of consumers in particular. It recognises the need for uncompromised and independently verifiable assurances on food safety to ensure consumer confidence. This is particularly the case in the approach taken to GM foods.

I wish to preface my comments by setting out that the independent scientific advice made available to my Department provides no evidence that the GM foods authorised within the EU pose a risk to human health. It must be stressed that no product consisting of, containing or derived from GMOs can be authorised for marketing without first having undergone appropriate safety assessment. Under new EU legislation, this safety assessment is carried out by the European Food Safety Authority. In addition, measures to allow post-release monitoring of GM foods are provided for in the legislation. Consequently, I am satisfied that appropriate arrangements are in place to ensure the safety of authorised GM foods or foods containing GM ingredients placed on the market in Ireland.

Government policy on biotechnology is positive but precautionary in accordance with the recommendations of the report of the interdepartmental group on modern biotechnology which was published in October 2000. One of the inputs to this report was the public consultation process carried out by the then Department of the Environment and Local Government in 1999 in respect of GMOs and the environment. Consumer safety and consumer choice are paramount in the approach taken to GM foods, as reflected in the extent of the legislation developed to deal with this sensitive area. Government policy on GM foods is based on the advice that no credible evidence has yet been provided to show that GM foods pose a risk to human health.

Genetically modified organisms can be defined as organisms in which the genetic material, DNA, has been altered in a way that does not occur naturally. The technology is often called modern biotechnology or gene technology. It is sometimes also known as recombinant DNA technology or genetic engineering. It allows selected individual genes to be transferred from one organism into another and also between non-related species. Genetic modification techniques have opened up new possibilities for growth in sectors such as agriculture and industry and have made a significant contribution to modern health care. Genetic modification techniques are widely used in the pharmaceutical and chemical industries, including the production of valuable medicines such as human insulin for use by diabetics. Genetic modification is also central to the development of new gene therapy treatments to combat serious disease and disability. The benefits from these developments, particularly in the medical area, are well documented and widely accepted as a significant benefit for those requiring such treatment.

[Mr. T. O'Malley.]

I am aware of public concerns and media reports regarding the issue of genetically modified food. This is a complex issue involving, *inter alia*, technical, scientific, ethical and economic aspects. Within the scientific aspect there are ecological, environmental, nutritional, human health and veterinary concerns. Due to the recent emergence of this technology, we must approach the issues it raises in a thorough, comprehensive and balanced manner. The technology has the potential to be of great benefit. However, the Government is aware of its responsibility to be alert not only to potential benefits but also to any potential risks.

Given the wide range of issues to be considered in respect of genetic modification, several Departments have responsibility for different aspects thereof, including responsibility for different EU legislative instruments. The Department of Health and Children has responsibility for food safety and consumer protection. The Department of Enterprise, Trade and Employment has responsibility for developments in the biotechnology industry. The Department of Agriculture and Food has responsibility for EU legislation on genetically modified animal feed and seed. The Department of the Environment, Heritage and Local Government is responsible for legislation relating to the deliberate release into the environment of GMOs. The EPA is the national competent authority in this area.

As the motion specifically addresses genetically modified foods, I will restrict my comments to that area. For generations, plant and livestock breeders have been breeding crops and animals to improve yields for disease resistance and for composition. The crops and livestock we consume today bear little resemblance to those our forefathers consumed in that plants and animals have been selectively bred to produce certain desirable traits. For example, we now have high-yield cereals, fruit and vegetables, faster maturing poultry, hens that lay more eggs, cows that give more milk, pigs with leaner meat and a range of cattle varieties selectively bred for beef production.

Scientists are now capable of identifying the genes responsible for some of these desired traits and are able to manipulate them. This technique is known as genetic engineering or genetic modification and a number of foods have been produced using this method. A wide variety of such foods are already on the market in the USA but in Europe there are only a small number of genetically engineered food ingredients on the shelves, mostly those derived from maize and soya. Consumers have, however, expressed concerns about GM food products. These concerns cover a wide range of issues and are best addressed by providing a strict regulatory framework to provide controls which ensure that consumer protection is paramount.

Ireland, in common with other member states and as required by European Union rules, applies EU legislation on GM foods. Such legislation

comes in the form of EU regulations which are directly applicable to and binding on each member state. My Department is currently working on introducing measures into national legislation which will allow for enforcement measures, including penalties in the case of non-compliance.

Under EU rules, only products from 17 authorised GM foods or foods containing ingredients thereof can be imported and placed on the market. These include soya, maize and oil derived from oilseed rape, cottonseeds, maize and soya. These are produced from GM crops which have been engineered to be resistant to certain herbicides and/or resist attack by certain pests. GM foods have been consumed in some countries for approximately a decade and no credible evidence is available to suggest that any GM food has ever caused harm to human health. Should any problems arise out of the consumption of GM foods, EU legislation provides for the immediate removal from the market of the suspected product pending a full investigation. The Food Safety Authority of Ireland is the competent authority for the enforcement of EU legislation regarding genetic modification of foodstuffs. The FSAI is an independent science-based consumer protection body that utilises the expertise of the best scientific advice available in the country. It is involved on the international scene with CODEX Alimentarius and OECD task forces in developing guidelines for risk analysis and food safety assessments of food derived from biotechnology. The FSAI does not give blanket approval to genetically modified, GM foods, but individually evaluates, on its own merits, each application to place a new GM food on the EU market. The FSAI is satisfied that, based on the best scientific evidence available, all of the GM foods and ingredients currently on the EU market are as safe as those derived from their non-GM counterparts. The FSAI carries out checks on the marketplace for compliance with GM legislation.

Trace levels of GM ingredients can and do occur in non-GM food due to mixing during cultivation, harvest, transport and processing and this phenomenon is not particular to GM foods. Against this background, the EU objective is to ensure legal certainty and establish certain thresholds above which conventional foods have to be labelled as consisting of, or containing, or being produced from a genetically modified organism. With regard to future implications for the domestic food chain and the food industry in general, it must be noted that any further authorisations of GM foods will only occur following full independent safety assessment by the European Food Safety Authority and will also be subject to the latest European regulations with regard to traceability and labelling.

The EU has, following the recent adoption of new legislation, one of the most rigorous regimes for the assessment of GMOs as well as food and feed derived from GMOs. In this regard, only GM foods which satisfy the highest standards of safety are allowed on the market. This is com-

bined with comprehensive safeguard measures on traceability and labelling. EU legislation on GMOs has been in place since the late 1980s and has within the last year been considerably reinforced to increase consumer protection and consumer choice. These updated regulations were introduced as it was acknowledged that previous Community legislation on GMOs was fragmented and that this was making it difficult to adopt cohesive provisions and to apply unequivocal Community rules. This situation, in conjunction with concerns about the ability to monitor the rapid developments in biotechnology and the production of GMOs and their products, led to reservations and to a *de facto* moratorium. During the so-called moratorium, no new GM applications, be they food, feed or the deliberate release of crops, were approved within the EU.

The new EU regulations establish a harmonised Community system to trace GMOs, introduce the labelling of GM feed, reinforce the current labelling rules on GM food and establish a streamlined authorisation procedure for GMOs in food and feed. New regulations on deliberate release into the environment were introduced in 2001. These regulations address the legitimate concerns of citizens, consumer organisations and economic operators. A strict safety assessment of GMOs will continue to ensure the highest level of health and environmental protection, while the labelling of all GM food and feed products will allow consumers and farmers to decide if they want to buy food or feed produced from a GMO.

For consumers, clear labelling is a key issue. Since 18 April 2004, obligations are placed on suppliers to forward the information to purchasers that a food is, consists of or is produced from a genetically modified organism and must give the unique identifiers for the GMOs. Also, the label must state, "This product contains genetically modified organisms" or "produced from genetically modified (name of organism)". For example, a biscuit containing soya flour derived from GM soya must be labelled "contains soya flour from genetically modified soya" and vegetable oils containing rapeseed oil produced from genetically modified rape must be labelled "contains rapeseed oil from genetically modified oilseed rape". Consequently, the labelling provided on a product will make it possible for consumers to make informed choices. The purpose of the specific labelling measures introduced by these regulations for GMOs and their derivatives is to give consumers clear, honest, neutral and scientifically sound information on products derived from a genetically modified source.

No food or drink can ever be guaranteed as 100% risk free. With this in mind, while the technology of genetic modification-engineering used in food production may not be inherently dangerous to human health, what is intended and achieved with the technology will always require close scrutiny. For example, the FSAI is keeping

a watching brief on research and development of crops that are being engineered to produce non-nutritional products such as vaccines, pharmaceuticals and other products not necessary for human nutrition. While this bio-pharming may present many benefits for the industry and consumers in the future, the potential for the contamination of the general food supply by these "pharma crops" is a cause for some concern as large scale food crops like maize and rice are being targeted. Additionally, genetic engineering of certain food animals and fish is being progressed at research level in a number of countries and will bring a potentially new dimension to the food supply. The FSAI is watching developments closely.

The controls within the legislation provide protection to consumers and I wish to assure the House that I am keeping the matter under review to ensure this continues to be the case. To assist my Department in this area, the FSAI's scientific committee has set up a GMO sub-committee which advises my Department on GM issues. This sub-committee also affords a forum for the exchange of expert scientific opinion and advice on this new technology and its application to food. In addition, this sub-committee assesses each application for approval of a new GM food and provides my Department, on a case by case basis, with its opinion in terms of the human health aspects, particularly toxicity and allergenicity.

Following the adoption and introduction of the new EU rules on authorisation, labelling and traceability of GM food and feed, the European Commission recently approved the placing on the market of GM sweetcorn known as Bt-11. This decision has caused concerns in terms of the approval itself and the procedures under which the decision was taken. Therefore I would like to give Members some background on this decision.

On 11 February 1999, a request was submitted under Article 4 of the Novel Food Regulation (EC) No. 258/97 to the competent authorities of The Netherlands for placing sweet maize-corn from GM maize line Bt-11, referred to as Bt-11 sweetcorn, on the market as a novel food or as a novel food ingredient. A novel food is defined as any food or food ingredient that does not have a significant history of consumption within the European Community prior to May 1997.

During the assessment process by member states, objections to the marketing of the product within the EU were raised. Consequently, a Community decision requiring the support of a qualified majority was necessary to approve the application. The EU Scientific Committee on Food delivered an opinion in April 2002 stating that the Bt-11 sweetcorn was as safe for human food use as its conventional counterparts.

In order to grant Community authorisation, a draft Commission decision was submitted for vote to the Standing Committee on the Food

[Mr. T. O'Malley.]

Chain and Animal Health on 8 December 2003. This is a regulatory committee comprised of representatives of each of the member states which assists the European Commission in the development of food safety measures at all stages of the food chain in a process known as comitology. As the necessary qualified majority was not achieved, under comitology rules it was then necessary for the Commission to put forward a proposal to Council for a vote on the application. The Commission put forward the necessary proposal at the end of January 2004. If Council were to fail to come to a decision or fail to act on the proposal before 30 April 2004, that is, within three months of having received it, the proposal would then revert back to the Commission for a decision. The proposal was put on the agenda of the Agriculture Council on 26 April to allow the Council to meet its obligation to act before 30 April 2004. The Agriculture Council did not achieve a qualified majority either for or against the proposal, with most member states maintaining the positions adopted at the Standing Committee on the Food Chain and Animal Health.

Authority for the adoption of the proposal reverted to the Commission. On 19 May, the Commission duly authorised the placing on the market of sweetcorn from GM maize line Bt-11. This decision is valid for ten years. The granting of an approval in this case has ended an almost six year *de facto* moratorium. Irish representation at the aforementioned Standing Committee on the Food Chain and Animal Health was by the Department of Health and Children, while representation at the Council on 26 April was by the Department of Agriculture and Food. Ireland supported this proposal following consultation with the FSAI and based on the scientific risk assessment undertaken on this product, initially by The Netherlands' food assessment body and subsequently by the EU Scientific Committee on Food, which concluded that Bt-11 sweet maize is as safe for human food use as conventional sweet maize. There are currently applications for eight GM foods awaiting decision upon authorisation in the EU, including one soya bean, one sugar beet and six maize lines.

The FSAI has published a leaflet entitled, Food Safety and Genetically Modified Foods, which is currently being updated to take account of new legislation. In addition, the FSAI, in conjunction with Departments and industry organisations, is currently formulating a guidance note for industry which will highlight the legislation with regard to GMOs. The public has access to unbiased information on GM foods from the FSAI and can also access information from the Departments of Health and Children, Agriculture and Food and the Environment, Heritage and Local Government on any aspects of GMOs within their remits.

This has resulted in requests for information from concerned individuals and groups, either directly or through their local representatives in the Dáil.

The GM food issue is debated with intensity, both by those in favour and those against genetically modified food, and the public can become confused and fearful with the claims and counter-claims being made. There is an onus on us to ensure the matter is evaluated in a calm and reasonable way. I am aware consumers wish to be in a position where they can decide whether they want to consume products containing GMOs or those produced using genetic modification techniques. I assure the House that I will continue to urge for maximum transparency on this issue.

I am satisfied proper safeguards are in place and the labelling requirements provide a satisfactory and acceptable means to allow consumers become fully informed of the content of the food they are purchasing. In this context, I reassure the House that I am keeping the matter of genetic modification of foodstuffs under continuing review and I am determined to ensure public health and the rights of consumers are fully protected in this regard. I welcome this discussion as the start of what will probably be a long debate and thank Members for their contributions to it.

Mr. Feighan: I thank the Minister of State for coming to the House and I agree with him that we need to take a calm and reasonable approach to this issue. I am satisfied with the line taken by the Food Safety Authority of Ireland, which is an independent scientific consumer protection body. It does not give blanket approval to GM foods but assesses individual foods and carries out checks to ensure compliance with GM legislation.

When I visited the European Parliament six years ago there was a debate on GM foods. It was a unique day, as many Green Party members from all over Europe marched into the Parliament dressed as pirates. They were totally opposed to GM foodstuffs. Some MEPs were furious because they had spent many years debating the rights and wrongs of the subject and they believed they were taking a pragmatic approach. The debate that day was screened live on television and was covered in newspapers all over Europe. The subject got attention but for the wrong reasons. As a result, people's awareness of the issue was heightened but the debate was dismissed. Politicians must take a calm and reasonable approach to this matter, as we are doing in this instance.

In 1999, the Government finally agreed to have a debate in the Dáil on the genetic engineering of foodstuffs. Due to the labelling of products, consumers have a sense that GM foods are being imposed on them. I am delighted a new labelling system was introduced. However, I remain concerned that levels of GM ingredients below 1% do not have to appear on labels. Since 18 April

2004, an obligation has been placed on suppliers to forward information on the presence of GM ingredients. Will the Minister of State clarify the position, as we have some difficulty with the presence of small quantities of GM produce not being indicated? All information regarding ingredients should be included on labels, even if it is less than 1%.

A great deal of scare mongering took place in the United Kingdom and the public there voted by 9:1 against the introduction of GM foods. The Irish Commissioner, Mr. David Byrne, has stated that GM foods are now legal in EU law, as long as they comply with the laws of each state. Darina Allen made the point that in the past when people got tumours there was no way of proving if they came from the consumption of GM foods because they were unlabelled. For that reason I welcome the new labelling laws.

I accept there are benefits to GM, such as the production of insulin, blood clotting proteins and various vaccines. My late father was a diabetic and the quality of his life was improved by the use of insulin. We must weigh up the advantages as well as the disadvantages of any issue. From my limited knowledge of genetic modification, the benefits have been tremendous in the experience of my family. Future genetic modification could help in the fight against cancer, cardiovascular disease, cystic fibrosis, Huntington's disease, HIV-AIDS and Alzheimer's among other diseases.

Fine Gael is not opposed to the importation of products containing GM ingredients into Ireland. However, all such products must be properly labelled. Greater public debate is required on this issue. We must decide if we want GM foods and are willing to cultivate such crops on Irish farmland. Fine Gael's policy on the importation of GM foods is that each product must be investigated on a case by case basis. The current EU strategy is a sensible and reasonable approach.

Mr. Leyden: I welcome the Minister of State and his officials to the House. I thank Senators Quinn, Henry, O'Toole, Ross and Norris for tabling this motion. At our party meeting I was anxious that no amendment would be proposed to the motion and I am pleased the Minister of State is in agreement. This matter affects everybody and is not a political issue in the sense of party politics, but it could have a significant effect on the economy. I have always tried to achieve agreement on such motions.

In this case, Senator Quinn is both a consumer and a distributor and is very knowledgeable about food production and traceability. In my experience as a former trade Minister, I am aware of his credibility in this matter. His company was ahead of its time in dealing with any problems associated with products. Senator Henry has the technical information which is very helpful to the

debate. Senator Feighan is the Fine Gael spokesman and has been very responsible in this regard.

Genetically modified foods and farming are viewed with great suspicion due to the lack of clarity about the impact on humans and the environment. However, recent studies have shown GM foods to have rather more positive than negative effects. Those opponents of GM foods argue that not enough studies have been undertaken to guarantee their safety and I agree. The Government has taken a positive but cautionary approach to GM foods, which I regard as reasonable. The Minister of State is a chemist and has experience in this regard. He would be very careful to ascertain the traceability of these products. It has been claimed that foods containing GM elements which are not labelled as GM are available in Ireland. The proposal for the introduction into Ireland of sweetcorn produced from genetically modified maize has caused considerable controversy.

The EU Agriculture Council failed to agree on this issue at its meeting on 26 April 2004. The decision was then passed on to the European Commission which, on 19 May, chose to allow the new varieties to be put on the market. Some argue that the European Commission should not have the power to make this decision, that it should be a political decision and not one taken by an unelected body. The further development of GM technology cannot be avoided. The Commission has listed 23 GM products awaiting approval for release on the European markets and more will follow.

I proposed at a committee meeting that all GM foods should be labelled and even the smallest percentage of GM ingredients should be listed. The consumer should be informed whether a product contains a GM element. Concern has been expressed at the involvement of major companies. This is a globalisation issue and it is clear that there is modification.

My greatest concern is that GM foods contains genes not only from plants but from animal species. Food has always evolved naturally and farmers have always experimented with different breeding techniques to improve the quality of food. The introduction of an animal species into a plant species is a cause for most concern. As the motion states, this requires comprehensive debate and analysis both in this country and throughout Europe.

Ireland has a tradition of producing quality food. I have an organic farm which is managed by my wife. She is a fully qualified and registered organic farmer. We would be very concerned at any production of GM crops close to our farm. The transmission of seeds cannot be controlled, simply because of the wind and birds. As a trade Minister I was selling beef to Iran during times of scares. I could always say that they should come to Irish farms to see how the beef is produced.

[Mr. Leyden.]

The same transparency and reputation would not exist if GM crops were being grown in neighbouring farms. Genetically modified crops and food have been allowed in different places.

I am concerned about the number of Departments dealing with this issue. I suggest the Department of Health and Children should be the sole Department dealing with it. It would be the most appropriate Department rather than the Department of Agriculture and Food as it deals with the health of the population.

I am deeply concerned about the control of GM foods. Senator Quinn has spoken of his contacts with different companies abroad who are committed to the production of GM foods. Those who control the GM crop control the seed and costs will spiral. At present seeds are produced organically at local level. This is an ongoing debate and I hope the House will return to this subject. I am a sceptic because I believe that when one modifies food, one cannot foretell the end result. There has been an unfortunate increase in cancer and other diseases throughout the world and something must cause it. When people ate food that was simply and organically produced without the use of chemicals, they were much healthier. I suggest we step back to examine the issue. Weeds have become strong as a result of modification. We have no idea what the effect of modifying a product will be. No one can say what will happen. I am pleased the Minister of State has an input because he is a man with knowledge in this field. His Department has been excellent in this regard. I commend this motion to the House and fully support it.

Mr. Quinn: I thank all those who have spoken. I commend Senator Henry's knowledge, Senator Feighan's experience and the experience and deeply thought out words of Senator Leyden. I am impressed at the amount of work the Minister of State and his team invested in the reply to the motion and I learned more about the subject from it. One important aspect was made very clear by the Minister of State. This is not actually a food safety problem. There is no evidence from the Food Safety Authority of Ireland that this is a food safety issue. As the Minister of State said, there is no danger of something being produced because of the regulations which exist. It is much more likely, as Senator Leyden stated, to be an environmental problem. Foot and mouth disease was not a food safety problem. Other than the health and safety of the animals who might be slaughtered, it did not pose a health problem for humans. On the other hand, it had an economic dimension, which is the reason we faced it in the manner we did.

Let me address the environmental case. I am not sure my description is accurate — Senator Leyden also referred to this matter — but an ani-

mal gene, I understand it belonged to a pig, was introduced to salmon to make them grow. It is believed some of the salmon may have escaped into the ocean from a net. If that is the case, these giant salmon will influence all salmon in the years ahead by virtue of their size. Once they have escaped into the environment, it is too late.

We know similar circumstances have arisen in other areas. The Americans, for example, are concerned about butterflies and similar matters. Genetically modified foods, therefore, are not necessarily a food safety or health issue but clearly an environmental concern. Technology will deliver major benefits, some of which Senator Feighan described, and we must turn our back on it.

I will take another example unrelated to food. A grass seed was developed which changed colour in proximity to metal. One could ask what is the benefit of this development. The benefit was evident in places around the world where mines had been laid during wars. Within a few weeks of sprinkling the grass seed, it was possible to identify the location of mines by means of the different colour of grass. This was a very interesting and simple development which had major benefits.

Let us consider the considerable benefits arising from the development by Dr. Ricardo Wolf of super wheat and super rice in the 1950s. Senator Henry stated there is no evidence genetically modified food will solve the world's problems. For the rest of his life, Dr. Wolf could look back in the knowledge that he solved the problem of famine in many areas of the world. He did this not by means of genetic modification but simply by using technology to develop a better product. It is said that if someone invented a new mouse trap, people would beat a path to his door. We should consider the benefits of developing a product similar to those developed in the 1950s. Let us not turn our back on that prospect.

Senators raised concerns about labelling. The labelling requirement for products containing more than 0.9% of genetically modified product is acceptable. The danger of applying a lower level is that practically every food product on the grocery shelf contains soya, usually as a stabiliser. Lowering the level would require that almost every product on supermarket shelves be labelled because almost all of them contain some soya. If every product had a label stating it contained genetically modified ingredients, we would not be able to identify products made substantially from genetically modified ingredients. The labelling requirement in the legislation is well thought out and makes sense.

Senator Henry made a point about nut allergies. We must face up to these sort of challenges. The main point of this debate is that genetically modified foods will bring benefits to producers and consumers. We must tread carefully

and that is what we are doing. Let us ensure we debate this matter openly. The Minister of State discussed the steps taken with regard to genetically modified sweetcorn and maize. If we watch developments closely, we will be able to protect ourselves from the perspective of health, which I do not believe to be a problem and, more important, from the environmental and agricultural perspectives.

I welcome the contributions of the Minister of State and Senators to this debate. This is the start rather than the end of a debate, which must be open, transparent and vigorous in order that we are aware of the direction we take in future.

Question put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

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

Adjournment Matters.

Industrial Development.

Mr. Kitt: I thank the Cathaoirleach for selecting this matter for debate on the Adjournment. I also thank the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Fahey, for attending the House.

I raised the issue of industrial investment in east Galway last week. As a Galway man, the Minister of State is aware of the difficulties being experienced in some of the county towns. Major towns in particular have lost significant employment in recent years, notably Ballinasloe where two major companies AT Cross and Square D closed within a short period. Since the closure of the sugar factory in Tuam, the town has not attracted a major flagship industry. Other towns such as Loughrea also need additional employment.

I am aware the Government has included Loughrea and Ballinasloe as locations for the decentralisation programme. The decisions to transfer the National Safety Council to Loughrea and the National Roads Authority and the Railway Safety Commission to Ballinasloe have been welcomed by the people of the towns and east Galway in general. Tuam, which has been designated a hub town under the national spatial strategy, was not selected as a location for decentralisation, which is an even greater reason the Government should consider employment for the town a priority.

Many area development companies, development associations and community councils in the towns I have mentioned have proposed plans for the investment we need. The IDA has played an important role in arranging visits to the towns by

industrialists to see their needs and considerable attractions. I ask the Tánaiste and Minister for Enterprise, Trade and Employment, a native of County Galway, to continue her efforts to ensure towns in the county are given priority. I am aware of her personal involvement in arranging some of the visits by industrialists and entrepreneurs to the towns. In light of the positive developments in investment recently, I hope County Galway will be given priority for the industrial development its towns need.

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

I thank the Senator for raising this matter on the Adjournment. The Tánaiste regrets she cannot be present this evening but as a Galway man I am delighted to take her place in the debate.

I wish to address the issue of industrial investment in east Galway by outlining the work of IDA Ireland with regard to foreign direct investment, Enterprise Ireland with regard to assisting indigenous enterprise and the Galway County Enterprise Board, which works with micro-enterprise businesses.

Attracting foreign direct investment is primarily the responsibility of IDA Ireland, which is committed to the development of County Galway and actively promoting it for new foreign investment. Competition for mobile foreign direct investment continues to intensify. Ireland will continue to win and be a major location for inward investment in Europe, despite no longer being a low labour cost environment.

The fast paced, globally networked economy is changing the rules of competition, resulting in significant growth in global location options for companies. The combination of technology, worldwide improvements in telecommunications, international access and newer business models has changed the investment types for which IDA Ireland must compete. Typically, these projects are moving away from low cost, labour intensive manufacturing to more advanced and sophisticated activities both in manufacturing and services, requiring high skills levels and creating more high value products and services.

IDA Ireland is investing significantly in the provision of planned and focused property solutions in the west. Specifically, it is developing world class business and technology parks at a number of towns throughout the west, including Ballinasloe. The goal is to ensure these locations have the appropriate property solutions, tailored to specific key sectoral targets, to attract inward investments.

The IDA has acquired 35 acres of land at Creagh, east Ballinasloe, and has developed it as a new business and technology park. It has also cooperated closely with local private developers to construct a 27,000 sq. ft. advance technology building and has been successful in convincing

[Mr. Fahey.]

Valois, a French engineering company, to establish a manufacturing operation in this facility. Total investment in the park to date is approximately €2.5 million.

Furthermore, a site has been provided to the ESB for the construction of a 38KV station to satisfy the electricity needs of new projects locating in the park. The construction of a second advance technology building in the park is underway and the expected completion date is the first quarter of 2005.

Site development has been completed on a new 27 acre IDA business and technology park on the Dunmore Road in Tuam. Advance planning permission has been received for the construction of a 24,000 sq. ft. technology facility. Due to changing client requirements, the IDA will shortly engage a consultant to redesign the building. The park, which is of a high standard, will play a key role in attracting FDI to Tuam, a designated hub town under the national spatial strategy.

Significant effort is also being made with regard to indigenous enterprise. Enterprise Ireland works with companies in its portfolio to assist them grow their sales and exports and improve innovation so that they can compete in world markets. Enterprise Ireland provides preferential funding for companies with detailed export plans which are expanding or establishing a business in the county. During 2002 and 2003 Enterprise Ireland approved more than €10 million to clients in County Galway, of which €2.3 million was approved for clients in east Galway. Payments made in the same period included more than €7 million for County Galway, of which €2.7 million was paid to client companies in east Galway.

EI infrastructural projects include the community enterprise centres and incubation facilities in the colleges. Under its community enterprise programme, Enterprise Ireland works with the local business community to develop business space for micro enterprises, thus enhancing development in the county and in the region. To date, Enterprise Ireland has approved funding to four community groups in east Galway to develop community enterprise centres — Tuam, €240,000; Dunmore, €88,000; Clonberne, €120,000; and Ballinasloe, €123,000 in capital and €38,000 for a centre manager.

Incubation centres in the colleges support the development and expansion of campus company activity and also encourage and support the commercialisation of research and development carried out in the colleges, thus embedding the third level institutes as major supports for the development of high technology companies in the regions. In proximity to east Galway, to date EI has approved €2.6 million for the development of campus incubator units at Galway Mayo Institute of Technology in Galway and €895,000 for units

in the National University of Ireland, Galway. A sum of €2.54 million has also been approved by Enterprise Ireland for the development of units at the Athlone Institute of Technology.

Other initiatives involving the colleges include the fostering of industry-third level partnerships in the regions to encourage companies to adopt new technologies and to move up the value chain. Since January 2003 Enterprise Ireland has approved more than €3 million and paid €3.8 million in support of such projects in County Galway.

Furthermore, under the national development plan, Enterprise Ireland has committed €95 million to 15 seed and venture capital funds, which will leverage an estimated €400 million for investment in start-up and early stage businesses. The key objectives of the funds are to continue to develop the seed and early stage venture capital industry for SMEs in Ireland, encourage investment in sectors difficult to finance, for example, biotechnology, and to encompass a wider geographical perspective by encouraging regionally based funds.

Enterprise Equity Limited, a joint venture seed capital fund between the International Fund for Ireland and Enterprise Ireland, has expanded its office network to Galway with a view to developing and providing equity support to business including those in east Galway. This independent venture capital company was the first to relocate and establish an office outside Dublin.

With regard to micro enterprises, Galway County Enterprise Board has primary responsibility for the promotion of indigenous industry in this sector in east Galway and is strongly committed to the support and development of this sector. To date in 2004 the board has approved a total of €252,550 in the east Galway region for 14 projects and has assisted in the creation of 26 net jobs in the area. As well as capital and employment grants, the board operates a comprehensive range of development and support programmes designed to help new and existing enterprises to operate effectively and efficiently to ensure survival and growth. To date in 2004, 74 participants have availed of this training. The board continues to be proactive in ensuring that available funds are targeted to maximise entrepreneurial development throughout the region.

East Galway deserves the high level of attention given to it by the three development agencies. I expect this to continue in the future and the momentum that has been achieved to be built on, leading to successful and vibrant economic growth, which that part of our country so richly deserves.

East Galway and the Ballinasloe area, in particular, have been devastated by the loss of several highly prestigious companies, which had to close because of international economic pressures in recent years. A comprehensive effort is being

made by the IDA and Enterprise Ireland. The Tánaiste indicated in the Dáil recently that she is confident there will be good news for the Ballinasloe area before too long. Projects are in the pipeline, which the Tánaiste and the IDA hope will come to fruition and give a much needed boost to east Galway. Senator Kitt and his colleagues have been proactive in promoting the region. I look forward to them receiving good news in return for their efforts in the not too distant future.

Carmichael Centre.

Dr. Henry: I welcome the Minister of State at the Department of Health and Children, Deputy Tim O'Malley. As long as I have been in the House, Governments of all hues have urged the voluntary sector to work with them in addressing various problems in society. The Carmichael Centre is Ireland's first, largest and busiest centre for voluntary groups and it is entitled to Government support.

It has many members including An Óige, ASPIRE, CanTeen Ireland, CareLocal, Caring and Sharing Association, Centre for Independent Living, Children in Hospital Ireland, Children's Leukaemia Research Project, Coeliac Society of Ireland, Cuidiú — Irish Childbirth Trust, Disability Legal Resource, Drama League of Ireland, Dublin Community Games, Dublin Healthy Cities Project, Dublin Lesbian Line, Endometriosis Association of Ireland, Gamblers Anonymous, Gay Switchboard Dublin, Gingerbread, HADD Family Support Group, Health Action Overseas, Heart Children, Huntington's Disease Association of Ireland, Irish Association for the Study of Delinquency Limited, Irish Chronic Pain Association, Irish Fair Trade Network, Irish Lupus Support Group, Irish Motor Neurone Disease Association, Irish Multiple Births Association, Irish Society for Colitis and Crohn's Disease, Irish Stammering Association, Irish Stillbirth and Neonatal Death Association, Irish Sudden Infant Death Association, Men Overcoming Violence, Miscarriage Association of Ireland, Neurofibromatosis Association of Ireland, Neurological Alliance of Ireland, Parentline, Parkinson's Association of Ireland, Post Polio Support Group, Royal Life Saving Society, Sláinte Pobal Limited, Smashing Times Theatre Company, Voluntary Services Overseas, and Volunteering Ireland. That is a wide ranging group and other groups are also involved. The facility has been available since 1988 and it has been involved in nationwide management training programmes for these community and voluntary groups. It also supports those organisations in areas like legal responsibility, governance, recruitment and employment, fund-raising, policy development and accountability and compliance, general clerical and administrative service, expert

representation on policy regulation and legislation, payroll and accounting services and information technology support and consultancy. It charges member organisations for those facilities so it is doing the best it can to raise funds. It has also received money from various philanthropic funds and is involved in various fund-raising activities also.

However, it is absolutely essential the centre receives some core funding from the Government. It was hopeful that €150,000 was coming from the Department of Health and Children, but that has not materialised at present even though the charities regulation Bill is imminent. The Government will have charities with absolutely no back-up trying to keep going if the Carmichael Centre closes down and I implore the Minister of State to ask the Department for some money so these services can continue.

I listened to the 4 o'clock news on the radio and it was followed by an advertisement for Parentline. Parentline is one of the most important ways in which parents in extreme distress about their children can get help and advice. Who in the Department of Social and Family Affairs or the Department of Health and Children will take that over if such organisations close down? The Minister of State knows how concerned we are with violence in society and here we have an organisation set up by men, Men Overcoming Violence, which is trying to work in this area. That these organisations will be without the help given by the Carmichael Centre seems one of the most short-sighted ways of saving money I have seen for a long time. I hope the Minister of State can reassure me and those who work in Carmichael House that the redundancy notices can be taken back so that the excellent services provided there can continue.

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I am pleased to have the opportunity to clarify the provision of funding for the Carmichael Centre, North Brunswick Street, Dublin and I thank Senator Henry for tabling this motion.

The provision of health-related services for people with disabilities, physical, sensory or intellectual, and for those with autism is a matter for the Eastern Regional Health Authority and the health boards in the first instance. Since 1997 my Department has allocated significant levels of funding across the disability sector which have resulted in substantial advances in the quality and quantity of the health-related services being provided to people with disabilities.

The Carmichael Centre is Ireland's largest centre for voluntary organisations, providing accommodation for 43 small voluntary organisations working in the area of health, social services, community and art. It provides a large range of services, enabling voluntary organisations to

[Mr. T. O'Malley.]
achieve their objectives in a cost efficient manner. My Department allocated €250,000 in 2002 for refurbishments carried out to the Carmichael Centre. This grant was made in recognition of the fact that Carmichael Centre includes a number of organisations active in the health field among its clients. My colleague, the Minister for Community Rural and Gaeltacht Affairs also has a role in supporting this organisation.

My Department will consult with the Eastern Regional Health Authority and the health boards regarding the Centre's revenue funding requirement, having regard to the availability of the additional resources required. It will be necessary also to consult further with other relevant Departments, given the wide mix of interests catered for by the Carmichael Centre. My Department has been in contact recently with the management of the centre to confirm that the

organisation's funding problems are being given sympathetic consideration. In particular I emphasise that the health funding to the various health organisations using the Carmichael building is unaffected by this issue. The Minister of State at the Department of Community, Rural and Gaeltacht Affairs, in consultation with my Department and the Eastern Regional Health Authority, will shortly invite representatives of the Carmichael Centre to discussions on the matter. In the meantime, my Department has asked the Eastern Regional Health Authority to make available a once-off grant of €150,000, to alleviate the immediate problems identified by the organisations.

Dr. Henry: I thank the Minister of State and I will get after the Eastern Regional Health Authority now.

The Seanad adjourned at 6.30 p.m. until 10.30 a.m. on Thursday, 24 June 2004.