

SEANAD ÉIREANN

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Déardaoin, 28 Deireadh Fómhair 2004.
Thursday, 28 October 2004.
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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.

Prayer.
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Business of Seanad.

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

The need for the Minister for the Environment, Heritage and Local Government to make a statement on the up-to-date position on the Patrickswell-Adare sewerage scheme, County Limerick, scheduled to start in 2005 in the Water Services Investment Programme 2004-06.

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

The need for the Minister for Education and Science to guarantee the future of the music school at Waterford Institute of Technology.

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

The need for the Minister for Education and Science to clarify who is responsible for school children before and after the core school hours when the children are still on the school premises.

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

The need for the Minister for Education and Science as a matter of urgency to appoint a visiting teacher for the deaf in County Galway as no replacement has been appointed since a retirement earlier in the year and all the students in need are without this specialised service at present.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Brennan, Ross and Browne and they will be taken at the conclusion of business. Senator Ulick Burke may give notice on another day of the matter he wishes to raise.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Dumping at Sea (Amendment) Bill 2000 — Report and Final Stages, to be taken at the conclusion of the Order of Business and to conclude not later than 11.30 a.m.; and No. 2, statements on planning and related issues (resumed) to be taken at 11.30 a.m. until 1 p.m., with the contributions of Senators not to exceed ten minutes.

Mr. B. Hayes: Following the recent Cabinet reshuffle, the Taoiseach told his Ministers that they must work twice as hard in the run-up to the general election. Last night the Minister for Foreign Affairs could not be found for the best part of half an hour and the Leader quite rightly spoke about the responsibility of Ministers to be here throughout the debate. I thank her for stating that so forcefully. Private Members' business is a very useful two-hour period every week which in effect is given over to various groupings in the House. We need to honour that time and Ministers should be here throughout the debate. I thank the Leader and the Cathaoirleach for their interventions because it was a great disservice to the House that such a situation arose last night.

Will the Leader bring to the attention of the Minister for Transport the rising number of accidents occurring since the introduction of the second Luas line from Tallaght to the city centre? Thankfully, there have been no fatalities. It is important that the problem be resolved as soon as possible. Better signage is needed, particularly as the tram goes through the city centre and drivers should not enter the yellow boxes. Better policing is also necessary for the critical time between now and Christmas and beyond when people are getting used to the new service. It is only luck that there have been no fatalities. There were two accidents in the past 48 hours. This situation must be rectified soon to inspire confidence not only in those who use the tram, but also in motorists and pedestrians who traverse the streets and look for safety. This issue must be resolved soon.

Dr. Henry: I too thank the Leader for her apology last night and for saying that the delay to Private Members' business would not happen again, particularly as it was my motion. This time is very precious because we do not get it very often.

I agree with Senator Brian Hayes that the accidents involving the Luas are unfortunate and serious. Many Members go to the Council of Europe and will have noticed that the inhabitants of Strasbourg do not appear to have a problem with the on-street trams there. Perhaps we could get instruction from those who control the traffic in Strasbourg.

Would the Leader arrange for a short debate on unaccompanied minors who come here as refugees or asylum seekers? We have talked

[Dr. Henry.]

about it before but there seems to be an ongoing problem as there is a grave lack of supervision of these children, some of whom go missing. There is also the problem of trafficking in children. I am sure other Members would also appreciate a short debate on this issue soon.

Mr. McCarthy: Yesterday morning on the Order of Business I raised the possibility that interest accruing from special savings investment accounts could affect the entitlement of social welfare recipients. I am glad the Minister for Social and Family Affairs, Deputy Brennan, assured us that he would look at this issue and see if he could arrange a derogation on means assessed for social welfare recipients. It has now come to light that the same situation may pertain to medical card holders. We are all acutely aware of the limits that apply in the means test and that €10 may be enough to push someone over the limit. This scheme was encouraged at all levels but it would be regrettable if some people were to lose their medical cards as a result of it. I would appreciate if we could arrange for the Minister for Health and Children to address that issue in the same manner as the Minister for Social and Family Affairs.

Yesterday, the Environmental Protection Agency leaked a decision to grant a licence for the notorious incinerator at Ringaskiddy. I raise this in the context of the impartiality of the agency. Yesterday, groups travelled from Meath and Cork and the latter in particular sought an injunction in the High Court. It is no coincidence that the EPA leaked the decision to grant that licence. We need to have a debate on impartiality and the EPA. It is not good enough for such an agency to leak a decision, particularly when a High Court injunction is sought against it.

Will the Leader arrange with the Minister of State at the Department of Finance, Deputy Parlon, to debate in this House the merits and demerits of providing flood relief moneys for areas damaged by floods? There was over 5 ft. of water in Cork last night and this morning and given the high tides and the rains throughout the night this has not dissipated much. Many small businesses are destroyed. One can put out as many sandbags as one wants but 4 ft. or 5 ft. of water will do serious damage. Although many of these businesses have insurance some people may have difficulty getting compensation from insurance companies. I would appreciate if the Leader could pursue this matter.

The Department of Justice, Equality and Law Reform has released figures which show drivers have a 43% chance of dodging speeding fines. There is also an issue regarding spoiled cameras picking up speeding offenders. We need to have an appraisal of the penalty points system and the issues related to the figures released by the Department also need to be debated.

Mr. Morrissey: I concur with previous speakers regarding the problems of the lack of signage for the Luas. We have spent €800 million on providing this system in our city. Before we embark on further extensions, it is important that people have confidence in the safety and the reliability of this system. I visited one of the locations yesterday and there is no signage there. We all know how many crashes have occurred on the DART line at Merrion gates. There are no barriers nor signage leading on to the Luas line to Tallaght, yet there are many road junctions. It is not good enough for RPA spokespeople to say today that in the first year there will be fatalities. It seems as if they are resigned to stating that fatalities will occur without being proactive. There must be a major advertising campaign on the dangers at these junctions.

Ms Terry: I have raised the issue of Mountjoy Prison a number of times. I ask the Leader to organise a debate in the House with the Minister for Justice, Equality and Law Reform so he can outline his plans for the replacement of the prison. I want answers on what is happening to the new training unit that was built there at a cost of €14 million. It has been lying vacant for almost two years. It is an absolute waste of taxpayers money that such a unit has been built but is not being used. I want the Minister for Justice, Equality and Law Reform to outline his plans for the site.

Mr. O'Brien: I ask the Leader to convey my concerns to the Minister for Health and Children about the ongoing problems in Monaghan hospital, including the fact that it is not back on call.

An Cathaoirleach: The Senator's colleague from Cavan raised that in the Adjournment debate last night.

Mr. O'Brien: I support my colleague, Senator Wilson, and commend him on his interest in both Cavan and Monaghan. We had a tragedy yesterday involving a man who lived within 500 m of Monaghan hospital. An ambulance arrived in four minutes and took him to Cavan hospital, but he died on the way. I ask the Leader to ask the Minister to come to the House to debate the whole issue of accident and emergency services. Another life might have been saved if this man had been brought to Monaghan hospital. The ambulance arrived within four minutes and he could have been in the hospital in another four minutes. He would have been in the hospital in less than ten minutes. He might be alive today and I sympathise with his family on this tragedy.

Mr. Bannon: Fianna Fáil negligence.

Mr. O'Brien: The former Minister for Health and Children, Deputy Martin, gave money to Monaghan hospital—

An Cathaoirleach: The problems in those hospitals were discussed last night during the Adjournment debate and the Minister replied.

Mr. O'Brien: He gave money to Monaghan hospital. However, I call on the new Minister and the North Eastern Health Board to put Monaghan hospital back on call.

Mr. Norris: I draw the attention of the House to a very important anniversary that has been strangely overlooked. On this day 6,000 years ago God completed the creation of the universe, according to Archbishop Usher's chronology which was accepted in the 19th century and printed not only in the King James version of the Bible, but also in the Douay version of the Roman Catholic Bible. It would be a pity if we let this day pass without acknowledging that it was just 6,000 years ago to the day that God completed his work making the universe.

Mr. Dardis: Is the Senator living proof of that?

Mr. Norris: I support colleagues on what is perhaps a more immediately pressing matter, the Luas. We have had a series of discussions going back over many years on transport and particularly the metro system. It gives me no pleasure to say that before construction started on Luas, I predicted that there would be crashes and fatalities. I do not wish to wait for fatalities but I believe there will be some. There are areas of the Luas where cars share the same road space, such as behind the Custom House. There are traffic lights, but the road is then shared for a couple of hundred yards. It is dangerous.

An Cathaoirleach: Senator Morrissey called for a debate on the Luas and all those points can be raised then.

Mr. Norris: I support his request, but I would also like to extend this because it is not enough just—

An Cathaoirleach: That would be more appropriate to the debate.

Mr. Norris: I want to suggest an extension of the debate so that it takes into account the provision of a metro or underground system. That is the only system of transport that will resolve the problems of Dublin. I look forward to having the opportunity in the debate to putting all the arguments yet again. I hope the Government will have the courage to do something imaginative that would be in the interests of the citizens of Dublin.

Mr. B. Hayes: The Taoiseach rejected a metro system yesterday.

Labhrás Ó Murchú: I wish to raise an issue which I am sure is of concern to all people who think about human rights. The refusal of Israel to facilitate medical treatment for Mr. Arafat is outrageous. It is important for us to let our voices be heard. He has stood bravely with his people. They have been brutalised and humiliated. He has lived in a virtual bunker, without daylight and with very poor air. We must surely have some sanction in our arsenal of international diplomacy to impress on Israel that it is working outside the family of civilised nations. For the Israeli Government to state that it could not guarantee Mr. Arafat's return to his own people if he leaves for medical treatment is another example of man's inhumanity to man. As a forum, we should express our views on this and perhaps our Government, through the Minister for Foreign Affairs, might ensure that Mr. Arafat is facilitated. He is a very ill man and should be facilitated in getting specialist medical services which he requires at this time.

Mr. Coghlan: I am sure the Leader and the Members will have noted with interest the Law Reform Commission's report on the modernisation of conveyancing law, in which it proposes that all unauthorised planning developments of ten years or older receive an amnesty. Planning authorities are apparently precluded from enforcing proceedings against unauthorised developments once seven years have passed. I wonder what the Leader thinks of that point. It seems an interesting proposal and it might tidy up the law.

Ms White: I draw the attention of the House to the surge in calls to the Women's Aid national helpline. There were 19,000 calls to this helpline last year, which is an increase of 26%. The details of the figures are frightening. Some 44% reported emotional abuse and 33% reported physical abuse. An example of emotional abuse is a woman being threatened by her partner, husband or co-habitee that if she left the house, she and her children would be killed. She is therefore obliged to stay in the home of the person who is committing violence against her.

A tragic issue raised yesterday was that of women who are disabled and in wheelchairs and whose abusers are their carers, who are withholding their subsistence allowances from them and their food. Women's Aid has been unable to respond to a third of the 19,000 calls it received last year. The group has been receiving calls from accident and emergency departments, from doctors and social workers who are using the service. However, it does not have enough money from the North Eastern Health Board to help a third of the 19,000 callers. I call on the Minister for Health and Children to advise the House whether she intends to allocate money to help

[Ms White.]
staff and volunteers to respond to calls from Women's Aid. This serious issue relates to women, generally speaking.

Mr. McHugh: I welcome the decision of the Minister for Justice, Equality and Law Reform, Deputy McDowell, to seek approval for 2,000 extra gardaí to increase the strength of the force to 14,000. He needs to be aware of some reality checks, however. I recently raised the issue of morale within the Garda. The Morris tribunal in Donegal is doing a job that has to be done, but it is inadvertently having a negative effect on morale within the force, which has a knock-on effect on public confidence in the force. An increasing number of gardaí are seeking early retirement as a result of the lack of morale. Questions have to be asked about the lack of Garda resources. Just three or four gardaí may have to patrol 30,000 or 40,000 people on the streets of the Temple Bar area of Dublin on a weekend night. Gardaí are under pressure. They fear imminent assault because they are conscious of the ever-increasing level of violent assaults in this country. A new garda, or a young cub as we would call him in County Donegal, was shot this morning.

An Cathaoirleach: That might not be a fair term to use.

Mr. McHugh: I am making a very serious point.

An Cathaoirleach: Is the Senator looking for a debate?

Mr. McHugh: A young garda was shot in the hand in the early hours of this morning. Senators would have been up in arms and calling for debates if he had been more seriously maimed. I call on the Minister, Deputy McDowell, to introduce clear and unambiguous protection for Garda personnel.

Mr. B. Hayes: Hear, hear.

Mr. McHugh: Such protection would be timely because the need for it is imminent. This is the start of something very serious within the force. As legislators, we have a duty to stand behind the Garda Síochána, rather than going up against it, and it is time we did so.

Senators: Hear, hear.

Mr. Quinn: When I travelled to Dundalk recently, I was once again impressed by the marvellous road between Dublin and Dundalk. Signs have been erected beside the road to remind motorists that its construction was aided by a European fund. A report in a newspaper today states that the plans for a metro in Dublin have been set aside forever. I know the Leader took

an active part some years ago in the decision to proceed with the metro.

If we are to have a referendum on the proposed European constitution in the next 18 months, we have to find every reason to proclaim from the rooftops the benefits we receive from Europe. The people of Dundalk know that the road to their town was built with the help of European funds. It seems to me that if we use the benefits of our membership of the EU to succeed in building a metro in Dublin — I am sure it will not be finished in the next two years — we will have a much better chance of securing a “Yes” vote in the referendum on the proposed European constitution.

I read last night that the 100th anniversary of the opening of the New York metro was celebrated yesterday. Mayor Bloomberg said that the people of New York could not enjoy their way of life if the metro was not in place. I urge the Government to seek ways of proclaiming the benefits we receive from Europe and to re-examine how Dublin's traffic can be managed. As our traffic problems will not be solved by Luas alone, we should consider the possibility of a metro in our future plans.

Mr. B. Hayes: Hear, hear.

Mr. U. Burke: Will the Leader ask the Minister for Education and Science to investigate as a matter of urgency what is happening to the special needs unit of the Department of Education and Science in Athlone? The attempts of parents and principal teachers to get a response to requests they have made, in writing or on the telephone, have come to naught. It seems that the officials in the unit have gone to ground. I draw a parallel between current events and those last year, when it was impossible to contact the building unit before budget changes were made by the then Minister, Deputy Noel Dempsey.

I have been reliably informed that when a review which is under way has been completed, there will be cutbacks in the funds allocated to the educationally disadvantaged, particularly Travellers. No resource teacher for Travellers has been appointed where a vacancy has arisen in the past four months. Where are we going if that is an indication of the Minister's commitment to disadvantage in education? Our experience has taught us that when we hear of a review, we know that cutbacks are coming. The commitments of the previous Minister, Deputy Noel Dempsey, in respect of disadvantage in education rang hollow because he did nothing. I know now that he did nothing because the policy-makers working in the relevant unit have failed.

Mr. Feighan: Hear, hear.

Mr. U. Burke: They have now gone to ground. Those working in the unit who have no responsibility for policy in that area have to take the flak.

An Cathaoirleach: Is the Senator looking for a debate?

Mr. U. Burke: I call on the Leader to ask the Minister to investigate this unit of the Department of Education and Science as a matter of urgency so that the disadvantaged will not be scapegoats once more.

Mr. Bannon: I ask the Leader to invite the Minister for Finance to the House to debate the abolition of roll-over relief in respect of capital gains tax paid on compensation received by property owners following the compulsory acquisition of their lands. In many cases, the lands in question were taken against the will of property owners, who then had to reinvest to provide for their families. It is unfair to expect them to pay roll-over relief. The issue warrants a debate. I would also like the Minister to debate in the House stamp duty relief on land swaps. It is grossly unfair that farmers who wish to consolidate their holdings have to pay stamp duty on the double. In its pre-budget submission, the IFA has asked the Minister to examine this issue.

In the run-up to the last general election, we heard a great deal of thunder from the Minister of State, Deputy Parlon, about the draining of the River Shannon and the establishment of a Shannon authority. Counties Roscommon, Longford, Westmeath and Offaly were severely hit by downpours of rain yesterday and last night. There have been many cases of serious flooding in the region over the past 50 years or more. When he was Taoiseach, Éamon de Valera promised to drain the Shannon. The Minister of State, Deputy Parlon, gave a commitment to establish a Shannon authority, but we have heard little about it since he became Minister of State with responsibility for that area. The Minister of State needs to come to the House as a matter of urgency to update Senators on his plans to bring all the parties which are interested in the Shannon together to try to develop a better system of management of the river system. Thousands of acres of land in the midlands are flooded when the Shannon breaches its banks, causing great inconvenience to farmers and the public in villages in close proximity to the river.

Mr. B. Hayes: Hear, hear.

Dr. M. Hayes: Will the Leader ask the Minister for Education and Science to come to the House to discuss certain issues relating to third level education, particularly the university sector, as soon as she gets her feet under the table? I was rather shocked to hear of comments made by the Minister's predecessor, who said that we will have to lower our sights if money is not available for the university sector. It seems to me that if we decided to settle for second-best in our university system, there would be appalling consequences

for this country's economic and other development.

I would also like to refer to changes in the contracts of pharmacists under the National Health Service in Britain. Pharmacists are being placed in the front line of treatment there. Perhaps we could ask the Minister for Health and Children to discuss that matter with us when she comes to the House. It is important to keep people out of hospitals. Pharmacists, who have had very expensive training, comprise an enormous resource which is being wasted if we only ask them to stick labels on bottles and hand out pills.

Mr. J. Phelan: I agree with speakers who have called on the Minister for Health and Children to come to the House to discuss health issues. Senator O'Brien spoke about a sad development in his part of the world yesterday. It would be appropriate to ask the Minister to come to the House to debate health issues as soon as possible.

I also wish to raise with the Leader the possibility of having a debate on housing. We have not had one for a long time and we should have one now. We are resuming a debate *11 o'clock* today on planning, which is a closely related issue, but it is now appropriate to have one on housing, with particular emphasis on elderly single people, who are still at the bottom of the ladder when it comes to the provision of local authority housing. I am sure the Leader knows of many examples of people living in prefabs scattered throughout the country in conditions that are unacceptable in this day and age. I have asked for a debate on this matter before and I urge the Leader to use her good offices to arrange one as soon as possible.

Mr. Feighan: I also seek a debate on crime. Recently I warned against the downsizing of the number of armed gardaí from 1,600, which I feel is a fairly modest complement. When the paramilitaries were active in this State — one hopes they are now almost gone — it was unusual for anyone to fire at gardaí. Now we seem to have armed gangs, obviously connected with drugs, which seem to think they can fire at gardaí with impunity. We certainly need more armed gardaí to tackle this ever-increasing crime. My colleague, Senator McHugh, referred to young gardaí as cubs. We need more cubs to curb the number of violent pups on the street.

Mr. Mooney: Last week the Government accepted the recommendations of the constituency review committee. That obviously paves the way for the introduction of legislation. In the Government's legislative programme, which all Members will have received, it was stated that such legislation would not be taken until spring 2005. I would be grateful if the Leader would inquire as to its timing and whether it might be possible to introduce the legislation in this House first. There are very controversial issues surrounding it, and I would like to bring to the atten-

[Mr. Mooney.]
 tion of the House to the fact that a legal challenge is being considered against the proposed division of my own county, Leitrim, to which, as the House will know, I am totally opposed. If the legislation were debated in this House before going to the Dáil, it would be an ideal opportunity to air such views and clarify whether any such legal challenge would be successful.

An Cathaoirleach: That is a matter for the courts.

Ms O'Rourke: Senator Brian Hayes, the Leader of the Opposition, spoke about Private Members' business last night, regarding which I apologised to the Cathaoirleach on all our behalves. He asked for the Minister for Transport, Deputy Cullen, to come to discuss the proliferation of accidents on the Luas lines, saying that there should be better signage and policing between now and Christmas. His point is well made, since every time one sees a Luas tram, it is packed with people. One can imagine, coming up to Christmas, how much busier it will get. There are many cities in Europe and other places where there are trams on the street that share space with cars. They seem to be able to manage their business, but they have had them for far longer than we have. It is up to those in cars to drive carefully when approaching the points where they cross over track. We are trying to get the Minister for Transport to come to the House and that will be one of the issues we will ask him to address. Senator Henry also mentioned the Luas difficulty and raised the matter of unaccompanied minors, a problem that is increasing.

Senator McCarthy raised the SSIA scheme yesterday. Now he has raised medical cards, which will also be affected. I presume he means the income eligibility limits for medical card holders or those seeking them. He wants a debate on the perceived distancing of the EPA from decision-making and its impartiality. The Senator also sought a debate with the Minister of State at the Department of Finance, Deputy Parlon, on flood relief and one on traffic penalties, since 43% of people expect never to receive a penalty through being stopped on the road.

Senator Morrissey raised the lack of signage on Luas, saying that a major campaign of awareness for those on the road was needed. Senator Terry asked what was happening in Mountjoy Prison, its training unit and the women's prison. We will ask the Minister, who is always keen to come to this House and does so quite regularly, to come to the House to discuss the matter. Senator O'Brien mentioned Monaghan hospital, making the point very clearly that the previous Minister had allocated money to enable Monaghan to come on stream again — I believe the terminology is "on call" — and highlighting the particularly sad case of the sick man who had to go to Cavan because he could not be brought to Monaghan.

We are all very happy that, as Senator Norris said, 6,000 years later, we are all still here.

(Interruptions).

An Cathaoirleach: Order.

Ms O'Rourke: The Senator wants the Minister for Transport, Deputy Cullen, to attend to talk about the Luas facilities. Senator Ó Murchú referred to Yasser Arafat, making a case for him and saying that, were he brought out to receive proper care, he might not be allowed back. That is a terrible thing to say to someone who is clearly severely ill. We will raise that at the highest level in the Government. I thank the Senator for bringing it to my attention.

Senator Coghlan mentioned the Law Reform Commission report on conveyancing and planning permission. I do not know what has happened on that, but we can inquire. Yesterday, Senator Terry raised the number of calls to which, owing to lack of finance, Women's Aid cannot attend. I thank Senator White for raising the question once again as women's issues are so rarely raised. Senator Terry was very fluent on the matter in the House yesterday. We should highlight the issue here — I believe that it is the responsibility of the North Eastern Health Board.

Senator McHugh welcomed the 2,000 extra gardaí and said there was a lack of morale because of the Morris tribunal in Donegal. If the lack of morale has been brought about by what is coming out of the Morris tribunal, it is because of one group of people — the guilty.

Mr. McHugh: People are being wrongly accused.

Ms O'Rourke: We are reading about it all the time. The Senator asked that there be unambiguous protection for gardaí who are being attacked in circumstances where they would not have been attacked heretofore.

Senator Quinn raised the metro and the road to Dundalk which, he is correct in saying, is a most magnificent stretch. When we go looking for votes for the EU constitution, we should be pointing up such matters. The New York metro has been in existence for 100 years; I have always made the point that such transport systems have been in major cities such as Paris and Rome for well over 100 years. They have had both underground and overground systems, and we are only beginning to approach that position here.

Senator Ulick Burke mentioned the special needs unit in the Department of Education and Science in Athlone. It is quite some time since I heard a Minister as open and clear as Deputy Hanafin was on special needs assistants last week. I understood from her that the unit in question was overwhelmed with work but that she was seeking a method of cutting through and clearing it. I am sure that that will happen. The Senator is quite correct that it is difficult to get through and

that, having got through to the unit, it is difficult to get answers. His point related to the personnel involved but the Minister, Deputy Hanafin, is taking very enlightened steps in that regard.

Senator Bannon wished to bring to the attention of the Minister for Finance, Deputy Cowen, issues regarding the roll-over of tax relief, as well as stamp duty relief on land swaps. The Senator knows that it does not apply when one gives land to one's family; he means from one landowner to another. He spoke about the Shannon authority and said that de Valera had said that he was going to drain the river. The Shannon has its own flow, and no number of commissions or authorities will change that, as the studies have shown over the years. However, we will ask the Minister of State, Deputy Parlon, to see what he has thought up on the matter.

Senator Maurice Hayes requested that the Minister for Education and Science attend the House to debate the university sector. That would be important. If a country is to develop, the third level sector must have its proper place. The Senator also spoke of the change in contract for pharmacists. As he noted, pharmacists in the UK are being given extra powers so that they can to some extent stand in for doctors. Chemists are often a great fount of knowledge and one can get wise advice across the counter rather than sit in a doctor's waiting room.

Senator John Paul Phelan asked that the Minister for Health and Children attend the House to debate health issues. He also called for a debate on housing with reference to elderly single people living in unsuitable housing. It is time for such a debate and we will ask the relevant Minister to attend.

Senator Feighan referred to the downsizing in the numbers of armed gardaí. He has raised this issue previously and warned of the dangers involved. Senator Mooney mentioned the legislation regarding changes in constituencies. That is currently being prepared and we will try to have it initiated in the Seanad. I have a great interest in that legislation. The results may greatly lighten my workload and I would be interested in contributing to the debate. I greatly welcome the report.

Mr. B. Hayes: A declaration of intent.

Order of Business agreed to.

Dumping at Sea (Amendment) Bill 2000
[Seanad Bill amended by the Dáil]: **Report and Final Stages.**

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

made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For Senators' convenience, I have arranged for the printing and circulation of the amendments. The Minister will deal separately with the subject matter of each related group of amendments. I have also circulated the proposed groupings in the House. Senators may contribute once on each grouping. I remind Senators that the only matters which may be discussed are the amendments made by the Dáil.

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

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher):

Molaim don Teach na leasaithe a rinne Dáil Éireann sa Bhille seo le déanaí. The Bill was amended and passed by Seanad Éireann in October 2000. It is an important Bill which copperfastens practices for heritage protection and public consultation in the context of the dumping at sea permits. As a consequence of recommendations made in this House it requires the publication of application and permit details on the website of the Department of Communications, Marine and Natural Resources at www.dcmnr.gov.ie. Those details are available on the website since 1 January 2001 in anticipation of the enactment of this Bill. The opportunity had to be taken to amend the Bill in Dáil Éireann to give effect to a number of policy developments and to changes since 2000 in the titles and functions of certain Ministers involved in the administration of the Dumping at Sea Act 1996.

More importantly, the Bill addresses concerns about the transparency of the application and permitting process. The text of what is now section 5 of the Bill incorporates 13 Dáil amendments for that purpose.

I commend the efforts of my predecessor as Minister of State at the Department of Communications, Marine and Natural Resources, Deputy Browne, in piloting the Bill through the Dáil and for sponsoring many of the improvements to it currently under consideration by Members of this House. I am grateful to the Members of this House, where the Bill was initiated, for their participation at that time in a very comprehensive debate, and to the Members of the Dáil.

With the Cathaoirleach's permission and for the benefit of the House I will give some explanations of the amendments. Amendments Nos. 5 and 8 deal with policy developments.

An Cathaoirleach: We must first deal with group 1, the subject matter of amendments Nos. 1 to 3, inclusive, and amendments Nos. 6, 9, 25 and 31. Group 2 relates to the subject matter of amendments Nos. 4, 7 and 23 and group 3 is the subject matter of amendment No. 5.

Mr. Gallagher: Amendments Nos. 1, 6, 9 and 25 are merely stylistic, drafting amendments, sub-

[Mr. Gallagher.]

stituting references to the principal Act for references to the Dumping at Sea Act 1996. Amendments Nos. 2, 3 and 31 are consequential to amendments Nos. 1, 6, 9 and 25. These stylistic amendments do not affect the Bill in any way.

Amendments Nos. 4, 7 and 23 merely reflect changes since the Bill was passed by this House in October 2000 in the titles and functions of the various Ministers involved in the administration of the Dumping at Sea Act 1996. The amendments reflect the additional functions and changes to the titles of the Ministers. For example, since the Bill was passed, the Minister for the Environment and Local Government is now the Minister for the Environment, Heritage and Local Government.

Amendment No. 5 closes the gap in section 2 of the Dumping at Sea Act 1996 for deterrent purposes. It includes persons who hire vessels or aircraft which are involved in offences under that Act among the persons chargeable with such offences. The owner or owners of the vessel or aircraft concerned and the person or persons in charge thereof at the time of the offence are already chargeable with the offence as the law stands. This is an improvement in the Bill.

Amendment No. 8 comprises 3 paragraphs (*d*), (*e*) and (*f*) to be substituted for paragraph (*d*) in lines 5 to 7 on page 4 of the Bill as passed by Seanad Éireann. Paragraph (*d*) updates references to certain Ministers in the Dumping at Sea Act 1996 to reflect changes since then in the titles and functions of the various Ministers who are involved in the administration of that Act. Paragraph (*e*) empowers the Minister for Communications, Marine and Natural Resources to make regulations for the charging of application fees for dumping at sea permits and fees for applications for amendment of such permits.

As already stated, Dáil Éireann made 13 substantive amendments to what is now section 5 of the Bill, dealing with applications for dumping at sea permits. I refer here to amendments Nos. 10 to 22, inclusive, which comprise four distinct groups. They are intended to enhance substantially the transparency of the application and permitting process and address concerns expressed by Deputies Broughan, Coveney and Eamon Ryan, whose contributions I readily acknowledge.

Amendments Nos. 10 to 13, inclusive, relate to section 5(2) and impose additional requirements to be met in public notices of applications for dumping at sea permits, namely, the inclusion of a user-friendly brief sketch map of the site or sites concerned, details of the nature and quantity of the material or substance to be dredged or disposed of at sea and details of the dredging and dumping methods proposed. These new requirements have already been fully implemented, with good results, by the Shannon-Foynes, Cork and Drogheda port companies and Louth County Council. Since these proposals have come into play, the companies applying are providing user-friendly maps. Heretofore, there was no necessity

to focus precisely with regard to the area on a map. Companies have been following the new method and it has been working quite well.

Amendments Nos. 14 to 16, inclusive, and Nos. 18 to 20, inclusive, relate to section 5(3) and (6). Amendments Nos. 14 and 18 require publication in a national newspaper of notice of urgent dredging needed for purposes of navigational safety, while amendments Nos. 15 and 19 require the public notice to give the reason or reasons for the urgency advanced by the permit applicant.

Amendment No. 16, to subsection (3), extends from 21 days to one month the period within which the public may make submissions or observations on applications for dumping at sea permits which do not relate to routine maintenance dredging over a period of not more than 12 months. An example of this would be multi-annual maintenance dredging proposals, proposals to improve or create navigable channels or proposals for new dumping sites. A one month consultation period applies to applications under the Foreshore Acts which require an environmental impact statement, including those relating to port improvements involving dredging.

Amendment No. 20 to subsection (6) places the onus on applicants for dumping at sea permits to respond to any submissions or observations from the public within 21 days after receiving a copy thereof or risk having their applications considered by the Minister at the end of the 21 day period in the absence of their response.

Amendment No. 17 relates to section 5(5) and was sponsored by Deputy Broughan. It obliges the Minister, within ten working days after the end of the public consultation period, to forward to the permit applicant for comment a copy of any submissions or observations received from the public in respect of an application. The Bill as originally published did not impose a time limit for so doing. We are pleased that there will be an obligation on us to provide the material to the applicant within a period of two weeks, that is, ten working days.

Amendments Nos. 21 and 22 relate to section 5(7) and ensure that the Department's website will contain a copy of the required public notice of all permit applications, and applicants' comments on observations or submissions from the public, from 1 August 2004, as well as details of decisions on permit applications or to amend or revoke permits from 1 January 2004. This cop-fastens transparency arrangements by clearly linking permit applications and decisions and recording any amendments to or revocations of permits so that interested parties are kept fully *au fait* with the position at all times. Details of permits granted are available on the Department's website as part of the accessible statutory register.

Mr. Kenneally: There has been much debate and media attention about illegal dumping. There have been instances of domestic and commercial waste moving from the Republic of Ireland

through the North and on to Scotland and elsewhere. I accept that this legislation has not yet been enacted. However, under the Dumping at Sea Act 1996, have prosecutions been taken in respect of people involved in moving domestic or commercial waste via the sea and dumping it? Is it permissible for anyone to apply for a licence to dispose of such rubbish at sea? Is it possible to grant such licences and have any been granted?

Mr. Gallagher: The Senator's initial point is no longer part of my remit but we dealt with this matter on numerous occasions when I served in the then Department of the Environment and Local Government. Illegal cross-Border dumping appears to be big business. Waste to be disposed of in this way is not just coming from Border counties; it is emanating from counties situated much further south.

As regards his question on prosecutions for dumping, there have been no such prosecutions. I greatly admire all those who apply, particularly the port companies, because they have complied with the new conditions set out in the Bill, even though it has yet to be enacted. We have received good co-operation from those applying, even in terms of providing the user-friendly maps recommended by the Department. The more information submitted with an application, the more expeditiously a decision can be taken. I take this opportunity to inform those who will apply for permits in the future that they should provide as much information as possible and engage in more contact with the heritage section of the Department of the Environment, Heritage and Local Government, the Department of Enterprise, Trade and Employment, the regional fisheries boards, local authorities and harbour authorities to ascertain their views, etc. This will ensure that applications are fast-tracked.

As regards larger projects, decisions on dredging are not taken overnight and permits are not sought immediately. In such cases, a lead-in period will apply, although it will not necessarily apply for urgent projects. A fast-track approach is adopted, for example, where dredging or dumping is urgently required for navigational purposes. Having given a long-winded answer, the short answer is "No".

Debated adjourned.

Business of Seanad.

Ms O'Rourke: With the agreement of the House, I propose to alter the Order of Business to allow Report Stage to continue until 11.45 a.m.

Acting Chairman (Dr. Henry): Is that agreed? Agreed.

Ms O'Rourke: In addition, it was agreed on the Order of Business that party spokespersons would speak for ten minutes when we resume statements on planning and related issues. It has been brought to my attention that two spokes-

persons, Senators McCarthy and Brady, have not yet spoken. I propose that they be permitted to speak for 15 minutes, as is the custom for official spokespersons.

Acting Chairman: I am advised that the Fianna Fáil Party spokesperson has spoken.

Ms O'Rourke: That is correct. I propose that Senator McCarthy, the Labour Party spokesperson, who has not spoken be allowed to speak for 15 minutes.

Acting Chairman: Is that agreed? Agreed.

Dumping at Sea (Amendment) Bill 2000 [Seanad Bill amended by the Dáil]: Report and Final Stages (Resumed).

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

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher): I wish to clarify an issue. The Department does not permit the dumping of rubbish or other material at sea. The provision strictly applies to permits to dispose at sea suitable dredged material. We would much prefer if the material could be taken ashore for land reclamation. Permits will not apply to rubbish.

Mr. McHugh: I welcome the Minister of State to the House. This is the first public opportunity I have had to congratulate him on his new post. It is nice to have a fellow County Donegal man in Government. I am also delighted with my party leader's stance on the marine on which he has provided a full brief on the Front Bench to Deputy Perry.

The Fine Gael Party supports the Bill. It is sensible, logical, uncontentious and appropriate to many businesses involved in the aquaculture industry. The Minister of State is aware that County Donegal, more than other areas, faces challenges in terms of the multifaceted fishing industry, which extends from mussels and scallops to fish farming. We have a plethora of fishing interests in the county.

That public consultation involving all parties will take place on dumping at sea is a welcome development. I also welcome the move to enable the Department of the Environment, Heritage and Local Government to have the same control over archaeological heritage at sea as it currently has on land. We have many special interest groups, including deep sea divers who are interested in archaeological heritage off the coast.

I will be parochial and raise a minor issue involving dredging in Buncrana. Donegal County Council undertook a major lobbying effort on behalf of the RNLI, which was seeking a berth for a larger boat, and a new ferry which was about to come on stream. The matter went through a public consultation forum. Several errors were made in the beginning — hindsight is great —

[Mr. McHugh.]

but the project was successful. What contribution does the Department make as regards the type of dredging used? According to local hearsay, a large amount of money has been invested in dredging. Re-silting will continue to be a problem and focus for the public. What will be the Department's input, in consultation with local authorities, as regards the type of dredging?

Mr. Quinn: I congratulate the Department, the Minister and the Minister of State on their response to an amendment I tabled. Every time a Bill before the House includes provision to publish information in a local or national newspaper, I table an amendment providing that the information in question also be published by electronic means. I appreciate that such an amendment, which I tabled on Committee Stage, has been accepted and a website link created for precisely the purpose I had hoped before the Bill has even been enacted. I hope I will no longer have to table amendments of this nature and that draft Bills will include provision for the publication of information on websites. I congratulate the Department on publishing the register and permits on the website which, I understand, has been in operation for some time and is working well. It is a reminder of the benefits of debate in the Seanad and its consequences.

I have one indirect criticism. I do not understand the reason it has taken so long to return to this House a Bill passed here in October 2000. If a certain issue is likely to cause delay, we should pass the Bill and, if necessary, introduce an amending Bill.

Mr. Gallagher: I thank Senators McHugh and Quinn for their kind comments and look forward to working with them during my period in office. Senator Quinn's contributions are always taken seriously. It is gratifying to note that his proposals have found their way into the Bill. While this has not always been the case, it underlines the importance of this House. I also appreciate the Senator's comments concerning the Department's website. Everything is dealt with transparently and published on the website as soon as is practically possible.

The process appears to be working well. As I stated, I am grateful to all those who are co-operating with us, even though there is no legal requirement to do so. Those applying for permits appreciate what the Department is doing and are complying with the provisions of the legislation without any legal obligation to do so.

Senator McHugh's question on Buncrana could apply to any port or channel anywhere in the country. Silting is a matter for nature and nature takes its course. I hope that once a dredging job is completed, the matter will have been dealt with permanently. Naturally silting recurs but efforts should be made to ensure it is not significant. I am not an expert on this matter but it is in the interests of those who dredge to try to buy in the

necessary expertise to ensure silting will not recur on a regular basis.

Local authorities and experts are involved in the various types of dredging. Apart from straightforward dredging, suction dredging, for example, is used. The latter approach was used in my native Burtonport some time ago. Rather than dumping the material at sea, it was used to reclaim a large area of land which was retained as a result of the provision of boulders. While I hope there will be no seepage from the land in question, we cannot anticipate what nature will bring.

I agree with the Senator that every effort should be made by those who are responsible for buying in the expertise to ensure that once a dredging job is carried out, there is no recurrence. Questions are being asked at present about work that was carried out in Magheraroarty and my colleague, the Minister for Community, Rural and Gaeltacht Affairs, who was responsible for financing that work, will be there tomorrow morning to have discussions with the stakeholders who might be affected by it.

Amendment No. 24 updates section 10 of the Dumping at Sea Act 1996 in line with the general updating of fines for summary offences to maintain their deterrent effect. It updates the maximum fine of £1,500 or €1,904 which may be imposed by the court for summary offences under the Dumping at Sea Act 1996 to the current maximum impossible for summary offences generally, that is, €3,000. Dáil Éireann deleted the original provision in the 1996 Act for a term of imprisonment to be imposed by the court in lieu of or in addition to a fine for a summary offence. The 1996 Act leaves it to the discretion of the court what monetary penalty, if any, to apply in the case of persons convicted on indictment under the Act in lieu of or in addition to imprisonment for a term not exceeding five years. It has not been found necessary to take court proceedings under the 1996 Act, a testimony to its effectiveness.

There is always a question about updating fines. My personal view is that they should be index linked and I believe it is the intention of the Minister for Justice, Equality and Law Reform to introduce legislation to provide that fines across the board would be updated on a regular basis by means of a link to a relevant index.

Amendment No. 26, sponsored by Deputy Coveney, includes the likely impact on fish spawning and nursery habitats among the important matters to be considered when applications for dumping at sea permits are being assessed by the Department and its scientific advisers. Amendment No. 27 is designed to protect biological diversity in the context of the national biodiversity plan approved by the Government in 2002. The definition of biological diversity is modelled on that in section 9(b) of the Wildlife (Amendment) Act 2000. Amendment No. 28, again sponsored by Deputy Coveney, specifically requires the results of the national

seabed survey undertaken by the Geological Survey of Ireland, which is part of the Department of Communications, Marine and Natural Resources, to be taken into account in the assessment of applications to dispose of dredging material at sea.

Amendment No. 29 deletes the exemption from the prohibition on disposal at sea for fish wastes from industrial fish processing operations, which is contained in paragraph (d) in Article 3 in Part 1 of the Second Schedule to the Dumping at Sea Act 1996. The deletion of the exemption is required to take account of EU legislation designed to protect animal and fish health, which requires animal and fish wastes to be specifically treated before being disposed of, in the case of fish waste by ensiling or composting. In other words, fish wastes from industrial fish processing operations must not be disposed of at sea and amendment No. 29 makes provision in that regard.

Amendment No. 30 repeals provisions relating to prosecutions under the Sea Pollution Act 1991. The appropriate place for such provisions is in the body of the Sea Pollution Acts and that is being arranged. Amendment No. 32 deletes unnecessary words in the original Long Title of the Bill.

Question put and agreed to.

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

Mr. Kenneally: I thank the Minister of State for coming to the House this morning. I am not sure if it is his first time in the House since he was appointed Minister of State at the Department of Communications, Marine and Natural Resources but it is certainly his first time here on official marine business. He will not have to read into that brief because he has significant knowledge of it. Civil servants often get a little worried when the Minister knows more about a brief than they do. I look forward to working with the Minister over the next few years.

I also congratulate Senator McHugh on the recent good news in his private life and on his appointment as Fine Gael spokesperson on the marine. I look forward to working with the Senator. I thank Members and the Minister's staff for their co-operation in working on this Bill.

Mr. McHugh: I thank the Senator. The Fine Gael Party welcomes the Bill; it is non-contentious. We are discussing dumping at sea but we should put down a marker with regard to Sellafield. It is not related to this legislation but we should keep an eye on what is being dumped in Irish waters from Sellafield. We should be stronger on that issue. There are many concerned families in County Louth who have serious health problems due to the dumping at sea from Sellafield.

Mr. Quinn: I congratulate the Minister of State on grabbing hold of this Bill and bringing it before the House and I congratulate the officials who helped him do so. The point I made earlier is one that frustrates me. It has nothing to do with the Minister of State but this Bill was passed by the Seanad in October 2000 and it seems wrong that it should take four years to return to the House. It is a good Bill. This is an island nation and it needs clean seas. The benefits we reap are such that we should not allow anything to interfere with them.

I accept Senator McHugh's point with regard to the Irish Sea and other forms of dumping which are not covered by this Bill. Let us keep our eye on the future and recognise that this legislation is only part of the story. The fish stocks in the Irish Sea are in danger as a result of Sellafield and we must do something about that too.

Minister of State at the Department of Communications, Marine and Natural Resources

(Mr. Gallagher): I congratulate Senator McHugh on his appointment as marine spokesperson. I look forward to working with him. I also congratulate him on his personal good news. The people of north-east Donegal will be delighted to hear that it might be on his agenda to move to another part of the country. If that is the case, it is even better news politically. On a serious note, I wish the Senator well.

Mr. McHugh: It could be south-west Donegal.

Mr. Gallagher: There are no vacancies. In response to Senator Quinn, I accept that the Bill has been around since 2000. It was a question of finding a slot. It might not be a great defence but perhaps if the Bill had been enacted then, we might have had to wait a much longer period to improve it. While this is the only defence, I thank all speakers for their contributions.

In exercising the Dumping at Sea Acts' functions as delegated to me by the Government, I will insist on the fullest examination of alternatives to the disposal of material at sea, and allow disposal at sea only where there is no alternative and where the material in question is adjudged on scientific advice to be suitable for disposal at sea. The obvious example, if it were cost effective and practical, would be in regard to the reclamation of land, which makes much sense. I will also ensure that material is disposed of at sea at an appropriate location and in an appropriate manner.

Senators will be happy to note the reclamation of over 28 acres of land at Killybegs fishery harbour centre by the use of dredged material. Further such opportunities will be availed of at Port Oriel, Clogherhead, and at Castletownbere fishery harbour centre and elsewhere where major developments are planned. I confirm that any permit granted under the Dumping at Sea Act is subject to review by me at any time and I will not hesitate to amend or revoke a permit if I

[Mr. Gallagher.]

should have any cause to do so, as that Act specifically empowers me to do.

Senators should note that, at my Department's insistence, five-year dredging and dumping plans for ports are being prepared and will be published as part of the necessary consultation with the public and statutory consultees in regard to dumping at sea permit applications by the ports in question. Already, five-year dredging and dumping permits have been granted to the ports at Cork, Drogheda, Dublin and Waterford and, most recently, to the Shannon Foynes Port Company. Other major ports will be encouraged to follow suit as soon as possible.

The preparation, publication and updating of such five-year plans makes sound business sense, as well as appropriately informing the public of proposed significant activities on State-owned foreshore which could be of particular interest to them. More importantly, such five-year plans allow timely and full consideration of alternatives to disposal at sea, notably beach nourishment and land reclamation.

Following the granting of a dumping at sea permit for a period of up to five years, covering several dredging and dumping operations as detailed in the port's five-year plan, it will suffice for the port in question to publish a notice of intention to dredge and dump within specific areas as needs arise, which is common sense. Such a notice of specific dredging and dumping is a timely reminder to any persons who may be affected, so as to allow the approved and necessary dredging and dumping operations to go ahead without interference or delay.

In conclusion, the Bill strengthens substantially the Dumping at Sea Act 1996 so as to ensure the continuance of a robust statutory framework for protecting important marine heritage as well as the marine environment generally. I am fully committed to operating the Act as amended by the Bill, and to the ongoing enhancement of the Department's website in regard to the application and permit process for the benefit of all concerned. Following enactment of the Bill, I will arrange with the Attorney General for the early publication of a formal restatement of the 1996 Act, as amended by the Bill, for the benefit of interested persons, of whom there are many.

While understanding a Bill is difficult for many people, we must ensure it is as consumer-friendly and citizen-friendly as possible so we can access and update its contents, and, in computer terms, cut and paste this information. It will not be necessary to read the principal Act, or the Bill in conjunction with it, because all of the legislation will be incorporated. Members will recall we have this power as a result of legislation introduced by the Minister for Justice, Equality and Law Reform in 2002.

Business of Seanad.

Ms O'Rourke: I propose that debating time on the next item be extended until 1.30 p.m. instead of 1 p.m. to make up for the extended debate on the previous Bill.

Acting Chairman: Is that agreed? Agreed.

Planning and Related Issues: Statements (Resumed).

Mr. McCarthy: I welcome the Minister of State at the Department of Foreign Affairs, Deputy Conor Lenihan, to the House and congratulate him on his recent appointment as Minister of State. I regret that I did not speak in the earlier part of this debate as I would have had the opportunity to also congratulate the Minister, Deputy Roche, on his appointment as Minister for the Environment, Heritage and Local Government. I agree with all that the Minister, Deputy Roche, stated in the House in the earlier part of this debate on planning and related issues. He referred to a number of initiatives on which he wishes to embark in his time as Minister for the Environment, Heritage and Local Government, which is welcome.

Most Members of the House have experience of local authorities and the vast majority of us were elected through the local authority system. Spending any time as a member of a local authority will inevitably give members a knowledge of the planning process at all possible stages, including the pre-application, application and post application stages. The knowledge we have acquired in our role as councillors will stand to us as we deliberate this issue.

I was a member of the largest local authority outside Dublin for four years. In that time, one of the most controversial topics was planning. A number of issues were associated with it which led to frustration on the part of many applicants, and these issues require balanced debate.

As regards county development plans, the prerogative to create such plans belongs to the members of local authorities and is one of their functions. When a planner makes a report on an application, particularly if a refusal is involved, reference will be made to the county development plans. We must be aware, as former members of local authorities, that the composition of such plans were our prerogative. We had the impetus, not the Minister or the Oireachtas.

The refusal rate in the Cork County Council area was approximately 12% and has perhaps increased to 14% or 15% at this stage. Many of the negative aspects of a planning application arise in the context of a lack of detail in the application itself. A number of reputable people lodge applications on behalf of applicants, and these may call themselves engineers, planning consultants or otherwise. However, one issue which frustrates local authority members is the manner in which applications are submitted.

Question put and agreed to.

An example may illustrate my point. If one applies to a local authority to tax a car, one will send off the usual details. If something critical, such as an insurance certificate, is omitted, the application is returned to the applicant. The same principle should be applied to planning applications. The better the standard of the application, the greater the likelihood of a positive negotiation of that application by the planning authorities. It is not good enough that an applicant pays €2,000, and that is the usual fee nowadays, to submit an application and at the first sign of trouble the application is deferred pending clarification or the provision of further information with the applicant told by the planning agent to approach his local councillor, Deputy or Senator. The number of people who can do this must be reviewed in terms of the standards they bring to bear on their customers. Addressing this issue would free up the time of councillors and Members of the Oireachtas who currently spend much time in planning departments negotiating applications which were originally badly handled.

There is a major issue regarding the application process in terms of two critical aspects, namely, the engineer's report and the planner's report.

Not very long ago applications were
12 o'clock not even available to the public.

They were kept by the officials not to be seen by the public and there was a perennial debate on the subject of making the files available to the public for inspection. Now, however, there is a very strong case to be made for isolating the engineer's report from the panel. In my local authority, the first report lodged in the file is that of the engineer. If the report contains a negative undertone, perhaps to do with site distance, that is not the planner's business. The planner should examine the application in the context of proper planning and development, not in relation to site distance. That is the engineer's function. However, a practice has developed of planners adopting a negative approach to an application if there is a negative undertone in the engineer's report. That clouds the issue. There is no necessity for the planner to see the engineer's report or for the engineer to see the planner's report. They should report only on the area in which they are qualified to report.

Resources are also a significant problem for local authorities. Approximately two years ago there was a staff crisis in my local authority. It was unable to recruit planners in Ireland and had to go to employment and recruitment seminars abroad, in England and South Africa, to recruit people to work in the system. The authority required 60 planners to deal with the number of applications it had but it had only 47. There was a shortfall of 13 and that placed an unnecessary burden on the people who were there and had to try to deal with the existing workload. If the Government does not provide proper resources in terms of staffing to local authorities, it cannot expect them to deliver a good standard of service. That is particularly so in an area that is as drawn

out as the planning system and which requires the absence of planners from their normal places of employment for inordinate lengths of time. In my local authority planners cover between 20 and 30 miles of territory. This means they must travel approximately 50 or 60 miles from county hall which is an inordinate journey. When examining the issue of resources for local authorities, it is necessary to ensure there is the proper complement of staff to deal not just with planning but with every area.

Such has been the difficulty in recent times that a number of people in the planning policy unit in Cork compiled their own guidelines for rural housing. Some people were applying "blind" and totally bypassing a stage of the system, namely, the pre-planning consultation, which should be freely available to everybody and should form part of the process. If people approach their public representative in advance of making an application it provides a perfect opportunity to get a map of the land holding and consult with the planning officials as to the possibility of building on the site. The purpose of such a meeting would not necessarily be to draw up a preliminary plan but to agree in principle whether the site is suitable for development. That saves time and, from the point of view of the planning agents, it saves money. If that option was freely available on a statutory basis, issues could be dealt with that might not otherwise arise until a week or two before a decision was due, leaving officials with no option but to defer or refuse the application.

There is a particular role for public representatives. It is incumbent upon public representatives to give good advice and not to play to an application because of the reward in terms of votes. If we seek only electoral gain for ourselves it will cloud the issue more. I know it is a matter of choice to offer advice to people but there is a certain onus on public representatives to give good advice even if it means telling an applicant something he or she does not want to hear.

I am also concerned about the issue of consistency. I remember a case I worked on unsuccessfully for a time. The county manager stated at the time that there would never be a house built on the site in question. Six months later I met the applicant. He had gone to a different public representative and the house had been built almost to roof level. That is not good enough. I do not see where discretion comes into this issue. There is total neglect of consistency, and consistency is critical.

A similar issue arose in Schull, which was particularly sensitive. Due to the location near the water and the tourism value of the area, there is a particularly microscopic examination of applications. Again a public representative was told that planning permission would never be granted for any project along a particular road, but it was granted eventually. It might be two or three years later, but again the question of consistency arises

[Mr. McCarthy.]
and it should form part of any overhaul of the system.

On housing applications, it is important that there is a clear housing need and, in particular circumstances, that the applicants can obtain a site from a family member, an uncle or aunt or a parent. If the applicants are a young couple, newly married or otherwise, and have a clear housing need there should be positive discrimination in favour of their application. For a number of reasons they should not be dealt with in the same way as an applicant for a development. The cost of building houses, of building materials and labour, has gone through the roof in recent years. Sectors of the construction industry are looking for alternative means of building houses and importing labour to beat the very high cost of labour here, particularly semi-skilled and skilled. If a young couple are able to acquire a site either for a very low fee or for nothing when it is given by parents, their application should be looked at with positive discrimination. It ties in with once-off rural housing.

Local authorities could be more proactive in addressing the issue of planning applications. Cork County Council compiled a very detailed document which is available free to members and is widely available to people who are considering lodging an application with the authority for planning permission. The document contains clear information as to the design of house that is acceptable in different areas. It also advises of the various checks of development plans. It forms a broad base of knowledge which applicants can consult and as a result look forward to a decent professional application being lodged and a good positive negotiation of that application because it is completed with reference to and cognisance of the guidelines and recommendations of the development plan.

Some of the conditions attached to planning permissions are unconstitutional. In particular the sterilisation of land is not good. I do not believe it would stand up to a constitutional challenge. There are other issues involved. If somebody wants to build a house, that is fair enough. However, if a landowner is in financial difficulty, for whatever reason, and needs to raise money, he should not be precluded from doing so. Inserting sterilisation clauses helps nobody. It is a reversion to landlordism. It is making people tenants on their own land. They have a valuable asset, something that might be very important in terms of getting them out of a very difficult financial situation.

That highlights how sterilisation clauses are bad for the landowner and the planning system. I also believe they are unconstitutional.

A number of bodies have outside roles for good reasons. I am not calling for extreme action against any group but I question the role of An Taisce. Recently I had the experience of negotiat-

ing with an applicant and planners concerning a site in a sensitive area. Eventually, planning permission was granted for planning and socio-economic reasons. While planners cannot deal with the latter issue, managers have the discretion to examine it. Before the 30-day deadline, An Taisce lodged an objection, pushing the development from April to November. There are a number of associated issues and An Taisce's inspector will not have a report until the middle of next month. I cannot see the site being dug out so close to Christmas. A further problem arises for the applicant as the house will be dearer to build in January 2005 than if the permission had been granted in April 2004. I request the Minister to examine the issue and look at the role An Taisce plays. Consideration must be given to An Taisce's original intentions when it was established. It is now hindering applications, particularly those for young people with housing needs.

I look forward to the efforts to develop e-planning promised by the Minister for the Environment, Heritage and Local Government. There is no reason people cannot lodge an application for planning permission on-line. As it is available for motor taxation, banking and other services, why can it not be extended to this area? It is a measure of how the Minister intends to deal with the issue.

Mr. C. Lenihan: I fully agree with the Senator.

Business of Seanad.

Ms O'Rourke: It is awful that I am standing up and down all morning. I thank the Acting Chairman for her forbearance. I altered the Order of Business a short time ago but a difficulty has arisen and we will have to return to the time allocation of this morning's Order of Business. I propose statements on planning and related issues will finish at 1 p.m. and resume on another sitting.

Acting Chairman: Is that agreed? Agreed.

Planning and Related Issues: Statements (Resumed).

Mr. Brady: I welcome the Minister of State at the Department of Foreign Affairs, Deputy Conor Lenihan, to the House and congratulate him on his well-deserved elevation. As the planning issue is such a wide-ranging and complicated one, it must be subdivided. Members have spoken on rural aspects of the issue but I wish to highlight its urban aspects. Planning in Dublin is automatically assumed to refer to high rise developments, office blocks and shopping centres. While Dublin city has had its share of major developments such as high rise apartments and office development, the city's planning issues encompass far more than these. From every house extension over a certain square footage to small infill developments, there has been an

explosion of one-off and domestic developments. This is in addition to the other planning applications with which Dublin City Council must deal. From the heart of the inner city to the suburbs, because of the large demand for housing, every available site is being used. In such a climate, it is crucial that a firm but fair hold is kept on the whole planning process from local authority level to An Bord Pleanála.

A new phenomenon in Dublin city is the construction of a second house in the side garden of an existing dwelling. These developments have mushroomed in council and private housing estates. In most cases it works because when the original dwelling was built space and garden size was not an issue. However, in smaller inner city areas it is essential that proper planning regulations are in place, particularly considering services provision. More importantly, these regulations must be enforced, particularly in Dublin. In the past there have been problems with enforcement. However, I have found Dublin City Council officials to be approachable in arranging preplanning meetings. Due to the volume of applications, there were problems with delays in applications but this was due mainly to understaffing in the local authority. In some cases, delays lasting for several months were exacerbated by appeals to An Bord Pleanála. Recently, due to increases in staff numbers, the delays have been much reduced. It still takes some time to go through an appeal to An Bord Pleanála but when one considers the volume of applications, it is hardly surprising.

The years 2000 and 2003 were the eighth and ninth consecutive years of increased output with completion of 57,695 units and 68,819 units, respectively. In 2003, in Dublin city, 14,394 units were completed. In the greater Dublin area, 22,852 units were completed, a phenomenal growth of 10.5% in one year. In the first six months of 2004, 35,957 units have already been completed. These figures are just for domestic dwellings. When one adds commercial and State developments, this massive increase puts enormous pressure on the system.

Although Ireland has one of the lowest population densities in Europe, population density is a crucial issue for Dublin city and planning ahead is essential. In the 1970s and 1980s no one could have foreseen how the economy would have affected housing and commercial development and, in turn, our lifestyles. With the advent of the Celtic tiger, we failed to plan thoroughly for the future, particularly in infrastructure. For example, the M50 is continually extended and widened and the road network in the suburbs is already at breaking point. According to the medium and short-term forecast, the volume of traffic will continue to rise. We need not just to be planning for the future but for what is already there. A supply of highly trained planners is required. I know of a number of initiatives in this

area, particularly one in conjunction with Harvard University. However, more resources need to be put into educating more planners.

Vexatious objections are also a problem in Dublin city and have consequences for the planning process. I am aware of individuals and groups being encouraged to object to planning applications, solely for the purpose of receiving compensation for disruption. Safeguards against this happening must be introduced while protecting those genuinely affected by developments. When the Minister, Deputy Roche, was in the House he suggested that this area would be closely examined in order to try to tighten it up. Regulations on listed buildings also need to be tightened. There are a great number of derelict buildings around the city and neither planners, local authority members nor individuals living in proximity to them know whether they are listed.

Recent developments of high density housing, especially in the inner city, have had an impact on the existing communities in these areas. I refer, in particular, to the Irish Financial Services Centre, IFSC, and other developments along the quays of the River Liffey. Much development has taken place in areas where existing communities have resided for a long time. The only way to ensure these communities are not adversely affected by developments is to involve as many local people as possible at the planning stage. Once it goes past that stage, it is too late. There have been cases throughout the city where major developments impacted badly on local communities but if some initial consultation had taken place, problems might have been avoided. An example of where direct consultation with the existing community has worked well is in the North Wall area and this approach needs to be continued.

The Minister, Deputy Roche, referred to the raft of planning legislation and regulations that exists. I welcome his proposals to improve matters. Simple changes such as the introduction of e-planning and the use of technology are essential. I have no doubt the new Minister, in conjunction with his Ministers of State, will continue to ensure the planning process is improved.

Mr. Coghlan: I welcome the Minister of State, Deputy Brendan Smith, and take this opportunity to congratulate him on his appointment. I also congratulate the new Minister for the Environment, Heritage and Local Government, Deputy Roche, who spoke well on this subject on the previous occasion he was in the House, for which, unfortunately, I was not present. I do not know if it is the case that he is a breath of fresh air or that he is such a good communicator and has received good publicity for his views but, in common with many people, including Senator McCarthy, I find myself very largely in agreement with the new Minister's views on planning. I welcome what he is doing in removing the unnecessary bureaucratic and administrative obstacles to

[Mr. Coghlan.]
a more uniform planning application procedure. I especially welcome the new standardised application form.

The Minister stated he wants an efficient service and for planning authorities to provide good customer service. That is very important and, sadly, in the past has sometimes been lacking. I very much look forward to the new measures that will be introduced and the ongoing review by the worthwhile people who back up the Minister in the Department. They mean well and are doing valuable work. I look forward to seeing the fruits of their work, which I have no doubt will be brought forward by the Minister.

Pre-planning consultation is an important part of the planning process. This is a view with which public representatives agree. As the Minister and other speakers stated, the entire administrative system is supposed to be open and democratic but, sadly, that has not always been the case. Pre-planning consultation is vital. Very often nobody is available in Kerry County Council for pre-planning consultations, and I am sure this also happens in other parts of the country. I accept that local authorities are swamped with applications and that many of them have had enormous numbers of section 140s, all of which require detailed reports. We can imagine the amount of staff time required to do that work. I accept there is a difficulty with staffing levels. I do not know how the Department will address this matter. I very much welcome the measures being taken in regard to uniformity. However, more consultation is required between the Department and planners to ensure uniformity and speed up the process which we all want.

I assure Senator Brady that it is not only in the city that planning objections arise, we also have difficulties down the country. I do not have any time for the spurious invalidation of applications by local authorities on technical grounds. They are raising matters such as site notices not being fully in compliance with council requirements and they also request further information at the last minute. That is going on all over the place and it must be brought to a halt. The RIAI has stressed both of those points so I will not labour them. We must ensure, as the Minister and everybody else wants, that courtesy and consideration of applicants will be more apparent in the system. I accept the volume of applications is currently high which puts pressure on the system but, as he stated, the process should be open and democratic; it must be customer oriented and deliver for people. I agree with the Minister's remarks in that respect.

The guidelines are good, but the process followed in County Cork and perhaps other places is as advanced, if not better, than the guidelines. Unfortunately, as we all know, guidelines are only guidelines. I urge the Minister to put the current draft guidelines regarding one-off housing in

directive form. I accept he will exhort and encourage everybody to take them on board but they can be ignored. Reasonable proposals must be accommodated because the authorities will always find a way to reject applications if only guidelines are in place. The Minister's heart is very much in the right place but that aspect of planning needs to be strengthened.

We have heard it said too often that the planning system is a bottleneck. I am not lobbying for anybody but there is a presumption that if one is within the zoning one will get planning permission and not have all these roadblocks erected. We all know the damage this is doing to local economies.

Regarding local authority housing requirements, the Minister should ask local authorities to carry out an inventory of their assets as a matter of urgency, as the Minister of State, Deputy Parlon, has done in regard to State assets. I do not have specific evidence but sometimes there is a suggestion that something is held up or that it is not being given attention for whatever reason.

Reference has been made to An Taisce and I am aware the Minister has strong views on that body. I do not have anything specific against it but question if such a prescribed body is the right way to go in a democracy. The system is open and anyone can have a say on any matter. I do not know the answer and the Minister has his own views. In some areas, particularly in areas of outstanding natural beauty, An Taisce has made some relevant points but very often there are too many objections in regard to one-off housing. An Taisce's objections are not without foundation or substance but listening to Senator Brady, we are all aware of too many spurious objections arising from bad neighbourliness or whatever. We would all welcome any way of short-circuiting those objections.

I would like to hear the Minister of State's views on the strategic national infrastructure Bill which is promised to fast-track major infrastructural projects and remove the approval roles of local authorities and An Bord Pleanála. It is not that we do not welcome it but we want to know what safeguards are in place and who will decide what meets the criteria, which we also need to see. That is an important issue for us.

I would also like to hear his comments on the Law Reform Commission report which is to be published today or tomorrow. The commission proposes a planning amnesty for all unauthorised development aged ten years or more to modernise conveyancing law. It states that the case is compelling because there are increasing difficulties in non-conforming developments and local authorities cannot enforce proceedings after seven years. These matters need to be tidied up and improved.

We are all irritated by the number of estate agents who, on receiving an application which

may have been rushed, refer the client to the local politician. We are brought into the process needlessly and do not want to be involved. The Minister of State might bear that point in mind when talking to local authorities, managers and planners.

Ms K. Walsh: I congratulate Deputy Brendan Smith on his recent appointment as Minister of State at the Department of the Environment, Heritage and Local Government and wish him well. I thank him for coming here this morning. I also thank the Minister, Deputy Roche, for his statement that he and his Department officials are working very hard to support local authorities and An Bord Pleanála to deliver a quality planning system that responds to consumer needs.

We have come a long way from some of the disastrous planning decisions of the past. We now recognise that when large-scale housing estates are built the appropriate services must be put in place at the same time, not in a piecemeal fashion five or ten years later. While this is a positive development in areas of north Kildare there are several older estates that developers have not completed. Local authorities have not taken these in charge, hence the residents are left in a state of limbo. In one estate there is a pothole so large that one could fit a lorry into it. Kildare County Council has not taken it in charge and the residents are frustrated and in despair because nobody is taking responsibility. The situation is repeated in various towns across north Kildare and my colleagues around the country report similar problems.

For years, local authorities had few restricted powers in planning and forcing developers to play ball. The Planning and Development Act 2000 significantly increased those powers. Under the consolidated 2001 regulations the onus is on individual local authorities to use the wide-ranging powers available to them. They must enforce them in such a way as to ensure that the developer sees that estates are completed and use the sanctions available to ensure developers do not abandon their responsibility. It is not acceptable that developers build estates and fail to supply infrastructure such as lighting, footpaths, etc., and residents are forced to take on this major work themselves. If developers must complete a snag list for individual homes they should also be forced to complete one for individual estates. Local authorities must use the power available to them and be more proactive than they have been. For a long time, developers were far too relaxed about fulfilling their responsibilities and completing estates to the highest standards and local authorities did not pursue them actively enough.

The development levy introduced last year must also be increased. It is the responsibility of local authorities to provide essential services in estates as soon as they are built. If developers pay a levy of an average of €10,000 per house it is

essential that the local authority does not delay in providing the essential services. Local authorities must also be vigilant in ensuring that developers who neglect their duties on one estate are not allowed to do the same in other developments. In the past, developers built estates, failed to complete them and dissolved or liquidated that company only to set themselves up in a new company, and history was repeated. Local authorities now have the power to rule against such developers, regardless of the new name under which they trade, to ensure they are not given permission for new developments.

These are relatively small issues in the overall planning scheme but they are very important for a resident who pays a large sum for a dream home only to be faced with the nightmare of roads that have not been properly laid or surfaced, footpaths that are unsafe or incomplete, no public lighting, no green space and a developer who cannot be contacted. Some of these residents have had to wait years for their estates to be finished, others got the job done only by organising themselves in residents' associations.

It is recognised that walkways into other estates do not work. They become a venue for anti-social behaviour. They are a nuisance and disturbance for elderly people and local residents and must be closed off at an extra cost to the council. I look forward to a time when estates will be built without these walkways.

We have made great strides in recent years in tightening up anomalies in, and issuing guidelines on, planning law. It is important that local authorities use the increased powers available to them and are proactive and forceful when it comes to ensuring that developers fulfil their obligations and requirements.

Mr. Browne: I welcome the Minister of State to the House on what I believe is his first visit since his appointment. Everyone was pleased to see him appointed because of his well-deserved popularity across the political spectrum. I wish him well in his new job. He and Senator Wilson will be a formidable team in Cavan. I hope Deputy Crawford will mark them well.

Mr. B. Smith: In Monaghan too.

Mr. Browne: In Monaghan too, I apologise. Wireless technology has serious planning implications. We have all been brought over to Buswell's Hotel recently for briefings on this issue and learned how by inserting a card into one's laptop one can go on-line. The volume of information one can transfer by wireless technology is significant and will become even more incredible. There is a downside, however, because new antennae will appear. In Carlow recently a nursing home erected an antenna on its roof causing grave concern. I was amazed to learn that these new antennae or even the base stations do not require planning permission any more. The

[Mr. Browne.]

local authority now only has to be informed as a matter of courtesy by the company, be it Vodafone, Esat or Meteor, that it is putting up the antennae in a location. Much of it is bounced back towards the individual development plans of local authorities. However, I recently asked the Minister in a parliamentary question if he could classify the status of a nursing home as a hospital or a commercial business. Unfortunately, the Minister was unable to give me a reply. I recommend to the Minister that he look at this area because it will be a very important issue down the line. I know there are recommendations not to locate antennae or base stations in built up areas or near schools. However, from my investigations, I found out that there will shortly be an antenna put up in one of the hospitals in Galway, if it is not there already.

We need to have national guidelines in this area. They need to reflect the significant movement in that general area in the past few years. There is grave concern among people that these telecommunications companies, which pay people €50,000 for five years to put a small antenna on their building, can get away with this kind of stuff. We need to have clear guidelines on a national level so that people know exactly what they can and cannot do. Scenarios such as my own case can then be avoided, where we have a nursing home in Carlow and the relatives of those in the home are concerned. To be fair to the owners of the home, they have done nothing wrong. However, there is an issue of grave concern. As we move towards wireless technology, this issue will come up again and again. We have moved away from the huge monstrosities of masts and by means of modern technology, we now have very effective small antennae that do not require planning permission, but it is something that should be examined. I ask the Minister to look into the issue of nursing homes and their classification. Are they commercial businesses or are they hospitals? That has a significant impact in terms of the location of these services.

The reality is that we need antennae or base stations located in built up areas to provide a good signal. There is no point being hypocritical. We all have mobile telephones and we all get angry when we lose our signal while on our phones. We therefore have to be realistic on that issue; we need proper telecommunications services. It makes sense to locate these near built up areas from that point of view, but we must take on board the concerns of local people living there.

Another issue about which I am concerned is that of ComReg, which probably falls under the Department of Communications, Marine and Natural Resources. There are reports that it has already run out of funding for this year. ComReg will audit any site independently to assure the public about emission levels. It is very worrying

that it has no funding left and cannot do anything until next January. The Minister might look into that issue as well.

The new planning Act was passed in 2000 and it promised great things. I have to say that it has been a great disappointment. I remember that we all got excited about the fact that a developer's previous history can be used against him or her, but that has not happened in reality. Unfortunately, a developer can change his or her name, for example, a developer could trade today as Fergal Browne Development Limited and could trade tomorrow as Fergal Browne Limited. These are two different companies and that is how to get around the law. We still have cases of very bad developers, such as the case in Carlow recently where a developer from outside the county thankfully had his bond removed by the council and the estate was finished off. That was the first ever case and I am glad it happened. However, the residents in that estate went through hell when a developer did not play ball and was a law unto himself.

I have one criticism of the bond system and that is that it is index linked. There is therefore no issue of the developer getting the bond out. It is earning more interest than it would if it was sitting in a bank. There is no incentive for the developer to finish the estate quickly and hand it over to the council because the money is sitting in the bank. Invariably, the bond is small as a percentage. Even in my own estate in Carlow, the bond in question was actually less than the value of the developer's own personal car. People were wondering why he was in no hurry to finish off the estate, but that is the reason. The Minister should look at the issue of having it index linked. There should be some imperative on the developers to go into an estate, finish it quickly and satisfactorily within timeframes and hand it over to the local authority as quickly as possible. We have one case in Carlow of an estate which was not handed over for 20 years. The people in the estate had no lighting and no one would deal with it as the council stated that it was not its problem, the developer did not care any more and the ESB could not go near it either. That is one practical example of a stupid, ludicrous scenario that can arise.

The eight-week rule for planning permission is stupid. This "one glove fits all" mentality should be looked at again. If I am building a single dwelling and it takes me eight weeks to go through the planning process, then that makes sense. However, if I am building 25 or 50 houses, then extra time should be given as it is a bigger scale development. A good idea from the past was that one could request further information and request an extension of time. I have a case where a couple were being refused planning permission over a simple issue. Unfortunately, the decision went out before we knew about it. Under the old system, one could have requested an extension of

time which would have allowed breathing space for both the planners and the couple involved. That should be looked at again because when the wrong decisions are made, it forces people to re-apply for planning and clogs up the whole system. It puts unnecessary expense on people.

It is a good idea that people pay money to object. People should not be able to object for no reason, but in cases where people's objections are upheld, then the money should be returned to them. One other concern I have is the issue of people building at the back of houses, especially in estates. I know people are obliged to put up a sign in their house indicating that they are going to build an extension or carry out some development. The reality is that if someone is living in a housing estate backing on to another estate, that person would have no idea what his or her neighbour behind is doing. As far as I know, in England there is an onus on the person who is building to inform the neighbours behind what is actually happening. Situations can arise where people are living side by side and not aware of what is going on. There should be an onus on people to inform the neighbours directly behind them that they are going to proceed with planning. I know of one or two cases where people were totally unaware of what was happening.

I had a case lately of a housing estate in Carlow where the dwellers had no telephone services for six or eight months after moving in. I rang my own council and, regrettably, it would do nothing for me on the issue. It claimed that telephone services had nothing to do with the council, which was probably correct. Nonetheless, telephone services should be regarded as basic infrastructure and if the planning Acts are to be updated, then there should be a huge onus on developers to put the proper telecommunications services into the estate. Eircom will refuse to go into an estate unless everything is perfect in it, as any of us who has dealt with Eircom will know. Trying to negotiate with developers to get their work up to speed is next to impossible. It is very dangerous that people find themselves with no proper telephone services in the case of an emergency.

Ms White: I welcome the Minister of State. He earned the honour himself with his dedication to the people of Cavan over the years. They deserve to have a Minister who can voice their opinions to Government. I wish him every happiness and continued success.

I want to speak briefly on three points. The first is the planning application process. The second point is about breaches of planning regulations and the final point is about the issue of rural dwellers.

The new Minister for the Environment, Heritage and Local Government, Deputy Roche, said on his appointment that he would examine the realigning of the entire planning applications process. He said he would like to simplify the pro-

cess, for example, by providing for a standard planning application form for all the various planning authorities. After the standard form has been put in place, the next stage of the realignment of the process would involve providing for on-line applications. The on-line form would allow people to track the progress of their applications. I compliment the Minister in advance on the introduction of the on-line planning application form.

I draw the attention of the House to a serious breach of building control regulations. The former Minister, Deputy Noel Dempsey, decided in 2002 that the front door and living room door of every new domestic house should be wide enough to facilitate wheelchair access and that every new house should have a wheelchair accessible downstairs toilet. Mr. Michael D. Ringrose of People with Disabilities in Ireland has indicated that the building regulations are not being implemented on the ground. When Mr. Tom Power of the Waterford branch of People with Disabilities in Ireland studied housing planning applications in Waterford, he found that none of them complied with the conditions I mentioned. I appreciate that building regulations do not have to be part of a planning application, but it is somewhat ridiculous if those designing houses do not provide for wheelchair access. The front door, living room door and downstairs toilet should all be accessible to wheelchair users. I have said on many occasions that the human rights of people with disabilities are not being implemented in many spheres of life, even though certain rules are in place.

I would like to speak on behalf of rural dwellers, who are this country's real conservationists because they care for the countryside on our behalf on a daily basis. Dr. Seamus Caulfield, who is an archaeologist in UCD, wrote about this issue in *Positive Planning for Rural Houses* in which he stated:

Like all development in rural Ireland, rural housing should be strictly controlled. There are certain areas where housing should not be allowed such as in extended ribbon development along main roads out of towns and villages. Along the western seaboard where dispersed villages are often separated by miles from the nearest neighbouring village, housing should not be allowed in the open (usually) bogland between, where there is no record of settlement in modern times.

Dr. Caulfield and the members of the Irish Rural Dwellers Association have been accused of being anti-conservationists and wanting a free-for-all. The quotation I cited from Dr. Caulfield demonstrates that this is not the case. The rural environment in England, Scotland and Wales is different from that in Ireland. Dr. Caulfield states, "The tradition of settled dispersed community goes back at least five and a half thousand years

[Ms White.]
in Ireland; four times longer than the tradition of nucleated settlement in towns or street villages.” An Taisce and many planners in this country want us to pursue the nucleated form of village settlement which has pervaded in England from Roman times and in mainland Europe for over 7,000 years. As I said, the dispersed village has been part of the social fabric of Ireland for thousands of years.

The Environmental Protection Agency gives figures to refute the argument made by An Taisce that our finite land area will be eaten into if we allow settlement in dispersed villages, or if we spread houses all over the place as An Taisce would see it, rather than concentrating development in a central area. The EPA figures put an end to that argument. We are all aware that the terrestrial land of Ireland is continually subject to change and that there was substantial development — a great deal of infrastructure was put in place and many houses were built — during the Celtic tiger phase of the economy.

The 1990 database of Irish land cover was updated in 2000. The proportion of total land area covered in artificial surfaces increased from 1.5% to 1.9% during that period, as a result of urban sprawl and improvements in infrastructure, such as port facilities. Given that just 1.9% of land in this country is covered by human development, there is no fear that we will run out of land supply. We should support dispersed village communities by allowing people to build their houses in such areas. It is natural that houses in dispersed villages will die over time, so we should allow people to replace them by building new houses. Human settlements have been built on just 1.9% of Irish land. There is no basis for An Taisce’s argument that we should all move to bigger villages. There are many other arguments in this regard, but that is the key one because it stands out in my mind.

Mr. J. Phelan: I welcome the Minister of State to the House. I echo the sentiments expressed by Senator White about rural housing. I agree wholeheartedly with her and with Dr. Caulfield’s comments about the significance of the dispersed village in rural areas. I wish Dr. Caulfield’s proposals were put into practice by more local authorities throughout the country, certainly in the south east. There is an element of crisis in the planning sector among certain local authorities. There has been an explosion in the size of local authorities’ planning sections in recent years, due to the significant increases in the number of planning applications made to local authorities throughout the country. In many cases, local authorities are unable to cope with the number and scale of applications they receive.

Previous speakers mentioned the role of An Bord Pleanála in this country’s planning affairs. I am glad that a number of Government Senators

agreed during this debate with Fine Gael’s policy that An Bord Pleanála should be broken into a number of regional boards. There is a strong case for establishing boards to cover the various regions. Senator White mentioned earlier that certain development patterns are peculiar to certain parts of the country. It is not suitable to give overall responsibility for overall planning issues in Dublin city and rural parts of the country to a single body. We should examine the possibility of replacing the current structure with regional planning boards.

All Senators can give examples of inconsistent planning, which drives people mad. We wonder why certain applications were approved when other proposals were rejected for reasons which are difficult to understand. Such inconsistencies drive people crazy. It often strikes me that the intentions of local authority members when they were drawing up development plans are ignored when the plans are being implemented by the various planners.

An Cathaoirleach: When is it proposed to sit again?

Mr. Moylan: At 10.30 a.m. on Wednesday next.

Adjournment Matters.

Water and Sewerage Schemes.

Mr. Brennan: I welcome the Minister of State at the Department of Education and Science, Deputy de Valera, to the House. I wish to ask about the current situation on the Patrickswell-Adare sewerage scheme. I acknowledge the immense investment by the Government through the Water Services Investment Programme 2004-06. We have seen major developments in Limerick city regarding the main drainage scheme, from whose treatment works the Patrickswell-Adare scheme will benefit under the programme for 2004 to 2006, scheduled for commencement in 2005. I understand that great delays have been caused by Limerick County Council and the Department through their appointment of consultants to move the scheme forward regarding the agreement of a fee proposal. While Limerick County Council has approved development plans for Patrickswell and Adare, it is vitally important that the scheme come on stream on time. For that to happen, it is very important that the clearance to go to tender be given very soon. I ask the Minister to take into consideration the importance of such services to allow the towns in question to achieve their full potential over the next five years.

Minister of State at the Department of Education and Science (Miss de Valera): I thank the Senator for raising this matter on the Adjournment and apologise for the absence of the Minister for the Environment, Heritage and Local Government, Deputy Roche, who cannot be here.

The provision of modern environmental infrastructure to support social and economic objectives has been a major focus of Department spending over the past few years. There has been unprecedented investment by the Department under the national development plan in water and sewerage schemes, which have made a key contribution to the economic growth that has benefited every part of Ireland. The current high level of investment in new infrastructure will continue. Last May, the Department published the water services investment programme for 2004 to 2006, consisting of 869 schemes at different stages of development, with a total investment value of €5 billion. The total allocation to Limerick under the programme comes to over €142 million, extending to some 22 individual schemes. Among those are major sewerage projects for Limerick city, Athea, Askeaton, Foynes, Shanagolden, Glin, Kilmallock, Dromcollogher, Hospital, Pallasgreen and Bruff.

The programme also includes major water supply schemes such as the upgrading of the Clareville water treatment plant, the provision of trunk water mains to serve Patrickswell, Adare, Croom, Pallasgreen and Oola and extensions and improvements to the Shannon Estuary water supply scheme. Funding has also been provided under the serviced land initiative to bring additional residential sites on stream as rapidly as possible to meet housing needs at a number of locations around the county. It is clear from all this that a very large number of towns and villages in Limerick are directly benefiting from the drive to bring our water and sewerage infrastructure up to a modern standard. The Senator will be glad to know that Adare and Patrickswell are very much part of that positive picture as far as their sewerage schemes are concerned.

The Department has approved Limerick County Council's brief for the appointment of consultants to prepare detailed design and contract documents for both the Adare and Patrickswell sewerage schemes, which are being advanced as a grouped project. We are in touch with the council regarding its fee proposals for the consultants' appointment. The Minister for the Environment, Heritage and Local Government and I are as anxious as the Senator to see the scheme make progress as quickly as possible and he can be assured that the Department will conclude its examination of the fees issue at an early date. It will then be a matter for the council to finalise contract documents on which tenders

will be invited from contractors for the construction of the two schemes.

The Minister is also very happy to confirm that the necessary funding for the schemes has been allocated in the Department's water services investment programme, which has a 2005 start scheduled in both cases. I assure the Senator that the Minister has listened carefully to what he has said and that his Department will do everything possible to facilitate commencement of the work on schedule.

Schools of Music.

Mr. Ross: I wish to raise the need for the Minister to give a guarantee of the future of the music school in Waterford Institute of Technology. The Minister will probably be aware of the very intense campaign that has been going on in Waterford over several months to keep the music school there open under a certain amount of internal and external pressure to close it. There are two issues, the first being very broad, which is that of the humanities being subordinated to technical subjects. The other is the specific one of Waterford's music school.

I pay tribute to those who have campaigned to keep the school open over the period, who have successfully persuaded the powers that be that the schools should be kept open, at least for the moment. However, it is a pyrrhic victory if the Minister gives no guarantee of the future of the music school. Perhaps I might deal very broadly with the wider issue that the humanities are being subordinated to technical subjects. It is no secret that many of those involved in this campaign felt that that was the trend in the school itself and that they could look only to the Department to rescue them. Their internal resources indicated they were losing the battle. There is a cry from the heart from those involved in the humanities in WIT to the Minister to give them the security for their subject that they cannot win internally for themselves.

The Minister knows that the school opened on 6 September, although there had been fears that it would be closed because of under-funding. Unfortunately, the fees were raised by 20%. That will cause a great deal of difficulty, since many of those who had already registered had paid fees and are now being asked for an extra 20%. However, that 20% is on top of a 35% increase the year before. We are now seeking a substantial amount of funding from students at the school, something of which they were not given proper notice; it appears to be retrospective. Some of them will obviously not pay that amount. The minimum that could be done here is to ring-fence departmental money for WIT or whomever so that it is given specifically to the music school in Waterford and cannot be pushed or diverted to any other place or any other form of education.

[Mr. Ross.]

The accusation is often made that this is somehow an elitist form of education and that it does not pay its way because one cannot measure the results in the humanities in pounds, shillings and pence. However, that does not stand up. In this case, the fees have been set higher than those of more prestigious bodies such as the Royal Irish Academy of Music. This is a direct result of the Department, despite paying 11 teachers, not giving them the guarantees they need and allowing the uncertainty to remain, which is shared by many people in different areas of the school, including arts.

In August the college sent out letters asking for 40 staff redundancies, which naturally undermined staff. The Department appears to have kept its head down in this controversy, adding to the uncertainty. We need a recognition by the Minister that music is an important part of education in the Waterford IT, that it will be kept going come hell or high water, that it has a place there and that even though the numbers have fallen slightly, a guarantee of a future for this humanities subject in the institute will be given by the Minister.

Miss de Valera: I thank Senator Ross for raising this matter on the Adjournment and for affording me the opportunity to clarify the position of my Department concerning the school of music at the Waterford Institute of Technology.

The WIT has quite a large music school with approximately 30 staff providing tuition to over 800 students, mainly at junior levels but with a small third level component. The institute informed my Department earlier this year that the costs of providing this tuition had risen considerably in recent years, substantially contributed to by the improved terms and conditions of part-time staff following the part-time work Act 2001. WIT indicated that it was running its music programme at a substantial loss as the level of fees was not meeting the costs now involved and it inquired as to the availability of specific additional funding for this purpose.

The annual budget for each institute of technology is currently allocated on the basis of its total pay and non-pay requirements following consideration of its annual programmes and budget submission which is required under the RTC-DIT Acts. The allocation takes into account the complexity of the institute, the range of courses and facilities offered to students, the total number of students, both full-time and part-time, and the nature of the infrastructure. Decisions on the allocations also have regard to Government policy and priorities. My Department's provisional budget to the Waterford Institute of Technology for 2004 is €41.6 million. This compares with a budget of €39.6 million in 2003, an increase of 5.1%.

The distribution of the funding allocated to each institute among individual schools and departments is a matter for the management authorities of the institute. Part-time programmes within institutes are intended to be self-funding.

My officials met WIT representatives in July of this year. It was explained to the institute that the Department could not make specific extra funds available for the music programme and the WIT indicated that it was looking at a range of options aimed at making the programme more viable in the longer term. I understand that following an agreement reached last month between management of the WIT and the Teachers Union of Ireland which provides for the continuing provision of music education at all levels within the institute, it appears that the future of the music school at the WIT has been secured. The terms of this agreement state that intake and throughput of pupils will be monitored and structured in order to achieve an optimum size in relation to available resources. The WIT will also establish a task force to set out a strategy by which progress and development can be renewed from year to year.

I thank the Senator again for raising this matter on the Adjournment.

Mr. Ross: I thank the Minister of State for her reply. Is it possible for the Department to ring-fence funds for an establishment such as the Waterford IT, specifically for an internal element of that establishment, in this case the music school, and are there any precedents for such ring-fencing?

Miss de Valera: I understand the point made by the Senator. In my reply I noted that the Department's provisional budget has already been allocated to the WIT. It is my understanding that the distribution of the funding allocated by each institute to the individual schools and departments is the responsibility of those institutes. I will make further inquiries and send on any resulting information directly to Senator Ross.

Supervision of Pupils.

Mr. Browne: The matter I raise appears simple but is complex. Will the Department of Education and Science clarify who is responsible for school children outside school teaching hours? A case in Carlow was recently brought to my attention. A school in a rural parish there traditionally had two buses providing transport for children. For some reason it was then provided with only one bus, so that one group of children now arrives at school very early in the morning. The bus then travels on a second run to collect the remaining children. In the evening the bus brings one group of children home at 3 p.m. and then returns per-

haps half an hour later to collect the remaining children who have been left unsupervised.

This is a complex area. Are the teachers responsible for looking after the children in those periods before school starts or after it finishes, when some are waiting for school buses? Should the children be on the school premises? I know that in most schools there is no difficulty because the numbers of children involved are small. Generally speaking there would still be cleaning staff in the schools and teachers still working on the premises after school hours. Local arrangements are made.

One of my Dáil colleagues recently tabled a parliamentary question on this matter but the response was very vague. It was stated that the age of any children involved would be a factor. The Department should clarify the matter of responsibility in the area. If school authorities do not allow children to wait on school grounds, and an accident occurs involving children on the side of a road, the school could be liable. I hope the Minister of State can provide a detailed reply. The area is very vague and needs to be tightened up for all concerned — parents, children, teaching staff, boards of management and the Department itself.

Miss de Valera: I thank Senator Browne for raising this matter on the Adjournment. I am assuming that the matter raised by the Senator refers to the periods immediately before and immediately after the normal opening hours of a school. He made that point clearly.

The overall responsibility for the day-to-day management of school supervision rests with the principal teacher. The terms of circular 16/73 provide that the principal teachers of primary schools should organise supervision for the order and general behaviour of the pupils during school hours. In particular, he or she should organise and participate in the effective supervision of the pupils during breaks, lunch-breaks, assembly and dismissal. This circular was drawn up in consultation with the school management representative bodies at that time.

The degree of supervision required of school authorities varies with the circumstances, including the age of the child. To a significant extent the existence and scope of this duty can be controlled by effective communication with the parents, involving written notes of acceptance by the parents that pupils are not to arrive before a certain time.

With regard to the organisation of the school transport system, buses may be required to operate a number of runs. This is to provide a basic level of service while achieving optimum value from resources available. In order to facilitate the operation of these services, children may be required to wait for the bus to arrive, both in the morning and evening. This is a feature of the

school transport scheme as operated throughout the country. The responsibility for the supervision of pupils in this instance lies with the principal teacher and the board of management.

I am advised that where the operation of a school transport service according to timetable involves children being brought to school in the morning before normal time of commencement of school business, or children waiting at school in the afternoon after conclusion of school business, the manager may be held liable for foreseeable risks in the event of an accident to pupils during the period intervening. A manager may also be held liable if an accident occurs as a result of his or her undertaking supervision of children while they are walking from the vehicle to the school or *vice versa*.

My Department provides funding for supervision in schools on the basis of an estimated need of 37 hours supervision per annum per whole-time teacher equivalent. This figure takes account of the nature and extent of supervision required and the age range of pupils, and guarantees the levels of care and supervision provided to all pupils. The Department also provides funding to primary and secondary schools by way of *per capita* grants. This affords schools considerable flexibility in the use of these resources to cater for the needs of their pupils, including securing adequate insurance cover.

I am sure the Senator accepts that this is a complex area and, in the final analysis, the responsibility in any particular case will be determined by the particular circumstances of that case. I hope that my remarks have helped to clarify some of the issues he raised.

Mr. Browne: I thank the Minister of State for her reply. It seems that she is putting the ball back in the court of the principal of the school and the board of management. I would be interested to know if any precedents have been established or rulings handed down in court cases in respect of this matter. I may be wrong but, as far as I am aware, teachers are paid for the core hours they work. While some staff remain on in a voluntary capacity, there is no obligation on them to stay after primary schools close at 3 p.m. Who is responsible for the children if teachers leave the premises? It appears that this matter is being dealt with on an *ad hoc* voluntary basis. I am sure there have been court cases in the past in respect of it.

An Cathaoirleach: The Senator is only allowed a brief supplementary.

Mr. Browne: I am being brief. I do not wish to put the Minister of State on the spot. Perhaps she could indicate, by way of correspondence at a later date, whether there have been any previous court cases and outline the rulings made therein.

[Mr. Browne.]

Would she also indicate the specific times during which teachers are meant to be present for work?

Miss de Valera: I would be happy to supply to the Senator any information available to the Department in respect of that issue. I wish to emphasise, however, the point I made that, as regards the organisation of the school transport

system, buses are required to make a number of runs. There have been discussions with the boards of management and responsibility for the supervision of pupils in the instance to which I referred earlier lies with the principal and the board of management. The latter was decided on foot of discussions and in light of best practice.

The Seanad adjourned at 1.25 p.m. until 10.30 a.m. on Wednesday, 3 November 2004.