

SEANAD ÉIREANN

—
Dé Céadaoin, 8 Nollaig 2004.
Wednesday, 8 December 2004.
 —

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 Mooney that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for a response from the Minister for Foreign Affairs to the proposal contained in a high level report on UN reform that reform should “increase the involvement” of those who contribute most to the UN financially, militarily and diplomatically.

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

The need for the Minister for Education and Science to approve the selected tender for the extension and refurbishment at Moyglass national school, Loughrea, County Galway, as the school has waited for over five years for these works to commence.

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

The need for the Minister for Health and Children to outline the steps she proposes to take to address the shortage of beds at the National Rehabilitation Hospital, Dún Laoghaire.

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

The need for the Minister for Communications, Marine and Natural Resources to outline his proposals to rectify TV reception in the south Longford-Roscommon-Lanesboro area as RTE 1 and RTE 2 have poor or no TV reception since the final cladding was placed on the new ESB power station at Lanesboro.

I regard the matters raised by Senators Mooney, Ulick Burke and Browne as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. I regret I have had to rule out of order the matter raised by Senator Bannon as the Minister has no official responsibility in the matter.

Expressions of Sympathy.

Ms O'Rourke: I wish to express my sympathy to the wife, family and friends of the late Senator and Deputy, John Francis Conlan, who spent four years in this House. He served his county, constituency and country in an exemplary fashion for many years.

John Conlan was returned to the Seanad at the beginning of his national political career when he stood for the industrial and commercial panel. He leaves a wife and two adult children. I remember him well from his time in the Dáil from 1982 until he lost his seat in 1987. He was a quiet unassuming person dedicated to his community and remained an excellent community worker throughout his life. He lost his county council seat in 1999. Mr. Conlan was true to Ballybay and his wider constituency. He was very involved in the GAA and community activities. By all accounts he was an exemplary person, quiet and unassuming, but confidently working for his constituents. His passing will leave a great void, not just in his family, but in the wider community which he continued to serve with great diligence. On behalf of the Fianna Fáil Senators, I express our condolences on his passing.

Mr. B. Hayes: John Francis Conlan was a servant of Fine Gael, County Monaghan and Irish democracy. Throughout his career in the Seanad and the Dáil he brought the best to Irish politics. As the Leader said, although he served only four years in this House, from 1965 to 1969, he had a distinguished career in the Dáil until he lost his seat in 1987. He contested the convention for our party in the constituency of Cavan-Monaghan in 1989 but was not selected.

In total, John Conlan had 49 years' service in local government as a member of Ballybay Town Commissioners and Monaghan County Council, an astonishing record and feat. I wish to express, on behalf of the Fine Gael Members in this House, our sympathy to his wife and two children. I attended his removal in Ballybay on Saturday night where I was struck by the cross-party support and respect for him in the guard of honour that passed by his pub and grocery business. That guard of honour was made up of all parties on Monaghan County Council, parties that would be vociferous opponents of ours, which is a great tribute to his ability to reach out to all political parties and shades of opinion. That was a mark of the man.

John Francis came from the Civil War tradition. His uncle was shot dead in the course of the first election in 1922 in Ballybay. Like so many politicians of that generation, his family came from the awfulness and bitterness of the Civil War. He knew what it was like and his family knew what it was like. He was steeped in that politics.

He was also steeped in the politics of James Dillon. He was Dillon's left-hand and right-hand man for 25 years. When Dillon, a former leader of our party, left politics in 1969, John Francis

[Mr. B. Hayes.]

took his seat, not only that, he returned another Fine Gael Member. That was the first time we won two out of three seats in the Cavan-Monaghan constituency. That other Member was the late Senator Billy Fox. He was very proud of that, of his connections with Dillon and with the Ancient Order of Hibernians. As we know, Dillon's first constituency was in Donegal and he ended up in Monaghan. Wherever the AOH was, Dillon was, and that was very much a strong tradition in John Francis's life as well.

On behalf of our party, I thank the family of John Francis Conlan for its contribution to politics. He will be greatly missed in Ballybay, the town he loved so much, and in County Monaghan where he was a great politician with an illustrious career and record of service to the people.

It is difficult for Border representatives in the Seanad and Dáil, especially those who live close to the Border who have had to hold the line for Irish democracy through difficult years. In a sense, that Border region has been underdeveloped because of the problems of Northern Ireland and the immediacy of the Border. John Francis Conlan always worked hard to ensure the people of his native County Monaghan and the wider Cavan-Monaghan constituency would get the very best from any new deal on Northern Ireland. We hope and pray that deal will be safeguarded at some time in the future for the benefit of all people, not just in Northern Ireland but especially people along the Border. That would be a great tribute to his memory.

Mr. O'Toole: A Chathaoirligh, in paying tribute to the memory of John Francis Conlan I should say none of us on the Independent benches served with him, although I did meet him on one or two occasions on trips he made back here. It is ironic and perhaps fitting in another way that on today of all days we should pay tribute to a man who was part of that generation of politicians who bridged the gap between the gun and the vote. In that sense he is deserving in a fundamental way of the tribute we pay him.

In his half century of commitment to public life as a Senator, Deputy, county councillor and urban councillor, we hear of John Francis as a man of the people, one who was rooted in his locality. He was a community worker of the kind we now badly need. He was part of what has been lost in today's society, social capital. He invested significant personal social capital in his community.

For those of us of my age who were looking at politics from afar before we got in here, his name was ever present in election reports during all those years from the 1960s to the 1980s. We extend our condolences to the Fine Gael Party and more particularly to former Senator Conlan's wife and family.

Mr. Ryan: It dawned on me this morning that, increasingly, I stand up here on these sad

occasions to talk about people whose careers overlapped with my own, which to some extent brings intimations of mortality. It is always a privilege to pay tribute to people who have put so much of their lives into genuine altruistic public service. The account of John Francis Conlan's life given by Senator Brian Hayes reveals a man of extraordinary commitment.

It is difficult for us living in prosperous modern Ireland to realise the pain and vision of democracy people like the late former Senator Conlan endured and their willingness to put democracy before all else and share Government, participate in it and build up institutions we take for granted. Those institutions were not just built up by the people who became Taoisigh and Presidents, they were built up by the foot soldiers of democratic politics at local and national level, of whom John Francis Conlan was clearly an exemplary member.

On behalf of the Labour Party, I extend our sympathy to the family of the late John Francis Conlan and also to the Fine Gael Party which has obviously lost a stalwart member.

Mr. Dardis: On behalf of the Progressive Democrats, I join with other Members in paying tribute to the memory of John Francis Conlan and extend our sympathy to his wife and two children.

He was first elected in his 20s to Monaghan County Council in 1955 so he was a very long serving member of that council and also of the town commission and other public bodies in that area. This is a remarkable level of service in total, apart from his extended service in Dáil Éireann. Today of all days, given the circumstances in Northern Ireland there is a very powerful message of reconciliation and commitment to democracy from John Francis's life and the experience of his family which we should bear in mind.

I am sure our colleague, Senator O'Brien, will be able to elaborate in greater detail as to John's contribution locally and nationally, but he was also involved in the business life of Monaghan in Ballybay. He was one of those people who laid the foundations of business and commerce in rural Ireland at a time when, as was stated earlier, things were very different, life was difficult and people had to live frugally. *Ar dheis Dé go raibh a anam dílis.*

Mr. O'Brien: I thank the House for allowing me to speak about the late John Francis Conlan. I grew up as a neighbour of his and knew him all my life. God rest his soul. There are many stories and much has rightly been said about the late John Francis Conlan in the House this morning. He was a true gentleman. I express my deepest sympathy to his wife Lily, son Seán, daughter Marie Therese, sister Kathleen Carraher and brother-in-law, Bernard Carraher, from Ballybay and all his family and relations.

John Francis was born in 1928 and began his public life at the early age of 22 by joining Bal-

lybay Town Commissioners, which he served for almost a half century, 49 years. He joined Monaghan County Council in 1955 where he served until 1999. I served 20 of those years with John Francis on Monaghan County Council from 1979 to 1999.

His commitment to the people of Castleblaney in his immediate electoral area, and all his constituents in Cavan and Monaghan, was immense. It was untold what the man did for poor people throughout those years. He was elected to the Seanad in 1965, served in the Dáil from 1969 until 1987 and worked hard for the people of his constituency. As was already stated this morning, he was a quiet, hard-working, decent man; a true gentleman and one who could always be approached. He had a pub and grocer's shop in Ballybay and everyone was welcome to bring their problems to John Francis — one's political persuasion did not matter because he worked for everyone. He received as many Fianna Fáil votes as Fine Gael votes in the Castleblaney electoral area in local elections and throughout the constituency in Dáil elections.

John Francis was a unique man. He was highly respected in this House and was probably one of the most respected Oireachtas Members of his time. It was wonderful to hear Oireachtas Members and staff who served with him during his terms speak so highly of him. I mourn his passing. I enjoyed the 20 years during which I served on Monaghan County Council with him. He had a wonderful sense of humour. May he rest in peace.

Mr. Wilson: I join with other speakers in paying tribute to the late John Francis Conlan. I knew him fairly well and always found him to be a very honourable, decent, quiet, unassuming and private man, which is unusual for a politician and even more so for a publican. He cherished his private moments with his wife, son and daughter. As previous speakers have stated, his political career began in 1950 when he was elected to Ballybay Town Commissioners. He was first elected to Monaghan County Council in 1955 and returned in each subsequent county council election until his retirement in 1999. His colleagues on Monaghan County Council paid him the ultimate honour any local public representative can receive; he became chairman of the county council before he retired in 1999, which was a lifetime ambition of his.

He served as a Member of this House between 1965 and 1969 when he was elected as a Dáil Deputy for the constituency of Monaghan, which he served with distinction between then and 1977 when he was fortunate to add County Cavan to the constituency, which he also served with distinction. As Senator O'Brien already stated, he received as many Fianna Fáil votes as he did Fine Gael votes. It was ironic that when he lost the seat in 1987, he received his third highest first preference vote in seven elections.

I join with other Senators in paying tribute to a fellow public representative, the late great John Francis Conlan and I express my sincere sympathy to his wife, son and daughter and the Fine Gael Party in County Monaghan. May he rest in peace.

An Cathaoirleach: I wish to join in the tributes to the late John Francis Conlan. As has already been expressed, he had a record term of service as a public representative both as a local county councillor and a national parliamentarian. He commenced national politics in this House in 1965 and, as is the case with many other national parliamentarians, he graduated to the Dáil where he served for 18 years. He served a total of 22 years in the Oireachtas, which is an achievement in itself.

I am delighted to hear that he was also a great GAA man. I understand that the magnificent Ballybay GAA grounds in Monaghan are the result of the fine work done by John Francis and others, which is another indication of his community spirit. To his wife, Lily, his son, Seán and daughter Marie Therese, I offer my sincere sympathy.

Members rose.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Garda Síochána Bill 2004 — Committee Stage (resumed), to be taken on the conclusion of the Order of Business until 1 p.m.; No. 2, Dormant Accounts (Amendment) Bill 2004 — Report and Final Stages, to be taken at 2 p.m. and to conclude no later than 5 p.m.; No. 21, motion No. 16, to be taken from 5 p.m. until 7 p.m.; and No. 3, Irish Nationality and Citizenship Bill 2004 — Report and Final Stages, to be taken on the conclusion of No. 21 and to conclude no later than 9.30 p.m. There will be a sos between 1 p.m. and 2 p.m.

Mr. B. Hayes: Despite our differences on the Order of Business yesterday in regard to another matter, the House does not blame the Leader for the fiasco of the Christmas lights yesterday. It was not her fault but clearly that of the other House.

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

Mr. B. Hayes: The Cathaoirleach might be correct about that.

Later today, the Taoiseach and the British Prime Minister will set out the position concerning the current phase of the talks in Northern Ireland. I welcome the fact that both Governments intend to set out all the position papers and the full nature of the deal which was to be decided upon and agreed by all the parties. At this late stage it looks like the deal will not be done although something may happen between now and 2.30 p.m. We will have to wait to see.

[Mr. B. Hayes.]

However, it is important that all the documentation surrounding this deal is published in full so that the people of Northern Ireland see for themselves the work which has gone on behind the scenes in recent months between both Governments and the parties.

The people of Northern Ireland deserve better. We were told there could be no agreement between the centre parties and, after the recent Assembly elections, we were told that the two parties on the extremes would do the deal. However, we have found again that our efforts are being frustrated by the intransigence of one side or the other. At this stage, we need to concentrate on the people of Northern Ireland who have put up with this stop-start mechanism for the past ten years or so. We must continue to work with the Northern Ireland parties. We must redouble our efforts and ensure that future peace and prosperity is delivered to the people of Northern Ireland who have suffered more than anyone else on this island for far too long.

Some of today's newspaper editorials have engaged in browbeating the workers at An Post. People might find this strange for a person in my position, but I believe that the An Post workers are correct in the action they are taking today.

Mr. O'Toole: Hear, hear.

Mr. B. Hayes: They have not been well served by good management in the very recent past. If ever there was an example of botched semi-State management, it is that of An Post. The same group of workers has not received one cent of a national pay award which everyone else in the public service has and they are expected to put up with it. There is a case for a complete change of emphasis and new management at An Post.

The workers at An Post are right to take their day of action today. I hope it is only today, but they need to make the point clear, to the Government in particular, that the management in the most recent past has not served the workers and this semi-State industry well. Until the management and the Government wake up to that fact, we will have further disruption.

Mr. O'Toole: All I can say to Senator Brian Hayes is, "Welcome aboard, brother".

Mr. Norris: Another socialist.

Ms O'Rourke: Comrade.

Mr. Dardis: We are all socialists.

Mr. O'Toole: I am not sure how the Labour Party can deal with this but there certainly is very little space on the left for that party.

Mr. B. Hayes: The Senator would find enough space.

Mr. O'Toole: There is a scamper for the space between the socialist Taoiseach and the comradely Fine Gael Party. On a serious note, the Leader will recall that last week she and I had a discussion very much along the lines of what Senator Brian Hayes has just said. I made the case here last week. The fact is that these workers have not received their normal pay increases. I will not go into that except to state that I support the view that management has a case to answer. It is unfortunate it has finished up in a strike.

My last point may be the final issue on which Senator Brian Hayes might come on board. The House will note that since we signed off on the benchmarking deal there has not been one strike day lost in the Civil Service or public service where this was paid. In supporting it here two years ago, I stated that was the prize. That was what we were attempting to do. These workers deserve their increase and they should get it.

Yesterday I asked the Leader that whatever else happened in the North today, we would have full publication of the issues. It is positive that it seems this is the direction in which we are headed; at least we will see how far the negotiations moved. That is crucial. It is crucial for the Irish and British Governments that we all see their painstaking work and that we would mark the progress that has been made so there can be no drawing back from it. That is significant. It will also give us a clear indication of how difficult it is.

I cannot help thinking, however, that the SDLP and the Official Unionist Party must be looking quite wryly at the events of today. The electorate made its choices. Democracy must operate. However downcast or disappointed we might be about what happens today, it is our duty, as politicians and leaders in society, to measure the progress that has been made in negotiations.

Mr. Ryan: I am beginning to be overwhelmed by the rash of conversions in recent weeks.

Mr. B. Hayes: We are talking about one strike. The Senator should not go too far.

Mr. O'Toole: It is due to the trade unions, not the Labour Party.

Mr. Dardis: Some things never change.

Mr. Ryan: I support Senator Brian Hayes's view. I find it astonishing that we have not had a serious effort in this country to address questions of the quality of management of semi-State bodies that do not seem to be able to do their job. There seems to be a particular rush to judgment always that it must be the workers of a company who are not doing their job. In fact, there are serious questions about management.

There is another dispute going on which has major implications; I refer to Irish Ferries. I would like to know the weekly wages of the agency workers to be brought in to replace Irish workers on the ferry to France. In all of the talk

about international competitiveness, global markets, etc., the simple question is how much will they be paid? If people in Ireland knew what these agency workers were to be paid for an ordinary 40 hour week, I suspect they would have a much clearer view of which side they were on in this dispute as well because I believe we are getting very close to getting very cheap labour in to do these jobs. I have no problem with genuine international competitiveness but there are ways of getting around the European labour law involved here that are far more significant than simply a dispute between a shipping line and a trade union.

Like everybody else, I still harbour a hope that something dramatic might happen today. I would say this to people who seem to believe that humiliation is what is being asked of them — all of us can get very sensitive. Things were done in the name of the people of Ireland that humiliated us all on many occasions and people who claimed to represent us humiliated us. To quote Ian Paisley for the first time in my political career, we bit our lips and restrained ourselves in recent years because we thought there was a greater prize. Let us remember this, that what has been achieved now is an unequivocal position where if the IRA would only once and for all and forever go away, there is a guarantee that whoever wins elections in Northern Ireland, there will be power-sharing institutions.

The message is clear regarding the one illegal obstacle. People are entitled to their political views. Nobody in this country is entitled to have a private army. There is a fundamental difference. I just wish people would at this stage accept that if they would only go away and stop, we all would forget all that was done. At the end of it all, that is not a humiliation. It is a recognition of reality.

Mr. Dardis: We all are disappointed by the signals coming from the parties in Northern Ireland and, like Senator Ryan, we cling faintly to the hope that wiser heads may prevail. I share the view that it is important for the Taoiseach and the British Prime Minister to set out the document on the progress made and the various settlements advanced.

It would be important for us to have a little time to reflect on all of these issues. Given the importance of the issue, I would recommend to the Leader that, despite the difficulties involved, she provide a short amount of time next week. Perhaps there would be statements from the leaders of the groups but it would be preferable to have wider-ranging statements on the matter.

The Taoiseach and the British Prime Minister are to be congratulated on their patience and on the amount of work they have done. It is not generally realised how much of their own political capital and time they have invested in these issues. That is a tribute to their dedication to trying to find a settlement and that needs to be acknowledged.

It would be easy at this stage to indulge in the blame game and I am trying hard not to do that, but it is difficult not to do so. I do not want to reduce everything to superficialities but if, looking back at the history books in 50 years time, people read that there was no settlement because of a failure to provide photographs, how could that be explained? That brings a new definition to the word “humiliation”. As Senator Ryan correctly stated, far more humiliating things have done in the name of both loyalism and republicanism over 30 years. It is important that members of the public see what is going on and that they would be able to express their own judgment on these matters.

Mr. Bannon: The Leader may tell me that we had the Minister for the Environment, Heritage and Local Government in the House last night but he was here on a tight agenda. I would ask her to invite him back to this House to debate the need for legislation to ensure that taxation on waste be levied at the point of entry rather than the point of disposal. This would enable society to realistically face up to its national and international obligations on waste management. In the town study yesterday, some towns came out in a poor light on the issue of tidiness and cleanliness. The same could be said of some rural areas, cul-de-sac, lay-bys, etc., where people with filthy habits dump illegally. This matter needs to be tackled and there is an obligation on the Minister to do something about it. The House should hold a debate on the findings of the Government’s consultancy study on the issue of local government finance. I understand this study will come on stream fairly soon. The Government invited submissions from local authorities, the managers’ association and local authority representatives earlier this year. I understand a document about the reintroduction of domestic water rates was recently leaked from the Department. I am fearful that the Government may be on the brink of imposing further stealth taxes on the hard-pressed taxpayers of this country.

Mr. Mooney: David Dunseith is one of the most respected political commentators in Northern Ireland and was interviewed on RTE a few days ago. He made the point that for the first time there had been fewer telephone calls from listeners to his daily radio programme about the peace process initiative than on previous occasions. I hope complacency has not set in and that there will be an acknowledgement of how far we have come in the peace process since the IRA ceasefire of 1994. As other speakers have said, we are now hanging on to a thread.

Modest man that he is, our friend and colleague, Senator Maurice Hayes, would not be the first to ask anybody to read his opinion column in this morning’s *Irish Independent* it should be required reading and should be sent to the participants in the Northern Ireland peace process. In the context of the photograph, the one aspect

[Mr. Mooney.]
of his column which stood out was that there does not seem to have been any recognition of technological advancement in this digital age where a photograph could be taken and its provenance questioned. This highlights the absurdity of insisting on a photograph. I caution that until we hear this afternoon the detail of what was on offer, we must withhold comment. I share the view of my colleague, Senator Dardis, and ask the Leader to consider a short debate before Christmas on this issue, simply because it is important that it is kept in the public mind.

Like many Members on all sides of the House, I support the concept of the European Union in its pursuit of peace, prosperity and human rights. I was appalled to learn that a move has been initiated by France and Germany to end the embargo on selling arms to China, despite its appalling human rights record. I ask the Leader to convey what I believe to be the abhorrence of most people in this country who think of these things, that at a time when the Irish people are being asked to endorse the constitutional treaty and many of the positive aspects of the European Union — which I and many others constantly highlight — this initiative, if it is to be proceeded with, underlines the view that perhaps there is a military agenda at the heart of the European Union.

An Cathaoirleach: As many Senators are offering, I ask Senators to be as brief as possible in their contributions.

Mr. Norris: I strongly support Senator Mooney's view on European moves on the embargo on arms to China. It is very important this be said, especially in light of that country's treatment of Tibet. We should try to encourage the Chinese authorities to engage in positive negotiations with the Dalai Lama and his representatives.

With regard to the North of Ireland, I also think it timely for the House to have a debate. Sadly, as I said in the House last week, the minute I heard that phrase from Ian Paisley about humiliation and the wearing of sackcloth and ashes, I knew he had thrown the whole prize away for the sake of a rhetorical, triumphalist flourish. I do not even think it is particularly Christian because the triumph in other people's humiliation is not Christian. It is not even biblical; the wearing of sackcloth and ashes in the case of people like Job and many others in the Old Testament was something done by them to express their grief. It was never something imposed by another party. I have no problem with a photograph and I do not see what is the difficulty. The IRA has weaselled its way around all the time. If it is going to do it, why does it object to confirming it in this way? I do not understand it. I do not trust the IRA one inch and there is no reason we should. It has lied many

times and the Irish people are entitled to confirmation.

It may be unrealistic to require it in this session but early in the next session I ask that the House debates the banking system. It is horrifying to discover that in the cascade of scandals, AIB was covering up between January and April of this year. It has not learned and it will never learn unless it is severely and strictly taught.

I ask for a debate on Iraq. I note another appeal in today's newspaper from senior diplomatic sources in the United Kingdom requiring that there should be an account of the civilian death toll. This has not been done and it is an appalling cover-up. I am most worried in the last week by the frightening and terrible silence coming from Falluja. We need to know what is going on there.

Dr. M. Hayes: I thank Senator Mooney for his promotional remarks. Anything I have to say will be found at greater length tomorrow. I would welcome a debate on Northern Ireland. It would be particularly appropriate given the tone that is being set by Members of the House. This is not a time for recriminations and for throwing things about. It is a time to recognise the pressures that are on people on all sides and how difficult it is for them. They are playing to several audiences, including a very critical one of their own. A photograph of itself is of really no importance but it is what it symbolises and this can be humiliating and triumphalist.

I recognise the work done by the Taoiseach and the British Prime Minister and also by the civil servants on both sides who have done so much of the fetching and carrying. I welcome a meeting but I hope that people on all sides outside this House can restrain their language over the next couple of weeks.

Mr. Coghlan: I agree with Senator Brian Hayes and the other speakers who asked for a debate on the North and on An Post. I am pleased that both Governments will today publish details of the deal which is on offer and which hopefully will be done today, but if not today, on some other day. I suggest that they get on with it. I support Senator Dardis's request that the Leader arrange a debate on this matter next week.

I ask the Leader to arrange a debate with the Minister for the Environment, Heritage and Local Government on the retail planning guidelines which are in the news because of IKEA. The Government postponed a decision yesterday and it was wise to do so. The giant nature of this proposal is causing concern in a country of our size and population and for the potential adverse impact on the roads network. Even if the M50 was increased to eight lanes, it still would not suffice. This is a serious matter for the country in general, for towns, for villages and for rural Ireland. A debate on the matter would be helpful. It would be good for the Minister and the

Government to hear the views of the Members on all sides before any final decision is taken.

Mr. Glynn: I support the position of An Post workers. Last Monday evening I and a number of my elected colleagues from north Westmeath met the communications' workers. A significant void exists between what is being printed in the newspapers by An Post and the situation on the ground. It is my understanding that An Post will be meeting the Joint Committee on Communications, Marine and Natural Resources. I exhort the Members of this House who are members of that committee to ask An Post representatives probing questions about their treatment of the workers, which is scandalous.

I ask the Leader to arrange a debate in the new year on men's health. There is strong evidence to suggest that the incidence of prostate cancer is on the increase. Given that the PSA test is not conclusive but merely a method of screening, I would appreciate if an early debate could be arranged. Prostate cancer is only one of the matters affecting men's health and I would like an early debate to tease out these matters and see what can be done to address them.

Mr. McCarthy: When is a commitment not a commitment? This is the basis on which an individual wrote to the Government Information Service during the period when Government commitments were rolled back or not fulfilled. The response he received stated that Government commitments have no legal standing. I appeal to the Leader, as the Government representative in the House, to clarify for future reference and the benefit of democracy, if not the operation of the House, when one can expect the Government to live up to a commitment?

Dr. Mansergh: The peace process was never about humiliation, a word which should never have been introduced to the debate. Everyone who has contributed positively to the peace process has much of which to be proud. Equally, to take a longer perspective, there is much of which everybody may need to repent.

Speaking of repentance, I repent of having been misled in the House and having misled Senator Brian Hayes. Having checked the Supreme Court and High Court judgments regarding the release of the prisoners in question, I can find no basis for the claim that they were accepted by the courts as qualifying prisoners. I wish to correct the record in that regard.

Mr. Norris: Well done.

Dr. Mansergh: The House should have a debate on An Post. Having been postponed for six months, it is high time it took place. As regards the issue of Irish Ferries, our link with France is important. The fact that a rival firm, Brittany Ferries, is being subsidised leaves us with

two choices, either to challenge the subsidy or, alternatively, subsidise Irish Ferries.

Mr. Norris: Hear, hear.

Mr. Feighan: I join my colleagues in seeking a debate on the strike in An Post. The Government could do more for the An Post network, given that it can intervene and provide subsidies to Irish Rail. It is a disgrace that staff have not received pay increases. I understand the British Government spends more than €300 million to guarantee the survival of rural post offices. More could be done to secure the future of the rural post office network here.

I support the calls for a debate on Northern Ireland. We are entering a crucial stage, with much work done over the years and a great deal of choreography and sequencing under way. I recall the famous statement by the British Prime Minister that the hand of history was on his shoulder. Every two-bit player now wants the hand of history to touch his or her shoulder. I am sick and tired of watching politicians going in and out of Departments and travelling to London and back. They should make a decision and do a deal because the public wants and needs one. While I appreciate what has been done behind the scenes, the game has gone on for too long. I hope for a positive outcome today because I am becoming sick and tired of all the choreography, as is the public. They should do the deal and forget about it.

Mr. Hanafin: I, too, ask the Leader to arrange a debate on An Post. It appears turnover in the SDS side of the business will significantly exceed the forecast made by management. It seems the decision regarding SDS has been made, irrespective of the company's results and the commitments given to workers which the company was honour bound to keep and have not delivered. A serious question mark hangs over the conduct of management of An Post in this case.

I seek a debate on the North where the issue of humiliation has a special resonance, having been part of the problem since efforts were made to keep down even the civil rights movement. If one community believes it is being humiliated, surely those who produced the technical detail involved in the d'Hondt voting mechanism and provided such considerable resources to support it could find a formula to reach a satisfactory outcome to what appears to be a simple problem. If the approach is based solely on humiliation, the republican and Nationalist side could request apologies for the treatment of the civil rights movement and the manner in which Dr. Paisley denigrated the religion of which I am part. No such apology has been forthcoming.

My medieval history lecturer in University College, Cork, once said three things never change. I will not mention the first two because they refer to other countries but the third was the wars in Ireland. It would be dreadfully sad if that were to

[Mr. Hanafin.]

continue to be the case in this century. While the guns are silent, there does not appear to be much peace.

Mr. Quinn: Some of the sentiments expressed this morning on the issue of Northern Ireland attracted my attention. They include, for example, that there are times when we should bite our lips, that we should not engage in the blame game and that we should occasionally restrain our language. All these statements apply in the current circumstances in Northern Ireland.

These sentiments also apply during the heat of a strike, which is not the time to engage in megaphone diplomacy or megaphone negotiations. This is the wrong time to apportion blame, take sides or sharpen rhetoric, particularly with regard to the two strikes mentioned. My firm position is that one must not give publicity to one side or the other at certain times. I have been reluctant, therefore, over the years to draw publicity to those seeking attention. Yesterday, however, in an item intended as a joke, which was reported in today's issue of the *Irish Independent* a radio station referred to the death of Pope John Paul II.

Mr. Mooney: It was disgraceful.

Mr. Quinn: If it was a joke, it was outrageously distasteful and should not be accepted. There should be an outcry about this sort of behaviour. If it was a mistake, an apology should have issued afterwards. I cannot believe the way in which the nation is changing when someone is allowed to make a joke of that nature. If it had been made about Nelson Mandela or the Dalai Lama, there would have been an outcry, whereas the Pope appears to be fair game.

Mr. Mooney: The matter should be referred to the Broadcasting Commission of Ireland.

Ms O'Rourke: As Leader, I am delighted at the tone of the *ad hoc* debate which has developed this morning with regard to Northern Ireland.

An Cathaoirleach: I am delighted the Leader used the term "*ad hoc*".

Ms O'Rourke: The restraint shown and language used are helpful. I am pleased we will receive the relevant documentation this afternoon. Small incremental steps have been taken which I am sure will move us forward on the perilous path to peace. While each of them may appear small, taken together they constitute a giant step. I hope this is what will emerge.

I understand Senator Feighan's comments. As a young person, he wants everything to happen immediately.

Mr. B. Hayes: He is older than he looks.

Ms O'Rourke: The problems date back centuries so we cannot wave a wand in Northern

Ireland. It has been a welcome debate. I pay tribute, in particular, to the Taoiseach and Prime Minister Tony Blair for the time and effort they have expended and the clever civil servants who have been drafting and redrafting day and night since this module of talks commenced. They have invested considerable effort and much of their personal time in the process. Senator Brian Hayes welcomed the decision to set out the position papers. It will be useful to see the incremental steps taken.

The Senator also referred to An Post. As I pointed out to him last week, every trade dispute has two sides and any one who berates one side is wrong. Senator Brian Hayes said the workers should get their pay, with which we all agree, and those in management should look at themselves. He used the word "botched" with regard to management.

Yesterday, Senator O'Toole asked that the documentation and processes commenced be laid out so we could judge progress and ensure those steps would be retained and built into the process. The main protagonist wanted one last dip into the wider political waters to get affirmation. It will have that chance. Senator O'Toole also pointed out that talks on Sustaining Progress are about avoiding industrial relations fiascos, and this has been honoured in general. However, the workers at An Post have not received their increases under the programme.

Senator Ryan questioned the quality of management in An Post and Irish Ferries. He asked what agency workers will be paid and referred to cheap labour. On the issue of Northern Ireland, he is right to say the word "humiliation" should not be used.

Senator Dardis echoed the need for a debate on Northern Ireland next week. I mentioned it hurriedly and tentatively to the Taoiseach. I did not get a chance to have a wider discussion with him, but I will send a letter to him. We should try to put aside an hour next week for such a debate.

Senator Bannon asked for a debate on waste and the future of local government. Senator Mooney hoped the situation in Northern Ireland would not become complacent. The greatest test of democracy is that people are elected and then govern. That is what devolution is about. He recommended we read Senator Maurice Hayes's articles in the *Irish Independent* and we will do so. He also spoke of the breaking of the European Union's embargo, as spearheaded by France and Germany. If they are to break the embargo on the selling of arms to China, which has a dreadful human rights record, I agree with his concern and will speak to the Minister of Foreign Affairs about the matter.

On the issue of Northern Ireland, Senator Norris does not understand the need for photographs.

Mr. Norris: I do understand that. However, I do not understand the IRA's reticence.

Ms O'Rourke: I am sorry. The Senator has views on both sides. He also asked for a debate on the banking system. A debate is opening up on the issue of civilian debt in Iraq. There is an open letter on that issue today in *The Times*, signed by many eminent people.

Senator Maurice Hayes was also taken by the tone which has been set in the debate on the North and praised the Taoiseach, the Prime Minister and the Civil Service.

Senator Coghlan wants a debate on the North and also on retail planning guidelines, which I think is of huge consequence. If the IKEA store is built in Ballymun, traffic on the M50 will be one issue. However, there is also an issue as to how it will affect retail business around the country.

Senator Glynn spoke of the position of An Post workers. We have all been visited by representatives of the Communications Workers Union. Indeed, they visited me last Saturday. Senator Glynn also requested a debate on men's health, in particular the issue of prostate cancer. That would be useful and we will endeavour to have such a debate in the new year.

Senator McCarthy asked when a Government commitment is an actual commitment. Greater minds than mine must answer that.

Mr. O'Toole: It can take years to figure out that question.

Ms O'Rourke: It is undoubtedly Senator Brian Hayes's day. He championed the An Post workers and Senator Mansergh has corrected the record of the House with regard to comments he made.

Mr. B. Hayes: The Leader should not forget the Christmas tree.

Ms O'Rourke: Senator Mansergh spoke strongly about the issue of subsidisation. If Brittany Ferries are subsidised, two roads are open to us. We can either take their case to the European Court of Justice or be subsidised ourselves.

With regard to the Northern Ireland talks, Senator Feighan said people are tired of choreography and that the parties concerned should hurry up and get on with it. I had a few words earlier with the Senator on the matter.

Senator Hanafin has consistently asked for a debate on An Post. He was the first to raise the issue in this House. He also called for a debate on Northern Ireland, and remembered details of medieval history. GK Chesterton wrote that the Irish "...for all their wars are merry and all their songs are sad."

Senator Quinn called for restraint with regard to Northern Ireland. He referred to the "joke" about the death of the Pope. Anybody who would engage in such behaviour must be sick.

Order of Business agreed to.

Garda Síochána Bill 2004: Committee Stage (Resumed).

NEW SECTION.

Debate resumed on amendment No. 31:

In page 17, before section 19, but in Chapter 2 of the Bill, to insert the following new section:

"19—The Minister shall, in consultation with the Minister for the Environment, Heritage and Local Government shall devise a plan under which members of the Garda Síochána would be encouraged to live in RAPID areas and other deprived parts of the country."

(—Senator B. Hayes)

Mr. Cummins: This amendment seeks that the Ministers for the Environment, Heritage and Local Government and Justice, Equality and Law Reform would together deliver housing strategies to help young members of the Garda Síochána to live in local authority estates. There is demand throughout the country for substations. However, it would help if more gardaí lived in areas where there is anti-social behaviour. This amendment would address the issue. It would be useful to disperse a number of officers at locations throughout the country. A pilot project could be put in place to deal with the measures proposed by this amendment. It is worthwhile and something which local authority members and communities are looking for. People want gardaí living in their area. Visible Garda presence in an estate is a deterrent to anti-social behaviour. Both Ministers should get together and develop a pilot project where local authorities would subsidise the accommodation of gardaí. I ask that consideration be given to such a project.

Mr. J. Walsh: We had a good debate on this amendment yesterday afternoon when some of the difficulties attached to prescribing that gardaí should live in RAPID areas were highlighted. I am sure Senator Cummins will agree that Senator Leyden made a good point regarding past practice in relation to the construction of houses for gardaí through the National Building Agency. I am aware of group housing schemes in which three or four houses were made available to gardaí. I am sure those houses were constructed in as cost effective a manner as possible.

Also, general desire was expressed during yesterday's discussion to have gardaí living in the communities in which they serve. Such a move would be a positive dynamic for policing and could result in gardaí obtaining the acceptance, support and co-operation necessary for effective policing in communities. One cannot be prescriptive about where people must live. Perhaps we could return to the scheme whereby houses were specifically constructed for the force. I agree with Senator Cummins that the local authorities could have a role to play in that regard.

[Mr. J. Walsh.]

Members will be aware that there is still good value, comparatively speaking, to be achieved in local authority constructed houses. While some local authorities are constructing three and four bedroom houses at a cost of approximately €110,000 or €120,000, similar properties in the same locality are being sold by developers for €170,000 or €180,000. We could make such a scheme attractive to gardaí with families. I am not sure that houses should be made available to single gardaí. Adopting a positive approach to the provision of houses for gardaí with families might be the way to achieve what the Senator is arguing for.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): The Minister when discussing this amendment yesterday afternoon expressed misgivings about a possible scheme of rent subsidies or allowances drawn up by the Minister for the Environment, Heritage and Local Government. There is, of course, a fundamental difficulty with this amendment in that full account has to be taken of the fact that members of the Garda Síochána are free to reside in an area of choice. There is no regulation or legal requirement in that regard.

While we all share the worthy sentiments expressed in the amendment we are dealing with legislation. Before proceeding to discussions with the Minister for the Environment, Heritage and Local Government, the matter should first be raised by the Department with the relevant representative bodies through the normal consultative channels. A prudent and logical first step would be to examine their views on the proposal. I am willing to do that.

Mr. Cummins: I accept the Minister of State's bona fides that the matter will be discussed with the Garda Representative Association and believe it would be a good way of addressing the issue. The amendment does not seek to dictate where gardaí should live. There should be no compulsion in that regard. However, we believe there is merit in the proposal and also believe the representative associations will see merit in it. A number of young gardaí deployed throughout the country who are encountering difficulty in getting accommodation which is quite expensive would be willing to take up such houses.

As was stated yesterday, the Garda Síochána previously provided accommodation for gardaí in barracks and so on. We have moved a long way since then. I accept the Minister of State's suggestion that the matter be first discussed with the representative associations and will withdraw the amendment for Report Stage at which time he may, having met with the representative associations, come back to us on the matter.

Amendment, by leave, withdrawn.

Amendment No. 32 not moved.

SECTION 19.

Mr. Cummins: I move amendment No. 33:

In page 17, between lines 28 and 29, to insert the following new paragraph:

“(a) secure and allocate any additional resources which are required as a result of his or her actions under *subsection (1)*.”.

If the Minister is to have the power to set priorities for the Garda Síochána, then he must also be prepared to put in place the extra resources required to implement them. We could talk about the provisions of resources for hours. In setting priorities, the Minister should also provide, to use the new buzz term, an “envelope of resources” to implement them.

Mr. B. Lenihan: I am always amazed by Senators' creativity in terms of amendments tabled in this House and by the amount of time spent trying to deprive Governments and Legislatures of power. Were I to accept the amendment that the Minister secure and allocate any additional resources which are required as a result of his or her actions, I would be asking that he or she not present a Vote to the House, rather that he or she should always seek such resources in accordance with a statutory obligation. The Minister should, at least, retain the power to recommend a Vote to the House and the House should retain the power to approve or disapprove it, constitutionally speaking.

The allocation of resources is a matter for Government in the publication of the Estimates each year. It is not a matter for particular reference in legislation. The Vote for the Garda Síochána is determined in liaison with the Garda Commissioner. The amendment goes further and seeks to oblige the Minister to secure resources which, ultimately, is a matter for Government and for discussion between the Minister for Finance and the Minister for Justice, Equality and Law Reform. I am sure Senator Cummins is not proposing we repeal the Constitution and abolish the system of collective Government responsibility. The amendment also suggests the Minister should allocate such resources. The allocation of resources is a matter for the Commissioner, not the Minister.

Mr. Cummins: Far be it from me to get into constitutional matters with the Minister of State. The amendment seeks the provision of adequate resources. The question when is a commitment not a commitment arose on the Order of Business. The amendment merely seeks to tease out that issue. The Government has given a number of commitments in terms of resources for the Garda Síochána, but such resources have not been put in place. The amendment highlights that adequate resources are not currently available. Recognition must be given to the fact that to meet the priorities laid down for the Garda Síoch-

ána adequate resources will have to be put in place.

Amendment, by leave, withdrawn.

Section 19 agreed to.

Sections 20 and 21 agreed to.

SECTION 22.

Ms Tuffy: I move amendment No. 34:

In page 19, subsection (4), line 38 to delete “to limit the independence of” and substitute “in respect of the role of”.

This is a technical amendment as the Labour Party believes the existing wording is inappropriate as it refers to the independence of a member of the Garda Síochána in the investigation and prosecution of an offence, whereas the Bill makes it clear a member is not wholly independent in that respect. For example, a garda is subject to the directions of the Director of Public Prosecutions.

Mr. B. Lenihan: The Minister for Justice, Equality and Law Reform has examined the issues raised in subsection (4) but is not prepared to accept the amendment. In common law, certain matters on which a garda can exercise a discretion relate to his or her position as an officer of the peace and a constable. That common law position has never been altered in this jurisdiction. Each individual member of the Garda Síochána has an individual discretion in certain matters. For example, a garda has the discretion as to whether to arrest an individual and whether to proceed in the prosecution of certain types of summary and minor offence. However, the Minister for Justice, Equality and Law Reform cannot direct a garda to arrest or prosecute an individual, who, for example, may have infringed the road traffic code by not having adequate illumination on a bicycle. These and many other matters are left to the Garda. This is of great importance to the citizen who needs the reassurance that a garda cannot be subject to a direction.

Section 22 gives the Minister power to issue to the Garda Commissioner written directives concerning any matter relating to the Garda Síochána. While it is drafted with a wide scope, subsection (4) ensures this wide power to be conferred on the Minister cannot be exercised to limit the independence of the Garda Síochána in performing functions in the investigation or prosecution of an offence. I gave the example of the exercise of the power of arrest. The same principle applies to many of the investigative powers which the Garda exercises at common law or statutory level. Equally, in the prosecution of an offence, a discretion rests with the Garda on a wide range of matters which come before the District Court. In the District Court, the Director of Public Prosecutions does not have power over the

Garda, as a matter of law. He may have certain powers in practice but not as a matter of law. It is important that this discretion, essential to the confidence in the community enjoyed by the Garda, is safeguarded and respected by the legislation.

Amendment, by leave, withdrawn.

Section 22 agreed to.

Section 23 agreed to.

SECTION 24.

Ms Tuffy: I move amendment No. 35:

In page 20, subsection (2), line 31, after “information” to insert “(subject to the putting in place of sufficient safeguards to protect personal information relating to individuals)”.

The purpose of this amendment is to ensure that the Garda Commissioner is not given a free hand to transfer personal information relating to individuals to a foreign police force or other law enforcement agency. Sufficient safeguards must be in place to protect the privacy of personal information relating to individuals in such agreements.

Dr. M. Hayes: I understand Senator Tuffy's concerns but they would be better dealt with under the Data Protection Act rather than in the Bill. The nature of police work is the transfer of information about people. I believe this could lead to an unnecessary trammelling of an investigation and prevent co-operation with other police forces and Interpol. Increasingly, crime is becoming a cross-border activity. It would be better not to express this in the Bill but to provide for the necessary protection for innocent citizens, concerned at the transfer of information, in the Data Protection Act.

Mr. B. Lenihan: I agree with Senator Maurice Hayes that the appropriate context to review this question is in the data protection legislation. The exchange and supply of information goes to the heart of proper policing. In the global village, which our world has become, it is essential that police forces in different jurisdictions exchange information candidly. This is already the practice. Senator Tuffy's amendment would interfere with this and cast a doubt over it. In doing so, it would impede the effective investigation of offences.

Ms Tuffy: Is this protection provided under the data protection codes?

Mr. B. Lenihan: I understand the provisions of the Data Protection Act apply to data gathered by the Garda Síochána. The exchange of information goes beyond the question of data to the supply of verbal information.

Dr. M. Hayes: Protection applies to material on computer.

Amendment, by leave, withdrawn.

Ms Tuffy: I move amendment No. 36:

In page 20, between lines 32 and 33, to insert the following subsection:

“(3) An agreement pursuant to this section shall be in writing and shall be laid before both Houses of the Oireachtas as soon as may be after it is made, and shall not enter into force until such time as the terms thereof have been approved by Dáil Éireann.”.

The purpose of this amendment is to ensure compliance with Article 29 of the Constitution that requires any international agreement to be approved by Dáil Éireann where it involves a charge on public funds. This requires a copy to be laid before the Dáil, except where it is of a technical nature.

Mr. B. Lenihan: The subject matter of these agreements between the Garda Síochána and other police forces concern policing and operational issues. The Minister for Justice, Equality and Law Reform sees no reason they should have to be publicised or require Dáil approval before they enter into force. They are the type of agreement of an administrative or technical character which comes within the meaning of Article 29.5.3° of the Constitution. The Houses of the Oireachtas, therefore, do not have a strict constitutional function in these matters as they are within the constitutional proviso which permits such agreements to be concluded without parliamentary approval.

Dr. M. Hayes: As a way around this, can it be suggested to the Minister that the fact that the Garda is co-operating with police forces in other jurisdictions should be a matter of public knowledge? Agreements are entered into under Interpol and other agencies. It may be possible for these broad subsidiary agreements to be reported to the Oireachtas without requiring the facts of the operations to be divulged.

Mr. B. Lenihan: I am prepared to examine Senator Maurice Hayes's suggestion. I would be unhappy that an agreement should be subject to parliamentary approval, which is not of a class that I respectfully suggest should be subject to parliamentary approval. I am interested in exploring a route whereby the existence of such an agreement could be disclosed.

Amendment, by leave, withdrawn.

Section 24 agreed to.

Sections 25 to 29, inclusive, agreed to.

NEW SECTION.

Acting Chairman (Mr. U. Burke): Amendment No. 37 is an alternative to amendments Nos. 38 to 40, inclusive, and amendment No. 53 is consequential, therefore, amendments Nos. 37 to 40, inclusive, and amendment No. 53 may be discussed together by agreement.

Government amendment No. 37:

In page 23, before section 30 to insert the following new section:

“30.—In this Chapter, unless the context otherwise requires, ‘administration area’, ‘local authority’ and ‘public authority’ have the meanings given by section 2 of the Local Government Act 2001.”.

Mr. Cummins: The Government amendment seems to address my party's concerns as set out in amendments Nos. 38, 39 and 53. The purpose of Fine Gael's amendments is to delete the definition of “local authority” in the Bill to ensure the term has the meaning it has in the Local Government Act 2001. Amending the Bill will ensure that town councillors can contribute to policing committees whereas the Bill, as initially drafted, had the effect of excluding them. Town councillors should be allowed to make an important contribution to the process. Representatives from the Association of Municipal Authorities of Ireland, quite a number of whom I have met in the last couple of weeks, feel very strongly about the exclusion of town councillors. If a policing committee were to meet in a town as large as Tramore, it is possible that under the existing provisions not one member of Tramore Town Council would be present. That is not what the Minister wished to provide in drafting the legislation. I ask that the exclusion of town councillors be rescinded to allow them to be part of the committees.

Mr. J. Walsh: I agree with Senator Cummins and welcome amendment No. 37 which provides for the inclusion of all local authorities, including town councils. It significantly strengthens the Bill. I have no doubt the insertion of the provision will create a new dynamic in the operation of the policing committees and the functioning of the Garda.

Mr. Leyden: I support the amendment. Senator Jim Walsh made a very strong case to the Minister on the subject of local authority representation on the policing boards. It is very important that local authority members are involved as opposed to representatives of subsidiary local authority organisations. Local authority organisations include county development, enterprise and other boards, but the policing committee in an area should be composed of councillors nominated by the council itself. As the representatives elected by the people, local authority members are aware of circumstances in the local area.

While provision is made for the attendance of local superintendents at policing committee meetings, representatives of the Garda Representative Association and the Association of Sergeants and Inspectors should also have an input or, at least the right to attend in areas in which those bodies are active. It would allow them to know what was happening and to respond quickly to events.

The provision in section 30 for local involvement in regional Garda administration is innovative. Elected councillors are very well aware of the issues and concerns of local communities. I thank the Minister for refining through amendment No. 37 the Bill's provisions in this regard. I emphasise that nominees should be chosen from among local authority members and representation should be proportional to the strength of the various groups on a council rather than political basis. No party should have a monopoly. If necessary, the full council should sit on a committee given the importance of this matter. Most meetings will probably be held *in camera* as issues will be raised which should not necessarily be in the public domain. I welcome the involvement of local authority members in the policing boards.

Ms Tuffy: I welcome amendment No. 37, which addresses the issue satisfactorily. When we spoke about the matter on Second Stage, everybody agreed that borough councils should be involved in joint policing committees. The point was made that if one were to carry out an analysis, it would become apparent that the incidence of crime is higher in urban areas due to the concentration of population.

Town councils can play an ideal role. They are an excellent local forum model and I wish we had them in my local authority area. While we have local area committees, they usually deal with two areas. In my part of south Dublin, the local area committee deals with Clondalkin and Lucan whereas a town council would focus on one of those urban areas. Members of town councils work at the coal face and are very much aware of local circumstances and the actions necessary to prevent crime and anti-social behaviour.

Can the Minister of State explain in his reply what is the purpose of the use of the words in the proposed new section "unless the context otherwise requires"? When is it expected to have the guidelines ready? On Second Stage, I raised the question of whether it was a good idea to involve county development boards, which we might reconsider when the committees are established and operating. I am happy enough to accept for the time being the involvement of the boards. As the Labour Party was the first to propose a committee of the type provided for in the Bill, I am very glad the Minister has taken the idea on board.

Dr. Mansergh: I warmly welcome amendment No. 37. The matter arose on Second Stage when I, among others, pressed very strongly for the inclusion of town councils rather than just county

and city councils. I have come to the House from the Oireachtas Library where I consulted section 2 of the Local Government Act 2001, which contains the definitions of terms used in that statute. According to the Act, "local authority" means a county council, city council or town council.

From my experience in Tipperary, I can see the enormous value of establishing policing committees which are based, to a degree, on the district policing partnerships which have been established in the North under the Patten reforms. Currently, where there are grievances or concerns about policing, there is no institutional mechanism for conveying them except in an informal manner. Policing committees will be of great value in allowing people to convey any concerns to the Garda. Equally, the committees will allow that to be a two-way process whereby the Garda can convey any concerns it has. Not everything which has an impact or is related to policing is within Garda jurisdiction. There are things local authorities can do to facilitate the Garda to better carry out its functions. Again, I warmly welcome the Government amendment which arose out of the Seanad debate on Second Stage. I can see it having a most positive impact.

Dr. M. Hayes: Senator Mansergh referred to the Patten proposals in regard to this amendment. The rationale behind the Patten proposal, as Senator Mansergh highlighted, is that policing is far more than just police work. It requires the co-operation of various agencies including those in education, youth work, social work, probation services, local councils in respect of lighting and so on. It was thought that this was the forum in which those agencies could be brought together to discuss those areas.

Will the Minister clarify whether he foresees a single joint committee for each local authority area? It needs to involve the local authority areas in some way or the Garda command divisions aligned to local authority boundaries. It may be that in large local authorities — I am thinking of the cities — it would be desirable to break those down to get them as near to people as possible. Generally, however, like Senator Mansergh, I welcome this reduction.

Mr. B. Lenihan: I am glad Senators have welcomed what the Minister has now proposed. During the course of the debate on Second Stage a number of Senators commented on Chapter 4 in this particular context and on the establishment of joint policing committees. What is allowed for now is a two-tiered structure where local policing committees can be established to deal with any issues at a more fundamental level.

The original provisions sought to marry proposals from the National Crime Council for the establishment of crime committees involving local authorities and the Garda Síochána under the county and city development board model and the more community focused local policing committees but one of the concerns the Minister had

[Mr. B. Lenihan.]

about this model, with which he found a good deal of resonance in this House on Second Stage, was the need to involve town councillors in the joint policing committee. As a result, the Minister proposes to make a number of changes in the provisions of sections 30 and 31 and to delete section 33.

The first amendment is to section 30. It is designed to provide for a definition that includes all local authority bodies as defined in the Local Government Act 2001, namely, a county council, a city council and a town council. The existing definition used in the Bill excludes the latter and by restoring the full definition we will enable joint policing committees to be established down to town level, if required. That may not be what is required, however.

An option that would be possible under this legislation would be to divide a county into two areas and marry a town council with its surrounding county electoral area. That would be an appropriate model. To take the example of County Louth, there might be a case for having one area based in Drogheda and one in Dundalk, although County Louth has a mid-Louth electoral area and it too might stake its claim but that type of flexibility is allowed under what the Minister is now proposing.

The Minister proposes also that the democratic character of the joint policing committee be clearly recognised, which is welcome. Those who will have primacy in this matter at local level will be the elected representatives who have a mandate. Whether that mandate stems from the town council or the city or county council, there will be a mandate. In considering an earlier amendment I made the point that a member of the Garda Síochána has considerable discretion and it is important that the citizen has confidence in that discretion and in the force. That confidence is more easily fostered and sustained when the citizen knows that those to whom the force is making itself accountable have a democratic mandate and can be called to account by the electorate for the manner in which they consult with the Garda Síochána. I very much welcome the contribution the Seanad has made on that and indeed the generosity of Senators, many of whom are elected by city and county councillors, but not by town councillors, in recognising the importance of town councillors in this context. Senator Leyden referred to the joint policing committee as being fundamental, and I agree with him on that.

Senator Maurice Hayes asked whether a realignment of Garda boundaries would be required by this legislation. The difficulty with Garda boundaries is that in the case of the larger urban areas they turn very much around the location of individual police stations.

(Interruptions).

Mr. B. Lenihan: It is important to know, as a matter of historical fact, that in the Dublin area,

because of the existence of the Dublin Metropolitan Police, they were always called stations and were never colloquially known as barracks, which is the case outside Dublin. In the Dublin area, however, the location of the station has had a crucial influence on the formation of the districts and divisions. The districts and divisions do not correspond with the local authority boundaries in Dublin, which is a great difficulty because there is a need for far greater co-operation, as Senator Maurice Hayes said, between the local authorities and the Garda Síochána. This is one of the difficult areas. Outside Dublin we go back to the districts formed in the times of the Royal Irish Constabulary and its modern replacements within the Garda Síochána. The division is more in the nature of an administrative unit where the chief superintendent supervises the work of the individual districts. The individual districts are of very long standing but by and large they correspond to the principal provincial towns and their hinterlands. It would be easier outside Dublin to construct local authority committees that reflected the districts than it would be in Dublin.

Senator Leyden raised a question about those who would attend these committees. The intention is that the chief superintendent attends the committee but that does not preclude him being assisted by an officer, be it the superintendent, an inspector, a juvenile liaison officer if an issue of juvenile crime is under consideration or the relevant officer as the case might be.

Amendment agreed to.

Acting Chairman: As amendment No. 37 has been agreed, amendments Nos. 38, 39 and 40 cannot be moved.

Amendments Nos. 38 to 40, inclusive, not moved.

Section 30 deleted.

NEW SECTION.

Mr. Cummins: I move amendment No. 41:

In page 23, before section 31, to insert the following new section:

31.—Prior to the implementation of any significant work practice changes or reorganisation, the Commissioner and the Minister shall consult with Garda representative associations.

This amendment deals with the requirements of the Minister and the Garda Commissioner to consult with gardaí on work practice changes. That may take place anyway but it should be included in the Bill because an association should be entitled to consultation and negotiation prior to any changes in work practices. This should be taken as a given in every walk of life. The amendment proposes that the Minister and the Garda Commissioner shall consult with gardaí and their

representative associations on the question of changes in work practices.

Dr. M. Hayes: As a matter of normal industrial relations and management one would expect people to consult with their workforce and their representative bodies but to give people a statutory right to consultation is to introduce rigidities into systems that we might want to keep flexible. It produces a recipe for a group which knows it must be consulted, and then consultation can move subtly into a necessity for agreement and approval. That introduces a rigidity into what is a normal management and personnel relations function and it would be better left out.

Mr. Leyden: I understand the case being made by Senator Cummins in trying to ensure that these new arrangements would be reflected in negotiations with the representative associations. The Garda Commissioner would carry out these consultations. Including the provision in the legislation might be too rigid but it is important that we voice that concern here. I support the amendment because the principle underpinning it is correct. Before changes are made, normal consultation should take place. As Senator Maurice Hayes stated, it is normal practice for the Garda to respond to the requirements of the representative organisations. The amendment should be accepted in principle by the Minister of State so that it is conveyed to the commissioner that changes should be made in consultation with the representative associations.

Mr. B. Lenihan: It is not clear that the provisions in the chapter will provide for changes in work practices or reorganisation. However, if they do, there is established arbitration and conciliation machinery in the Department, which has worked well down the years and which is available to be used. I share the concern of Senator Maurice Hayes that is not essential as a matter of legislative practice to insert a statutory right of consultation. I do not want that to take from the Department's good relations with the relevant representative associations. While the conciliation and arbitration machinery is available to be used, if required, it is not clear it is required and, therefore, for that reason, I do not see a strict requirement for the amendment. I am not aware that concerns have been expressed about work practice changes as a result of the legislation.

Mr. Cummins: There will be a number of changes to work practices as a result of the establishment of the joint policing committees. However, if the Minister of State gives an assurance that the consultation process and conciliation machinery will continue and will not be changed, I am prepared to withdraw my amendment. I take on board Senator Maurice Hayes's comments that it may be too rigid to make the provision in legislation. Perhaps, the necessary

procedures are in place but I seek an assurance that they will be continued.

Mr. B. Lenihan: If issues are raised, they will be discussed. However, I would not like the Seanad to think I am attaching a price tag to my comments because the Garda engages in a great deal of liaison with the community and bodies of different character have been established in various parts of the country such as policing forums and local consultative bodies to work with the Garda. The legislation will give a fundamental local democratic impetus and mandate to that process and will formalise the local democratic liaison with the force and that is important. However, it is not radically new or different from what good policing has always required, namely, liaison with the community and its representatives.

Mr. Cummins: It may not be radical but there will be changes in work practices as a result of the legislation.

Amendment, by leave, withdrawn.

SECTION 31.

Acting Chairman: Amendment No. 43 is an alternative to No. 42 and amendment No. 44 is related. All may be taken together by agreement.

Ms Tuffy: I move amendment No. 42:

In page 23, subsection (1), line 16, to delete "may" and substitute "shall".

My amendment is similar to that of Senator Cummins. The joint policing committees should be established in every area and it is not appropriate the Minister should have discretion to establish such committees. The Minister will be remembered for this initiative and he might as well go the whole hog to make sure the committees are set up. I presume they will be established while he is still in office but what if they are not and his successor does not have the same enthusiasm for them? The Minister should make the establishment of the committees a mandatory requirement. This could be an important and worthwhile initiative and I hope the Minister gets the committees up and running while he is in office. If he does not, he might regret that he did not make it mandatory.

Mr. Cummins: I am not comfortable with the ambiguous nature of this section. I seek a firm commitment that the policing committees will be set up and that is why I propose the substitution of the word "may" with "shall". I also seek a time limit of three months within which the Minister must issue guidelines under the section.

Amendment No. 44 proposes the deletion of paragraphs (a) and (b) and the insertion of a more expansive and comprehensive series of paragraphs, which state what should be provided.

Mr. J. Walsh: I support amendments Nos. 42 and 44 but I am not sure about the three-month stipulation proposed by Senator Cummins. The joint policing committees cannot be established unless guidelines are issued by the Minister. The mandatory “shall” is preferable to the discretionary “may” and I hope the Minister will examine the wording.

Amendment No. 44 relates to the guidelines. Hopefully, there will be a positive reaction to amendment No. 45 later but the use of the word “shall”, which is proposed in amendment No. 44, is also more desirable. If the provision remains discretionary, anything that is agreed under amendment No. 45 can be changed subsequently by ministerial order. A great deal of work has gone into the Bill and the joint policing committees are one of its strengths. They could transform public support for the Garda and the flow of information to the force. I will give examples when we discuss amendment No. 45. I ask the Minister of State to look sympathetically on amendments Nos. 42 and 44.

Dr. M. Hayes: This is a core value of the legislation and the Minister should have the courage of his convictions to accept the responsibility to produce the guidelines to ensure the committees are established. Senator Cummins might agree that if everybody is to be consulted, as should be the case, it is unlikely to be done in three months but, nevertheless, a reasonable time should be set for the commencement of the committees. The word “shall” should be used rather than “may”.

Mr. Leyden: The amendment is worthwhile and it must be ensured the committees are established. The word “may” is weak whereas “shall” is much stronger. I sympathise with the Minister of State, having been in the same position many times in the House. Perhaps he is anxious to change this. I suggest the Minister insert the word “shall”. I would welcome that because it would ensure this will happen. If it does not happen, a change of Government might mean the new Government could decide to do it then or in the future. However, if we include the word “shall” the issue is definite and would be set up.

I am flexible with regard to the three months. As far as I am concerned it would be all right to state “within a reasonable time”. If the word “shall” is included the three months will, probably, become a reality. I hope the Minister agrees to the amendment. If he is not in a position to agree to it today, I suggest he consult his colleagues and change it on Report Stage.

Dr. Mansergh: I support the views of my colleagues, particularly on amendment No. 42. I agree with the points made by Senator Jim Walsh. It would be difficult for policing committees to be established without the issue of guidelines. It is not an option, but is something that would have to be done. I am more agnostic about the three months and would be even more so with

regard to amendment No. 44 because we might want to include other provisions in the guidelines. However, in the case of amendment No. 42 there is an unanswerable logical case for the use of “shall”.

Mr. B. Lenihan: I will have a fresh look at the matter. With regard to the suggestion that the word “shall” should be substituted for the word “may” in section 31, Senators should consider the express terms of section 32, because it provides that, “A local authority and the Garda Commissioner shall arrange for the establishment of a joint policing committee in accordance with guidelines.” Therefore, there is an obligation in section 32 to establish the joint policing committees. The Senators’ difficulty is that there could be an unconscionable delay in the drawing up of the guidelines. I respectfully suggest that it might be better to consider the issue of putting a time limit on the drawing up of the guidelines because as a matter of statutory draftsmanship that would ensure the creation of the joint policing committees.

The expression “may” in section 31(1) relates to the issuing of guidelines. Whenever power is given to a Minister in legislation to do something such as issue guidelines, the permissive rather than the mandatory form of the word is generally used because the Minister, at his discretion, is drawing up guidelines. The key issue is to put a time limit on that and I will have that examined before Report Stage.

Dr. M. Hayes: Section 32(1) imposes a duty on the local authority and the Garda Commissioner to establish a joint policing committee, but they cannot do that unless they have the guidelines.

Mr. B. Lenihan: Correct. I am suggesting that we consider an amendment that will impose some element of obligation on the drawing up of the guidelines. However, the correct form of amendment may not be to replace the permissive word “may” with the mandatory word “shall” in section 31(1), which is what most Senators favour. The correct course may be to put a strict time limit on the drawing up of the guidelines. We must remember, however, that the drawing up of the guidelines requires consultation between two Ministers.

Ms Tuffy: I appreciate what the Minister of State has said. However, I am concerned that by leaving the word “may”, it could leave the possibility that they would never be drawn up. Having looked at section 32, it is clear the problem is the issuing of the guidelines. It is not the same, but in the area of public private partnerships the issuing of guidelines has been holding up certain projects. If we have to wait for guidelines, we could be waiting a long time. While we could put in a time limit, if the word “may” remains in section 31(1), it could mean that it will never happen. That is my concern.

Dr. Mansergh: I have difficulty following the Minister of State's logic. If he is going to include a time limit but keeps the word "may", that will not impose an obligation. I cannot see the consistency between a time limit which implies "shall" with retention of the word "may".

Dr. M. Hayes: It creates even more difficulty. If it states he may do it within three months, but he does not, this seems to remove the obligation totally.

Mr. Cummins: That is the point I was going to make. The word "shall" should be used. We put down a three-month period in this amendment, but accept it could take more than three months for guidelines to be drawn up. The Minister of State agreed there should be a specific time limit. If we say the committees "shall" be set up, a time limit should be put on the issuing and implementation of the guidelines. Perhaps the Minister of State will come back with a suggestion on this on Report Stage. If we have not got guidelines within a specified period, the issue will remain up in the air. We want some consistency and permanency.

Mr. J. Walsh: I welcome the Minister of State's undertaking to have a look at the matter prior to Report Stage. Convince a man against his will may leave him staying still. Everybody in the House supports the provision in the Bill for joint policing committees as do the Minister of State and the Department.

The Minister referred to section 32 which states, "A local authority and the Garda Commissioner shall arrange for the establishment of a joint policing committee in accordance with guidelines issued under section 31." It seems consequent on this that if we do not have guidelines the committees will not be set up. Therefore, guidelines are essential and will, I am sure, be issued. There may not be great difficulty in changing the "may" to "shall" and the Minister will examine the matter.

I have some concerns about amendment No. 44. To some extent we are a little premature in that discussion. It might be better if this amendment were grouped with amendment No. 45, depending on the Minister of State's response on amendment No. 45. I am a strong advocate of amendment No. 45. If we get agreement on it, it should not subsequently become a ministerial discretion as to whether the section is applied. Its provisions should be included in the Bill, in the same manner as is done in section 32 which prescribes comprehensively what the functions of the joint policing committees will be and what they will address.

Therefore, it would be good to underpin the structure of the committee in the legislation. This should be done in a mandatory rather than discretionary format. While Ministers have a view on it today, it could happen that in time there might be resistance from vested interests to the

existing structure that would leave it open to change without the House being involved in making that decision. I support the change from "may" to "shall" in both cases and I urge the Minister of State to consider the arguments so that the issue can be addressed on Report Stage.

Mr. Leyden: The Minister of State is putting his best case forward in this regard. However, seldom do we have such agreement in the House on amendments.

Mr. B. Lenihan: I will upset the Senators in a moment.

Mr. Leyden: The Minister of State will do so. That is why he is such an eminent senior counsel.

The word "may" has been an issue in legislation before. The Minister of State may come up with a better word than "shall". He could use the Minister "will" which is also a strong word. There is tremendous support in the House and throughout the country and among local authority members, whom we represent, for the establishment of these committees.

The bringing forward of the concept of local policing committees acting in conjunction with local representatives is a great opportunity on which the Government, the Minister, Deputy Michael McDowell, and the Minister of State, Deputy Brian Lenihan, should be commended. It offers a new and enhanced role for local authority members. We would like it to become a reality sooner rather than later. There is a concern that if it does not happen under this Administration it may never happen. I hope Deputy Brian Lenihan, who is a very prominent Minister of State with a great future in Government, will ensure this becomes a reality.

Acting Chairman (Dr. Henry): That is true, but Senator Leyden should confine himself to the Bill.

Mr. Leyden: This is important. The Minister of State has said he will come up with some ingenious response which I await with great interest. It is the first time in a debate on proposed legislation in the House that we have had so much support for changing one word. I know the Minister of State would, in his heart of hearts, favour this measure which I suggest he could introduce on Report Stage. We will not take too strong a position today so as to leave room for flexibility on Report Stage.

Mr. B. Lenihan: In my heart of hearts I have great sympathy with the unanimous view of the Seanad. That said, the words "may" and "shall" have caused endless grief in litigation over many centuries. Senators will be pleased to hear that courts have often decided that the word "may" does, in fact, mean "shall".

In the context of the Bill, if the Minister did not proceed to issue the guidelines, the courts might well take the view that "may" does mean

[Mr. B. Lenihan.] “shall” but the word “may” has been chosen by the Parliamentary Counsel with care. If Senators press the amendment and insert it, which it is open for them to do, the position is that the Minister would not commence that section of the Bill until the guidelines were ready because he would be under a strict legal obligation to have them ready as and from the commencement of the section.

Senators have already passed the commencement provision of the legislation, which provides that the Minister can commence this or that section or different sections on such day or days as he is pleased to appoint. The Bill already provides that the Minister can delay the establishment of these committees by not commencing the section at all. What we are dealing with is the sequencing of implementation. Given the sympathy I have for the unanimous view of the Seanad, I will have the matter looked at to see if we can come up with a formula which will give greater certainty to the establishment of these committees. I take it that is the unanimous wish of the Seanad.

I had made the suggestion because it is a common one used in statutory practice that one puts a definite time limit on when the guidelines would be issued. A period of three months might be a bit tight. We may opt for a more extended period, provided it is not too long. There is the question of inter-ministerial consultation but as we know that can often take a long time there would be no harm in looking at a strict time limit on such an exercise. The alternative is that we accept the mandatory formula about which Members are so enthusiastic, but then I suspect the Minister would not commence the section at all until the guidelines are in existence.

Mr. Cummins: I reluctantly accept what the Minister of State has said. We would not be happy if, as he said, the Minister would not commence the section. We want some certainty in this area about which there is unanimity of opinion. I will not push it to a vote. The Minister of State knows what we want in this area. I hope he will come back—

Mr. Leyden: If Senator Cummins puts it to a vote, he would put us in a very embarrassing position.

Mr. Cummins: I have no intention of putting Senator Leyden in an embarrassing position by calling a vote. I accept that three months may not be long enough but surely these guidelines are already under discussion. The Department must have already have the guidelines in mind. The Minister of State knows that we want certainty on this matter.

Mr. B. Lenihan: I will come back to the Seanad on this point on Report Stage.

Amendment, by leave, withdrawn.

Amendments Nos. 43 and 44 not moved.

Acting Chairman: Amendment No. 46 is an alternative to amendment No. 45 and amendment No. 47 is related, therefore, amendments Nos. 45 to 47, inclusive, shall be discussed together by agreement.

Mr. Cummins: I move amendment No. 45:

In page 23, subsection (2), lines 22 to 29, to delete paragraphs (a) and (b), and substitute the following paragraphs:

“(a) the establishment of the committee on a county or city council area basis, comprised of members from the relevant local authorities, members of the Oireachtas, and senior ranking members of the Garda Síochána,

(b) the designation of the number of members to be appointed from each local authority within the city or county area,

(c) allowing the appropriate local authorities to nominate members to the committee,

(d) the appointment of the chairperson of the committee to be a member of a local authority,

(e) the term of the committee to coincide with the local authority term,

(f) the establishment of sub-committees for geographic or policing reasons,

(g) the engagement or co-option of additional persons onto a committee if specialist expertise is required.”

I inadvertently referred to this amendment when speaking on earlier ones. The purpose of the amendment is to replace section 31(2), paragraphs (a) and (b), with a more expanded and comprehensive series of paragraphs. We are trying to achieve greater clarity on the establishment of the policing committees. This proposal is not set in stone and if there are better suggestions, we are willing to go along with them. The amendment reflects the intent of the legislation.

Ms Tuffy: Regarding Senator Cummins’s amendment, I am concerned that paragraph (a) would exclude town councils from being involved in setting up policing committees. I have the same concern about the original Government proposal. I did not realise until now that this amendment was proposed. I agree with the Government amendment to delete the reference to the city or county development boards because it should be possible for a town council to set up a joint policing committee, which I think is what underlies the Government amendment. I consider that is the best way to proceed. It is wrong to be too prescriptive, which is why I am concerned about the

Fine Gael amendment. The terms “city and county development board” and “county or city council area” are not so different. Both terms could have the possible effect of excluding town councils from setting up policing committees or ensuring they would only be involved on a secondary basis, such as with the invitation of the local authority. That is why I am unhappy with the Fine Gael wording and would prefer the Government approach.

I am not sure about the other matters. In terms of the guidelines which the Minister will produce, perhaps the Minister of State was correct to say, in terms of amendment No. 44, that he wants to leave it open to other possibilities in terms of what the guidelines might prescribe, although this may need to be reviewed down the line. I agree with the Government in that regard.

Rather than provide for the co-option of other persons, the legislation should state whether it is possible for others to become involved in the committees. Co-options are something in between. One either agrees or disagrees with the involvement of people who are outside the Oireachtas, local authorities or the Garda. Given that co-option is as good as having other people on the committees, why not allow for the possibility, as is provided for in the Government proposal? Section 31(2)(b) refers to, “such other public authorities, bodies or persons as may be provided for in the guidelines.” I consider that to be the best approach. I am not in favour of the Fine Gael amendment.

Mr. J. Walsh: This amendment relates to the nuts and bolts of how the committees will be established and function. Senators who debated this issue on Second Stage will laud the Minister for accepting the point that the county development boards should not carry out this function. County development boards mainly comprise civil servants, including gardaí, as well as representatives of the IDA, Forfás, Teagasc, the VECs and a range of other bodies and would not have constituted a suitable forum or vehicle for what is intended in this Bill. Therefore, I welcome the fact that amendments Nos. 46 and 47 remove the county and city development boards from the equation.

I am conscious that amendment No. 37 changes the definition of “local authority”, which will affect how these committees will operate. In that context, I am firmly of the view, as are other Senators, that the body should be constituted of elected public representatives and members of the Garda. Nothing in the provision precludes liaison with other groups; the committee can obviously effect such liaison. I do not agree with Senator Tuffy’s amendment because she may be misinterpreting the provision. The establishment of the committee will be on a county or city council area basis and will comprise members of the relevant local authorities.

Senator Maurice Hayes correctly alluded to coinciding the geographic areas of the local

government system with those of the Garda, but that will not be possible. For example, the chief superintendent in Gorey, County Wexford, covers quite a significant part of south Wicklow. I would like to see this system organised on a county basis. In such circumstances, a joint policing committee in County Wexford would be made up of gardaí and members of Wexford County Council as well as Gorey, Enniscorthy, Wexford and New Ross town councils. The committee should also comprise a workable number of members; it should not comprise so many as to render it unworkable.

The amendment provides for the establishment of sub-committees on a geographic basis. Much of the good work of such committees will be done within their own geographic areas. There are now area committees in every local authority area. This is a unique opportunity to create a partnership between the Garda and community leaders, namely, elected councillors and Oireachtas Members, which will create a great deal of support and goodwill for the force and will provide a flow of information.

I used this approach when a particular drug problem arose on a housing estate in my area. We involved the Garda and the local people in a committee meeting. There were no fanfares because the people were concerned about harassment from those involved with drugs. Nevertheless, a tremendous exchange of information took place, which proved to be quite effective because it focused the Garda’s attention on that area. Moreover, the local people took some confidence from the exercise, which gave them a conduit through which they could liaise with the gardaí without going to the Garda station. A great deal of good work can be done in this manner. The county council and the Garda have also used this approach effectively through an area committee on anti-social behaviour, which was a major problem for some people living in local authority housing. This was achieved quietly and without newspaper headlines, but was quite effective. I see tremendous potential in this concept. How we shape this process will have a direct impact on its success. Therefore, I support amendment No. 45 in respect of subsection (2)(a).

Amendment No. 45, as it applies to subsection (2)(b), addresses how many members should comprise the committees. The question is how those members will be appointed and by whom. Will it be by the local authority, the Garda superintendent or the Minister? My firm view is that they should be nominees of the local authority. For example, Wexford County Council would nominate so many members, as prescribed by the Minister, to the joint policing committee. In such circumstances, New Ross, Enniscorthy, Wexford and Gorey would also have nominees. It would then fall to the committee to decide on dividing into sub-committees and so on. By proceeding in this manner, one will secure greater commitment because councillors will opt to become part of the committee and will therefore have an interest in

[Mr. J. Walsh.]
policing to begin with. As with other committees of the council, once local authority members are part of it, they will function effectively and constructively.

The appointment of a chairperson is important. The chairman of any committee will, to a large degree, determine its success or failure. Again, a decision must be made as to who appoints the chairman. It could be the Minister, but again I favour the local authority exercising this function in the same way as it appoints the chairman of an SPC. One of the issues which will be addressed at the first annual general meeting is the appointment of the chairmen and other members of the joint policing committees. I strongly recommend that the term of the committee coincides with that of the local authority and that, at the first AGM, the members of the committee are nominated and remain in place for five years unless someone resigns and is replaced. This approach will ensure commitment to the committee because people are interested and will be in place for five years. Moreover, they will have an opportunity do some homework and make a contribution.

Senator Tuffy also asked if people other than gardaí and local representatives should be involved on these committees. I do not believe they should. The gardaí want to develop a relationship with and ensure that local public representatives are responsible, supportive and discreet. This will create an openness which will assist the whole process. This joint policing committee can interact with various groups such as victim support and residents groups, which would form part of the function of such committees. There is tremendous scope in this proposal, which I support. However, I ask the Minister to consider the provision between now and Report Stage so that we can put a bit of meat on the bones in order to shape it. I am anxious that this be done in a structured way which will assist the process.

Dr. M. Hayes: I support most but not all of Senator Jim Walsh's comments. The committees should be firmly rooted in local government and people should be appointed by local authorities, from which the chairman should also come. It is important that the Garda representative is of a senior level in that area to demonstrate that the force is taking the issue seriously.

On the inclusion of other people as members on the committees, I go further than Senator Jim Walsh. The liaison committees which were established in the North comprised a majority of local authority members, but they were carefully designed to bring on board other people too. Part of the reason for this was to provide a sounding board for feedback to the police to enable them to explain their policies to people upon whom they impacted most; those who consume more police services than others, particularly young people and marginalised groups. One could have a ready-up of local authority members who have a particular view of how Travellers, for example,

were to be dealt with. There should be room, as provided for through co-options, for bringing other people on board, such as people in voluntary organisations, for example, a representative of the National Youth Council. It might be wise not to specify or list these groups in the legislation but there should be room for it. More work needs to be done in the area but it is important anchor all of this in local government.

By and large, the meetings of these committees should be open and public. The idea that gardaí will provide confidence for a group councillors and so on is a figment of people's imaginations. Nothing will restore confidence in the operation of these services more than the fact that they are seen to be done in public and that people are seen to explain themselves and listen to representations from other people in public.

Mr. Leyden: There is a tradition of gardaí attending joint meetings with local authorities on road safety and speed limits issues. These have not met very often but this provision will ensure that these issue will be decided upon and agreed with the committee as part of its responsibility.

Acting Chairman: As it is 1 o'clock, I ask the Senator to report progress.

Mr. Leyden: We are due to resume Committee Stage at 11.15 a.m. tomorrow, 9 December.

Acting Chairman: I ask that you to move the suspension until 2 o'clock.

Ms O'Rourke: There is a request that we continue for five or seven minutes to finish with amendments Nos. 45 to 47, inclusive, if the Minister of State agrees.

Mr. Cummins: We will spend much more than five minutes on this because it is a matter which needs much expansion.

Ms O'Rourke: Perhaps 15 minutes, a Leas-Chathaoirligh. Perhaps we will finish sooner.

Mr. Cummins: We should leave it until tomorrow.

Ms O'Rourke: Is the Senator suggesting we leave it until tomorrow?

Mr. Cummins: Yes.

Ms O'Rourke: No, I recommend my proposal.

Acting Chairman: After Senator Leyden, there are two other speakers offering.

Mr. J. Walsh: A Leas-Chathaoirligh, perhaps you could allow contributions from the other two speakers and the Minister of State?

Ms O'Rourke: I agree.

Mr. J. Walsh: The debate need not end at that but it would be useful if the House had the benefit of his opinion before we adjourn it.

Acting Chairman: I will allow the other two speakers, if you all could be fairly brief, and then we will adjourn the debate until tomorrow.

Mr. B. Lenihan: It might assist matters if I spoke now.

Acting Chairman: I must let the other Senator speak first.

Mr. Leyden: I will be brief. In section 31 there is mention of Members of Dáil Éireann but no mention of Members of Seanad Éireann. I ask the Minister of State to include the word "Oireachtas" in the section by way of an amendment on Report Stage. I suggest that section 31(2)(b) be changed to insert after the words "local authority, members of Dáil Éireann", the words "and Seanad Éireann resident in the area" or whatever terminology he wishes.

Mr. B. Lenihan: Senators do not have local constituencies.

Mr. Dardis: Members of the Oireachtas.

Mr. Leyden: No, but it is important. The term "Members of the Oireachtas" would cover those. In fairness, there is a right to be heard. Senators would have a broad objective. Should he wish to be more specific the Minister of State could include the word "resident".

I compliment Senator Jim Walsh on this. He has put in a great deal of work behind the scenes with the Minister in discussing a formulation. The boards would not be representative of the councils as such. It is far better to provide for the inclusion of the councils instead of these statutory boards, which have a broad remit. Senator Walsh has done a great service in working to bring this about.

Dr. Mansergh: I support amendments Nos. 46 and 47. I have some reservations about amendment No. 45. I will make three or four quick points. It is good that the framework of the city and county development board is gone as it does not seem to be the appropriate framework.

As I stated on Second Stage, I would be attached to the idea of towns which have local councils having policing committees of their own. I would not like it organised on a big geographical county basis. I accept that Senator Jim Walsh's experience with Wexford may be different but the problems of Clonmel, Carrick-on-Suir and Tipperary are not identical. I would prefer if this is organised on a more intimate basis.

Under the proposed legislation a system of co-options would have to be devised, which would be contrary to what Senator Jim Walsh argued for. I personally favour the district policing partnership model. It should be rooted in local auth-

orities but the membership should not be a monopoly of local elected representatives. It is a good idea to bring in other people. In this partnership age, democracy is more than the sum of the elected representatives. I would have a broad, rather than a narrow view of democracy.

I strongly support what Senator Leyden stated. The section states "members of Dáil Éireann" and should state "Oireachtas Members" or, if one wants to be specific, "and Seanad Éireann resident within" a particular area. The term "Oireachtas Members" would be better. Although there is no amendment tabled to that effect, I would ask the Minister of State to look at it. While sessions should in the main be in public, there might be occasions where confidential briefings would be desired and accepted.

Ms Tuffy: The more I think about it, the more the Fine Gael amendment, particularly paragraph (a), would be a mistake. It would preclude town councils from setting up their own committees.

Mr. Cummins: No, it would not.

Ms Tuffy: From my reading of it, I am certain it would because it states "the establishment of the committee on a county or city council area basis . . .". It does not state, "a local authority area basis." As it does not mention the town councils and does not state local authority, it would preclude the establishment of a committee based around the town council. There is no doubt about that.

It would also preclude the setting up of a committee based around the local area committee. In my local council, I would prefer a Lucan-Clondalkin joint policing committee. With the Government proposal that would be possible whereas it would not be possible with the Fine Gael one. For example, in my county council it is much more beneficial to have it based around the local area committee, the Lucan-Clondalkin area committee. When we sit through council meetings half of which are taken up with the business of Tallaght, Terenure and Lucan, local councillors wait for their particular area to come up and it is not as beneficial. If the Minister wants to get this working with the local gardaí, he must make these committees as local as possible.

I agree with Senator Mansergh. Some councils may decide it should be done on a county council basis. Others will decide differently. One is in danger of diluting the work we have done in terms of getting town councils included because they will not be able to set up their own joint policing committees under the Fine Gael wording.

I agree with the point well made by Senator Leyden about the inclusion of Members of Seanad Éireann. When he spoke on the abolition of the dual mandate, the then Minister for the Environment, Heritage and Local Government, Deputy Cullen, indicated that we would have dealings with local councils.

Ms O'Rourke: And county managers.

Ms Tuffy: The guidelines can deal with the point made by Senator Mansergh as to how one would designate the Oireachtas Members concerned.

Acting Chairman: Does the Minister of State wish to reply because Senator Cummins will want to speak tomorrow?

Mr. B. Lenihan: I will reply. It might assist the course of the debate. Senator Cummins has raised a number of interesting points and the Minister is undertaking to reflect on them and bring something forward on Report Stage. That was the point I felt might hasten debate on this issue.

To take up some of the points made in the debate, the point in the amendment about the terms of office of the joint policing committee having to be the same as the local authority term is a good one. On the other hand, the points made in paragraphs (f) and (g) of the amendment, about the establishment of sub-committees and the engagement or co-option of additional persons, are addressed in the existing subsection in the Bill. My proposed amendments, amendments Nos. 46 and 47, will also deal with that issue.

The Minister shares Senator Tuffy's concern, perhaps not in as definitive a way. He is concerned that paragraph (a), as drafted, might in some sense preclude town councils from the functions recognised in the Bill. The Minister wants to have a further look at this provision to see whether the formulation in the Bill can be improved.

I will address a few issues raised in the course of the debate. Reference was made by Senators Hayes and Mansergh to the *in camera* rule. This is a topical issue under a heading such as this Bill but it is a matter for authorities to regulate their own procedure. In general, it is desirable that local authority business should be transacted in public but they may benefit, on occasion and in very limit circumstances, from *in camera* discussions between local policing officers and members of authorities. This is a matter which can be addressed by the Minister on Report Stage, in bringing forward a further amendment. I can see clearly how on occasion it would be beneficial for the committee to have certain matters said *in camera*. At the same time there is a balance to be struck here. Clearly for public confidence to be maintained in the system and in the force, it is better that, as far as possible, business should be transacted in public. The question of the membership of the Oireachtas and the participation of Members of the Oireachtas in this system was raised by Senators Leyden and Tuffy and I will examine this on Report Stage. The issue of how to relate a Senator to a particular area will need to be addressed. It can be done by way of a suitable statutory formulation.

The other matter raised was the question of the appropriate boundaries of a particular area com-

mittee. This is an interesting question. Counties will have various options in the Bill as it now stands following the amendments which were agreed to. It is possible under this legislation to have one unitary authority for a county and to have all the elected members in that county, whether they are in the county council or in a town council, to represent it. It is also possible under the Bill as it stands to establish what Senator Tuffy referred to, to split a county for area purposes and have an area committee made up of county and city councillors. It is possible, as Senator Mansergh advocated, to have a town council unit simply and solely centred on that town council.

Dr. Mansergh: Perhaps, plus an electoral district.

Mr. B. Lenihan: It is also possible, however, to reinvent the poor law union and have the outlying area included by combining the town councillors with the relevant county electoral area councillors. That seems to me to be an attractive option in provincial Ireland. All these options are possible under the legislation. The Minister will need to draw up guidelines to accommodate a degree of local choice with a degree of national uniformity in this matter so that a fit to meet needs and requirements can be designed for the different parts of the country.

Progress reported; Committee to sit again.

Sitting suspended at 1.15 p.m. and resumed at 2 p.m.

Dormant Accounts (Amendment) Bill 2004: Report and Final Stages.

Acting Chairman (Mr. Mooney): Before we commence I remind Senators that a Senator may speak only once on a Report Stage amendment, except the proposer of the amendment who may reply to the discussion on the amendment. In addition, on Report Stage each amendment must be seconded.

It is proposed to recommit amendments Nos. 12 to 36, inclusive, and section 8. Standing Orders governing Committee Stage debate will apply to the amendments which are recommitted. Is that agreed? Agreed.

Mr. McHugh: I move amendment No. 1:

In page 4, to delete lines 32 to 39, to delete pages 5 to 9 inclusive and in page 10, to delete lines 1 to 9.

I welcome the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív. He had a close call and I am glad he is recovering and before the Upper House again.

The Committee Stage debate on this Bill was truncated and too emotional at times and I wish to re-focus it on the Fine Gael Party's position on dormant accounts. Value for money is a major issue in terms of applications for funding made

by community groups and how such funding is then spent. There is a problem with regard to the mainstream allocation of funding to groups which need it. It applies both to dormant accounts funds and lotto funding. While funding is useful to disadvantaged groups and community groups seeking money for capital purposes, stop-gap capital for human resources may not be sufficient when allocated once or twice. In the long term, we must focus our capacity on a national basis. To give credit where it is due, the Minister tried to do this and acknowledged the extent of duplication among State agencies.

Greater value for money would be obtained in the allocation of funding if much of the work was carried out more thoroughly. No mechanism is in place to track the funds allocated, monitor the way in which they are allocated or the areas which receive them. It is fine to hand a group €100,000 or €200,000 as a stop-gap measure but where are the follow-up and tracking measures? These are necessary if we are to get to grips with involving community groups and empowering them in the decision-making process.

The Fine Gael Party's main difficulty with the dormant accounts funds is that the initial structure of the dormant accounts disbursements fund ensured decisions would be taken at the level of partnership groups, specifically Area Development Management Limited. My party opposes decisions on the disbursement of funds being taken by the Department of Community, Rural and Gaeltacht Affairs. This issue formed the basis of the debate on Committee Stage, during which Senators only scratched the surface. There is a deep malaise with regard to enterprise boards, community development groups, county development boards, partnership boards and cross-Border institutions. There are so many difficulties regarding where the groups are going, how they are funded and value for money when funding is allocated. We can be political and accuse Fianna Fáil of wanting the money for a pre-election slush fund. However, that is a minor part of the debate. If the shoe was on the other foot and Fine Gael was in power, we would probably do the same.

The Minister has tried to address the malaise. He has been to Donegal, which has the Inishowen Partnership, Donegal Local Development Company, Údarás na Gaeltachta and enterprise and county development boards. This plethora of representative organisations are trying to do the same thing at community level. On an economic level, there is the Western Development Commission, the Border midlands and western region, along with numerous cross-Border groups. These organisations all try to do good work. However, we have a centralised type of government. We must start at the beginning and empower these groups. I am not merely talking about development and community and economic representative groups, but also FÁS and the Department of Social and Family Affairs. There must be a decentralisation of power. Those in charge of regional groups must be given more power. There

should be a national strategy for a country such as Ireland, which is unique and diverse in every region. That is the problem we have today.

What has this to do with amendment No. 1? We are only scratching at the surface of the issue of dormant accounts. We are playing petty politics over an issue which is far greater than the dispersal of funds. The manner in which the Department of Community, Rural and Gaeltacht Affairs will take charge of the dispersal of funds is not the way forward. However, perhaps the Minister thinks it is the only way because there are so many groups and representative organisations. We must target and tackle the issue of how and where we spend our money, and ensure for the first time that taxpayers are confident their money will be distributed throughout the country. I am putting forward a general argument. It is a pity the Leader is not here, because a wider debate is needed.

Mr. Ryan: I second the amendment. There is nothing I could say to add to what Senator McHugh has said. He comes from a region which is a victim of the Stalinist centralisation of this country. Ireland is extraordinarily centralised. I have already discussed this issue with the current Minister. I do not know if it is the time of year, or my advancing years, but I am not in the humour I was before the summer for a major row with him about slush funds. I will eventually rise to the bait but I will be in good form for the start of the afternoon.

Drawing a matter such as this back into the Department is not the way to go. There is a belief the money will be better spent if controlled centrally. We all know of situations where in order to avoid visible mis-spending of 1%, costs have increased by 20%. Certain Department of Education and Science construction projects have had their prices pushed up 25% by inflation because of centralised decision making. The inflated price was probably then cut back by 1% as a result of the Department's vigilance. It was 24% more expensive than would be the case had it been allowed to proceed as part of a decentralised decision-making process.

Labhrás Ó Murchú: Many of Senator McHugh's comments could easily be expressed on this side of the House, and should be taken as read. That would be the principle relating to the disbursement of any public funds. Recalling a previous debate on the issue, it was quite evident there were difficulties with regard to the disbursement board being able to handle the funds and the availability of staff. There were many central issues. I made a comment which was taken as casting aspersions on civil servants, but I have the utmost confidence in the Department and the Civil Service. They have their ears close to the ground, they do not work in isolation, they listen to public representatives and they have an overview of what is happening in the country.

[Labhrás Ó Murchú.]

I identify with Senator McHugh's points about the plethora of agencies. That issue must be revisited to some extent to ensure maximum value for money and an identification of demarcation lines and duplication. Anybody working on the ground would be aware of the issues, although I am not sure it directly relates to the subject we are discussing. While I agree with much of what Senator McHugh said, this is a different issue.

Much more of the money was reclaimed by the original owners than expected. That was good news, because there was the sneaking feeling that we had somebody else's money. However, I was glad when almost 50% was reclaimed in the initial period. The amount of money available is less. I have no doubt about the focus, because it relates back to existing programmes such as CLAR and RAPID. These have a track record and a history with which we are familiar, and we have a good idea where the money should go. The Department has a better idea, because it is responsible for the programmes.

We should make a distinction between the two issues to which Senator McHugh refers. The number of agencies is a matter for debate, however it is difficult to expect a board with a non-executive or temporary chairman to have full accountability or take responsibility for what is a relatively large amount of money.

Mr. Brady: I agree with the previous speakers with regard to the proliferation of these bodies. We have considerable experience of the issue here in Dublin. The Minister recently attended a meeting with over 200 representatives of various bodies from the northside of the city. We must accept central control and constant vigilance are necessary with regard to how these moneys are used and spent. Are the same people taking advantage of the same funds all the time, or is it spread evenly? We must deal with such issues, in particular with regard to this fund. There is a significant proliferation of bodies which do great work in their own little patches. However, in many areas there is a crossover and duplication of responsibilities and work being done. We must guard against such occurrences.

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): My voice is not the best today, but it will hold up. I will first lay down some basic principles with regard to spending any money, particularly extra money. We must first ensure additional delivery on the ground. The second point relates to poly-funding. I met yesterday with a group which received funding from the Department of €84,000 and whose State income from all sources amounted to approximately €700,000 with seven or eight State agencies being involved. Poly-funding causes two problems in that the left hand of the State does not know what the right hand is doing and there is no co-ordination. Such funding caused problems for that

particular group which believed it had been left short of funding. It is hard for the Department to prove whether it should have lived within its budget or had been left short. However, that is not the issue. I would much prefer a co-ordinated approach so that each group knows how much State funding it will receive, even if it is from different sources, and can plan accordingly.

The third point relates to objectiveness which should be divided into two parts. After-school services are important to people in disadvantaged areas and it is important those in politics are in a position to make a value judgment on that issue. It is also important that when such decisions are made the money provided is disbursed in a fair and objective manner so that all applicants are, in so far as is humanly possible, treated equally. The fourth point relates to focus. The current arrangement lacks focus. An advertisement was placed in the newspaper suggesting anybody could apply for any dream they had. That is not fair to applicants and it is not a good way to spend State money. Somebody has to focus priorities and to make an incremental difference to them. The fifth point relates to sustainability. I am concerned, in terms of disbursements to date, about what will happen when that fund runs out. In an ideal world, groups should be able to come to us and ask if we are willing to keep projects going when funding runs out. I can be sure if I provide funding of €50,000 or €100,000 for two years to a drug project in Wicklow that that project will not have gone away after that time. Somebody will have to decide, when this money runs out, if such projects are to continue.

I have stated time and again that there are too many pilot projects in this country, many of which run for two or three years. That only gets us through the gate in the short term. I have not yet seen an evaluation of these schemes which suggests they should not receive further funding. Some 90% of such projects are needed. When the time for such pilot projects has expired one has to decide because one started them, to keep with them. I worked for many years in the voluntary sector and I disliked short-term current expenditure because when it ran out I had to start again from square one. This situation is worse. If money for such projects is paid for by way of the budget through Departments it is at least likely the same budget will be available the following year and one can try to recoup money spent. If, however, that money comes from a budget headline which only has a limited amount of finance into the future what then happens?

The sixth point relates to the tracking mechanism on which I would like to make two points. Tracking is important but, we have now reached the point where keeping records has become more important than providing a service. That is a very tricky equation. I do not want to receive into my office every morning the menu from a project which provides breakfast for 50 children. One hears quickly enough from local sources if something is wrong in such areas. Likewise I do

not want to hear about the number of children who turn up for such breakfasts every morning. Such information clogs up offices with paper. We should allow projects which receive funding and are doing their job well to get on with the job and should not tie up their timekeeping records. People often say the private sector is so much more efficient than the public sector. It is, because it only keeps records where needed. It does not get involved in inane inordinate recording keeping. There is a tricky balance to be struck. We need good accountability but we do not want everyone in the voluntary sector to be swamped in mounds of paper, keeping mindless records on irrelevant matters. One knows one will get quick feedback on such issues if one keeps one's ear to the ground.

The Dormant Accounts Fund Disbursement Board is a decision-making board. ADM acts only on an agency basis. It is a private company which receives all its funding from the State and in that regard is under State direction in terms of its budget and so on. The Government has not interfered in ADM's operation of the board. I have great time for that company which does a great deal of work for my Department and others. However, ADM is too limited an organisation to handle such disbursements. The Senator's point that we should make regional decisions is a fair one. Under what is now being proposed, that is the route we will go.

The Senator will be aware that community development is important in CLÁR areas. I wanted to assist community development effort whether through enterprise centres or other projects in CLÁR areas and set aside €1 million per annum in that regard. The mechanism used in that regard is quite interesting. If the local Leader company decides to grant €50,000 to a project, CLÁR will, without second-guessing the fundamental decision, back that sum with another €50,000 subject to EU rules. The Department does not exercise any control over such decisions which have been devolved to local Leader companies. We make it attractive for Leader companies in CLÁR areas to grant money to community projects. I do not make any decisions on such matters. I favour that type of approach.

The rural social scheme has been devolved to the local Leader companies. We could provide lump sums to such bodies and lay down certain criteria on additionality, objectiveness and so on. The type of bodies I envisage being used are VECs, MABs, local social welfare offices which have a good regional network, Leader companies, partnerships and CDPs. Such bodies would make local decisions. If one is to grant funding of €20 million per year one must focus one's priorities. One could, for example, decide to provide €5 million or €6 million for social and economic deprivation and then discover from the Dormant Accounts Fund Disbursement Board that certain things are falling through the cracks and that additionality is important. Suppose it was decided — I intend to do this with RAPID and am merely

using it as an example — that providing kitchens in schools for the provision of hot school meals is important in areas of deprivation. We could then go to the relevant authorities with proposals on the amount of funding required for the year. I favour that type of approach to life. We are not doing away with the dormant accounts board as it is key to the new construction.

Senator McHugh fears what we might do with the fund. However, the dormant accounts board will be tracking our decisions, checking for additions and it will make a detailed assessment report on them. If anyone acted capriciously with the fund, he or she would be worse off than if it had been left to the board. The board would write a strongly critical report that would be highlighted by the Opposition, who, in turn, would highlight it to the media. The media would be delighted to point the finger at politicians, claiming the funds were abused, neither is it the type of issue that would fade away.

The Government and I are committed to probity and good practice with the fund. If not, we will only create an exocet missile that would destroy us. The board and ADM have, within the resources available to them, done as good a job as possible. However, it is not the proper way to disperse the moneys.

I have an aversion to the open advertising method used. Applications amounting to €3 million were received in the first two months of open advertising. If it had been left open until the summer, the figure would now be €3 billion. With the volume of applications received, it is impossible, unless through a lengthy delay, to assess every application individually. I cannot make a value judgment on the decisions already made. I raised the legitimate question about sustainability because so much of the fund has gone into cover money. I would prefer a more focused approach that addresses issues not normally tackled by mainstream funding.

I receive many delegations from the voluntary sector. Those doing good work in the sector are honest people. However, for one reason or another, some voluntary groups have not kept within budget. One can take the schoolmaster approach by advising them that budgets were allocated and they must be kept. Yesterday, along with Deputies from three different parties, I received a delegation involved in youth work. The group is short a small amount of money, some 10% of its budget, and requested assistance from me. I explained that if I were to do something, I would have to be equal to everybody. However, the human side of me acknowledged the group's hard work and that, due mainly to accounting inexperience, it had made some mistakes leading to the shortfall. No Member would advocate the closure of groups in such circumstances. I try to see if some action can be taken within the set criteria and, after a rap across the knuckles, the group is told to stay within budget for the following year. No state can be run on the

[Éamon Ó Cuív.]

basis that groups such as this are forced to close because they fail to adhere to established criteria.

We need departmental officials to be human yet make accountable and reasonable decisions. As well as the normal criteria, there is now more accountability in the public service such as internal and external audits. I have one final and simple test for any decision I make on funding. Will the Opposition criticise me for making an incorrect decision? If I believe the Opposition could sustain such criticisms, I would not make the decision. Our positions have an important part to play in ensuring everything is done properly. I, as a Minister, do not want the Opposition accusing me in the House that I gave out moneys unfairly. I always want to sustain my argument by showing the rationale behind what I did, while being as objective as humanly possible and following good procedures.

I oppose this amendment. We are not doing away with the board. If we were to do what Senator McHugh fears we might, the board would have much to say about it, giving the Opposition the most valuable ammunition on this side of an election. That is not our intention. We intend to spend these moneys, subject to the board's plans, in a focused way, using all the mechanisms of State and, where appropriate, devolving the mechanisms, selection, etc., to the lowest level possible.

Mr. McHugh: I will take the blame if an argument straying from the amendment arises. I am delighted the Minister said there is too much emphasis on reports and paperwork. Too much money, energy, expertise and time is spent on compiling reports of which the biggest culprit is FÁS. A supervisor running a community employment scheme, in tracking 15 participants, must produce progression reports from training to employment involving reams of paper. These reams go only as far as the regional FÁS centre and no further. Where is the link between this, the central FÁS system and the Department of Social and Family Affairs?

With regard to the two to three year projects, I believe the Minister was alluding to the social economy scheme. The scheme was established with the intention of projects becoming sustainable after two to three years. However, it was based on a European think tank's argument that sought to encourage people with social entrepreneurship skills to get involved. That did not happen. The social economy scheme duplicated the community employment scheme. As we all know, community employment schemes are not sustainable but are provided as a first step in the ultimate progression of a participant to the workforce. The problem was at the initial forward planning stage when the necessary homework was not carried out by the relevant Department. While I accept I am being parochial in my reference to Inishowen and have no doubt that Deputy Keaveney has by now hammered down

the Minister's door, the social economy scheme in the area is merely serving as a community employment scheme. The scheme is not to blame. The problem lies in the failure to do the homework in the first instance.

Amendment, by leave, withdrawn.

Mr. Ryan: I move amendment No. 2:

In page 5, between lines 5 and 6, to insert the following:

“(a) to establish transparent criteria for the disbursement of funds under the *Dormant Accounts Acts 2001 to 2004*,”.

Is oth liom a rá nach ndúras é seo nuair a sheas suas den chéad uair. Dúras leis an Aire go príobháideach é, ach ba mhaith liom é a rá go poiblí go bhfuil sé go breá a fheiscint go bhfuil sé tagtha chuige féin anois arís agus nár tharla aon damáiste fadtéarmach dó. Tá mé buíoch, agus bainimid go léir sásamh as é a fheiscint ina sheasamh agus ina fhear éifeachtach arís. I apologise for not saying that at the outset. It was an omission on my part. I am glad to see the Minister here.

The amendment is self-explanatory. I concede the Minister has made significant efforts in his amendments to make his original proposal consistent with the criteria to which he has referred today and during the last debate. I am not at all sure the criteria for disbursement should be established by the Department rather than by the board. Whatever about the power to make decisions on disbursement, I am not sure it is a good division of functions to also provide the Department with responsibility for outlining the eligibility criteria. While I am not persuaded of the fundamental merits of his case, even if one accepts the Minister's contention that the Department should be the body which makes evaluations on the basis of the criteria, it is not obvious why the establishment of criteria should not remain a function of the board.

Mr. McHugh: I second the amendment.

Éamon Ó Cuív: Government amendment No. 14 will address the matter. The plan as presented to the board was quite generous, but we did not determine that the board would establish the criteria. The criteria under discussion will be very tight. While the board can write the plan in whatever way it wants, I may be required to make new decisions. The CLÁR scheme is typical in the tightness of the criteria which apply. Whereas the Department makes decisions on, for example, class 3 roads which might have 65 year old persons living on them, the board has not wished to involve itself in detail of that sort in its operations. The importance we attach to establishing detailed criteria to ensure the focus is right to target funds where we mean them to apply is very much in keeping with the spirit of Senator Ryan's concerns. If the criteria were written in the plan,

it would be voluminous and rewriting it in the event that the criteria had to be amended would be very tedious.

At times, things do not work out as simply as one originally expects. There was a year when I had a bit of money in the Department and we decided to fund the improvement of small country roads. It was a very simple operation. Funding was allocated to county councils on the basis of the population of each county and we indicated that no more than €20,000 should be spent per boreen. The scheme was aimed at those dead-end roads on which older people live and which are never the subject of improvement works. Any rural person could empathise with that objective. When the scheme was operating, Leitrim County Council contacted me to tell me it had a problem. While we had provided the council with overall funding of approximately €200,000, it had encountered a small bridge into a village which it would take €80,000 to improve. It was made of timber and was liable to be washed away in a flood. The county council wanted to know if it could spend four allocations of €20,000 on the bridge as it was not possible to improve one quarter of the bridge or to improve the entire structure over a four year period. The Department rewrote the criteria to maintain the existing funding provisions except in the case of a small bridge on a class 3 road. A county council can now improve a bridge in substitution for other works, even if it is required to spend more than €20,000.

We made an adult, rational decision in that instance. While local authorities were not being provided with a greater overall funding allocation, they were empowered to decide how to spend money. The reason I provided for allocations of €20,000 per road in the first place is that I have a suspicion about county engineers. They would rather build a motorway than a boreen or a large boreen than a small one. My intention was to focus on small, dead-end roads on which older people tend to live and which are never improved. While I was caught out by the criteria I had originally established, I could amend them openly and transparently.

While we are in broad agreement with Senator Ryan, it would not be useful to provide for circumstances in which an entire plan would have to be rewritten. I assure the Senator that the criteria will be published to allow everyone to know what they are. However, as it is very difficult to foresee every eventuality, I must have a mechanism to address a scenario in which matters do not work out the way we think they will. We must be able to change the criteria openly, transparently and fairly without having to rewrite the whole plan. That is the reason for the approach we are taking.

Acting Chairman: I was present at the opening of the bridge about which the Minister spoke. It is now referred to as Droichead de Valera. Is the amendment being pressed?

Mr. Ryan: I should reprimand the Chair, but I will not. The Minister made a plausible case. As we will encounter these matters again, I see no point in pushing them any further. We will come back to it.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

Acting Chairman: Amendments Nos. 4 and 7 to 11, inclusive, are related and may be discussed together, by agreement.

Mr. Ryan: I move amendment No. 4:

In page 5, to delete lines 7 to 10 and substitute the following:

“(a) to prepare, approve and carry out a plan for the disbursement of moneys under Part 6, in accordance with the criteria established by it.”.

While I am notorious for my sensitivities on the grouping of amendments, on this occasion I am agreeable. The amendments under discussion address the nub of the issue, which is the delineation between the role of the board and the role of the Department. I could take up time by repeating myself, but as I expect we will return to these matters when we discuss section 8, I will simply withdraw the amendment.

Mr. McHugh: I second the amendment.

Éamon Ó Cuív: As long as I am Minister, I will be willing to continue to do something I consider to be very important. Every year, the Dormant Accounts Fund Disbursement Board produces a report. On its publication, it is fair for the holder of my office to come to the House to respond to a debate and provide a forum in which it can be seen whether the Government has lived up to its promises or if the worries of Members are substantiated.

Acting Chairman: Will Senator Ryan also be withdrawing amendments Nos. 7 to 11, inclusive? He has an opportunity to discuss them with amendment No. 4.

Mr. Ryan: Perhaps I was a little premature in withdrawing my amendment. It will not be discussed now. I have no control over any of Senator McHugh's amendments—

Acting Chairman: You could hold discussion of them until we reach amendment No. 7.

Mr. Ryan: I normally understand procedure fully—

Acting Chairman: My understanding is that as amendment No. 4 is being withdrawn, amendments Nos. 7 to 10, inclusive, have not been discussed. Do you want to discuss those amend-

[Acting Chairman.]
ments in a group beginning with amendment No. 7?

Mr. Ryan: Yes.

Amendment, by leave, withdrawn.

Mr. Ryan: I move amendment No. 5:

In page 5, between lines 10 to 11, to insert the following:

“(b) to prepare and approve detailed proposals for disbursement under the *Dormant Accounts Acts 2001 to 2004*,”.

I move this amendment to avoid complications. I welcome what the Minister said about the report of the dormant accounts board being discussed in the House and invite him to consider, not necessarily here but before the Bill is passed by the Oireachtas, inserting a formulation of words in the legislation to ensure the report is laid before the Houses of the Oireachtas and debated. It is not that I distrust people when they say they will do something. Most Ministers who come into this House say that with the best of intentions but things can get lost in the mists of time and it is necessary to have a requirement in the legislation that the report be laid before the Houses and debated in the House, although not before a joint committee.

Despite my high opinion of joint committees, issues do not get noticed much in them and they often discuss issues without the presence of the Minister, although officials from the Department may be present. It is a question of ultimate political accountability, which would not be the case if the dormant accounts board met the appropriate Oireachtas committee. Members of such committees usually feel, even if they are not so precluded, they should not be too critical of Ministers whereas many of us in this House do not have the same inhibitions. A debate in the Oireachtas, therefore, would be useful. I take the opportunity, in moving the amendment, to invite the Minister to further pursue what he has already indicated he would like to do.

Mr. McHugh: I second the amendment.

Éamon Ó Cuív: Section 9(4) provides that, as soon as practical after receiving the board's report, the Minister shall cause copies of the report to be laid before each House of the Oireachtas. My understanding is that the mechanism of asking somebody to come into the Houses is one for the Houses themselves. I assure the Senator, however, that having laid the report it would be a foolish Minister who would allow a debate without affording himself or herself the right to reply if invited to do so.

Amendment, by leave, withdrawn.

Government amendment No. 6:

In page 5, between lines 42 and 43, to insert the following:

“(3) Not fewer than 4 of the 10 ordinary members appointed under this section are to be persons who—

(a) in the Minister's opinion, have knowledge of, and experience relating to, the purposes for which disbursements may be made under section 41, and

(b) are appointed following consideration by the Minister of any submissions received in response to a published notice indicating that appointments will be made to the Board and inviting recommendations relating to those appointments.”.

Éamon Ó Cuív: An issue was raised on Committee Stage about appointment of members and this amendment deals with that aspect. The purpose of the amendment is to ensure that groups working in the area of tackling disadvantage and with persons with a disability have the opportunity to make submissions concerning the appointment of four of the ten ordinary members to the board. I have never been keen on members to boards representing an organisation because once they go on the board they must represent the board. I might not be right in that view. I might not be going with what is now considered the prevailing wisdom, but in an effort to take on board the points made on Committee Stage we suggest that submissions should be taken on four of the ten ordinary members and that they would be considered in making appointments.

Mr. Ryan: I welcome the amendment. As a matter of practice I am unhappy with the phrase, “the Minister's opinion”, whenever it arises. The Minister's opinion is unchallengeable. He is entitled to his opinion. If the reference was to “the Minister's judgment” or “if the Minister was satisfied”, it would be capable of some judicial test, although I am not suggesting one would want to do that, as to how the Minister was satisfied or came to a particular judgment. The phrase “in the Minister's opinion” appears to have been inserted by the Parliamentary Counsel to ensure that whatever the Minister does is unchallengeable. The Minister can have a perverse opinion — I do not refer to this Minister — but as long as he has an opinion he can do it. For example, if the Minister wanted to appoint someone he knew to the board and that person had worked with the homeless, having spent a week 20 years ago working with the Simon Community — I know something about this area — the Minister could decide it was his opinion that this person had knowledge and experience relating to that area. It would be a perverse opinion but because the phrase is “the Minister's opinion” and not “the Minister's reasonable judgment” or anything like that, there is nothing anybody could do about it. Therefore, the Minister would not be in a posi-

tion to be held to account, other than people like myself giving out about him. The phrase “in the Minister’s opinion” is unsatisfactory in legislation because it does not bind the Minister to anything other than saying “I think”, and Ministers should be a little more accountable than that.

Mr. McHugh: I concur with Senator Ryan. The Minister summed up his own stand on this issue in seeking the allocation and disbursement of money to be done on a transparent basis. We are all in the game of protecting ourselves and not putting ourselves in a compromising position. The Minister should not put himself in a compromising position. He should delegate the task of appointments to somebody else, be it the head of CDBs or certain partnerships, agencies or whatever. This wording will put the Minister in a compromising position. Discretion does not come into the question of accountability and transparency and the Minister would be putting himself into a dangerous position if this is included.

Labhrás Ó Murchú: Deputy Ryan said he was not referring to the incumbent in the office, and we have had glowing commendations for the Minister today. The Minister has an excellent record in meeting with the various groups involved in community and other development work throughout the country. It is clear that in this case the Minister would have an excellent knowledge of what was happening in the field. Deputy McHugh was generous in suggesting the Minister would avoid compromise but there is no doubt he is a courageous man, and it is not just this Minister we are talking about but future Ministers.

We have to examine our own positions as Senators or Deputies because we could eventually reach a stage where we could become impotent in the context of our interaction and involvement in decision making. We have to be careful in that regard. In terms of this and other legislation we are constantly putting pieces of a jigsaw puzzle together which provides greater transparency and accountability. The public expects that from us and it is right that we do that. That arises from healthy debate but it would be wrong of us to think that we are politically correct in avoiding all types of decision making and responsibility. After all, a Minister has to first win his position on the hustings and then in terms of his own capability and knowledge of the portfolio. We have a fairly good system and there will always be checks and balances involved in terms of any discussion that will take place subsequently at the reporting stage.

Earlier, the Minister made clear the greatest check and balance is the ballot box in terms of whether one has fulfilled one’s role diligently and fairly. It must be accepted our Ministers are generally of high calibre and we should have confidence in them to do what is right and equitable, no matter which Government is in power.

3 o'clock

Mr. U. Burke: When the Minister advertises for nominations from community and interest groups, would it be more appropriate that such nominations should be made to him by these groups so that he could then make the appointments with due caution rather than adopting the *modus operandi* he proposes? A Minister should not put himself or herself in that position and it would be much fairer if the groups knew their interests would be articulated satisfactorily on their behalf. The Minister stated that when the representatives are appointed they become board members and work on behalf of the board, not the community or interest groups. Such groups should make nominations for the Minister’s approval rather than us accepting this amendment.

Éamon Ó Cuív: With regard to Senator Ryan’s question, the wording is drafted in accordance with legal advice. I am not sure it is a positive development but we have become technocratic about procedures. I am always reminded of a version I saw of the play, “A Man For All Seasons”, in which a commentator represented the common person. It is important that boards are not peopled with appointees who have PhDs, DLits, DScs and so on. They are fine people in their own right but sometimes they lack a feel for issues on the ground. We have probably gone from one extreme to the other in this regard in recent years.

Appointing boards is tricky. I will soon appoint two new boards and it is always a difficult process. I try to consider many criteria such as gender balance, which is important. Certain boards need a geographic balance or a skills balance or, sometimes, a linguistic balance. However, the most fundamental element is the likely contribution of a person to the aims and interests of the board rather than the pursuit of sectional interests.

I sometimes make discreet inquiries when a board has been in place for a while as to who attends meetings and makes good, constructive contributions. That is always interesting. Occasionally I will receive a positive telephone call and somebody will sell himself or herself regarding commitment, ideas and approach. When appointed, he or she thinks outside the box and takes issues forward in a sensible manner, whereas other appointees are journeymen, attending meetings, drawing a stipend but not making a contribution. However, there is no relationship between the academic qualifications of an individual or his or her professional work and the contribution he or she makes to a board. In most cases inherent commitment to the job in hand and belief in what the board was set up to do, and its delivery, determines performance but that is difficult to measure.

Qualifications in their widest sense are important. An appointee may never have worked in the headquarters of a major national community organisation but he or she may have been

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involved within his or her parish for 30 or 40 years in development in a selfless way by putting in time, effort, money and know-how on the ground. Experts are needed on such boards but a mixture of people must be appointed.

With the exception of Senator Ulick Burke's proposal, none of the others would *per se* take away the need for judgment. Somebody must make a judgment. Does the Minister or a group such as a community development programme make it in the final analysis? If the chairpersons of CDPs made the decisions, nobody would believe the Minister failed to get to them even if he or she did not go near them because people tend to believe what they want. If they make a bad call, they cannot be called before the House to be asked what the hell they are at, unlike the Minister.

The party politics in which we are engaged is tuppence ha'penny stuff compared with academic politics. The president of a university college stated the difference between party politics and academic politics is that in party politics one is stabbed in the back whereas in academic politics one is stabbed in the front. I do not know whether that is bad because I have never been in academia.

Mr. U. Burke: Has the Minister been stabbed?

Éamon Ó Cuív: Not yet. Anybody who thinks lobbying of a board does not take place because it is one remove from a Minister has never experienced the worlds of academia and voluntary organisations. People will be accountable at least under this legislation.

There is two problems with Senator Ulick Burke's proposal, which crop up now and again. If all the CDPs were given a right to nominate somebody to the board, he or she would become their prisoner. If money is allocated to a partnership, he or she will be questioned as to why he or she did not ensure the money was allocated to the CDP rather than the partnership. There is a tendency for that to happen and I am not enamoured with boards to whom people are appointed in this manner because the person becomes a prisoner of the organisation that nominates him or her. The second problem is that the person is a nominee of the community development programme, CDP. Does this mean that every time the board is making a recommendation on something to do with CDPs, the CDP nominee must vacate the room?

The third issue is a strange by-product of nominees. Remember, for example, when we considered the issue of the number of women on boards and the Department with the worst record. We were ready to berate our colleagues for having so few women on boards, but before we could do so they pointed out that the matter was not so simple because if we removed the ministerial nominees where the balance was right with the 40% minimum, the balance of nomi-

nations to the board tended to be men which often left a skewed board in terms of gender equity. If nominations are to come from different groups, we cannot prescribe alternate male or female nominees for each group. Neither can we say we will put in half a woman and half a man where there is only one nomination to be made. This issue is a problem.

Mr. U. Burke: It is dangerous ground.

Éamon Ó Cuív: It is very dangerous ground. It is also dangerous to ignore the desire and need for proper representation of women on boards. If the Senators were Ministers, I would prefer them to be doing the nominations, subject to what is being imposed today, rather than some distant body that I think would be much easier manipulated than any Minister. We are elected to make decisions. We should make them wisely and, if we get them wrong, be held to account. We are at least accountable to the electorate. Other people are not accountable in that way. In the interest of accountability I ask the Senators to accept the layout proposed.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 7 to 11, inclusive, are related and will be discussed together by agreement. Is that agreed? Agreed.

Mr. Ryan: I move amendment No. 7:

In page 10, line 20, to delete "Minister" and substitute "Board".

This may be repetitious as we discussed some of this before. The issue is difficult because the Minister has made a genuine effort to listen and respond to what was said here on Committee Stage. However, there is genuine unease that the decision on the allocation of funds will be a political decision.

The Minister has a plausible case. When the Minister first spoke this afternoon he gave a list of criteria for how funding like this should be used with which everybody would agree. Unfortunately, experience is that there are many well publicised cases where what we thought were fixed criteria were not adhered to, for example, Punctestown and a well-known marina. I am more on the side of politics than on the side of delegating everybody. I have spoken frequently about the "tyranny of experts" and claim ownership of that phrase. It is dangerous to allow such tyranny. I do not believe in technocratic government.

I have some sympathy with the Minister's view. However, we all know of some of the strange appointments to public bodies, not all by Fianna Fáil but it has been in Government more than anybody else and tends to make more appointments than any of us. People have been appointed to various bodies over the years by various Governments, but only a Minister with his eyes shut could be of the opinion that they had a

particular expertise in the area. Their expertise was often their expertise at looking after the Minister's political interests on the board. That is the problem with this issue of transferring the funds.

I see many advantages in the framework outlined by the Minister. However, it is less likely, and will continue to be less likely, that an independent board could be overridden in the way a group of civil servants of the highest integrity could be bypassed. We have ample evidence of this, even in the Department which is meant to monitor all the rest, the Department of Finance. There, the will of the Minister, as we know, bypassed the criteria the Department had set up for evaluating funding. I do not want to get into a cynical argument about that, but this is a genuine issue.

I accept the Minister's point that sometimes political interference might be necessary to put some humanity into the matter. However, in the two cases I mentioned, we can see no justification for the way in which the established criteria were ignored other than political advantage for the Ministers in question. It was good for them politically to do what they did.

If the Minister is determined to do it his way, it behoves him to give us some reason to believe that under similar pressures of political exigency, Ministers will not bypass all his fine criteria and use funds from the dormant accounts fund and take the consequences afterwards. All he said, and all the contumely from the Opposition was directed at the heads of the Ministers who behaved that way, but little difference did it make — one of them is now a European Commissioner.

The Opposition has a function. Good public administration also has a function. I am not convinced that any system — I accept the Minister has endeavoured to improve it — which leaves the decision within the direct political process can ever be as transparent or as guaranteed to be independent as public body boards. I am not so naive as to believe that these boards are entirely independent of political pressure. However, the extra barriers reduce the possibilities of arbitrary political interference. We have plentiful evidence of arbitrary political interference, but that is what the Minister says will not happen. I cannot see how he can ever put together an administrative and decision-making system which will not be effectively the same as the board — even if it was in his Department — which would guarantee the absence of arbitrary interference. That is why, however we work through this — this arises also under section 8 — the fundamental issue remains regarding how we can give an absolute guarantee of absence of capricious political interference once the decision is within the remit of the Minister.

Mr. McHugh: I second the amendment.

Éamon Ó Cuív: There is an extra element here. The criteria laid down for the board as it is were

very general when the advertisement was placed in the newspapers last year. They were so general that it is a matter of judgment for ADM as to what is in and what is out. The advertisement was in no way specific and every position came under the one advertisement.

We are trying to move away from that to a more constrained situation with more detailed criteria. We have written that into the Bill through an amendment.

Suppose we did what the Senator suggests we should do. He mentioned several cases where he believes criteria were not followed.

Mr. Ryan: It is a fact that they were not followed.

Éamon Ó Cuív: If that were to happen in this case, does the Deputy not think there would be a danger of the board resigning due to the Minister not applying the plan? That would happen if it thought the Minister had gone off the rails. If the board resigned, one would be in right trouble.

The group has to write a report examining the criteria and each decision to see if it was made strictly according to those criteria and if the criteria fulfil the remit of the plan in terms of additionality and so on. There is limited room for manoeuvre.

One other thing which I have often said is that I may be working in a strange Department. One feature that has been a hallmark of my tenure in the Department since 2002 has been an incredibly strict adherence to good governance criteria. Incredibly detailed audits have been carried out to assess if any loopholes exist, even for schemes that already have detailed criteria.

I do not make most of the decisions. Mechanisms are in place to assess criteria according to which decisions are made. We check to ensure there are no loopholes in the system by which a decision we make could be misused. We examine all the procedures right down to payments.

We have consistently tried to implement systems as regards all our procedures during the past two years. Some schemes in my Department go back to the 1950s. Many good decisions have been made. Receiving bodies tended to prefer the Department to make decisions rather than semi-State agencies that subsequently took over responsibility in some areas. However, I agree decisions were made more in the style of the 1950s than the new millennium. We are now trying to implement systems so there is much greater transparency as to how the process is carried out. We have been most assiduous in trying to have an open, transparent and fair system.

I envisage the dormant accounts fund being administered according to very strict criteria that would not be changed unless something proved to be stupid. One has to have discretion in terms of the Department's Vote. We could debate the matter *ad nauseam* but Departments in general have to run and work towards clear criteria. However, they must also have an ability to deal

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with the unexpected, such as a problem where an employee in a voluntary body was not very efficient which resulted in the body running into financial trouble. I speak about the Department, not the fund, which is one-off money.

Does one close down such a body? The Department should have the ability to deal with such cases; the dormant accounts fund should not bail them out. The fund should be used to do things which are clearly additional, that are not done by the State system. I refer to such areas as disability, educational disadvantage and social and economic disadvantage. The schemes should be fairly rigid and fixed.

In cases where people get into trouble, it would be at the discretion of the Department to deal with them. I speak in the wider sense, as Departments must work to criteria. However, there should be some facility within those criteria to deal with unexpected matters and human frailty, not within the Department but outside it.

We are all aware of community groups which took on employees but it did not work out. We have plenty of small groups with one or two employees. If the head employee is not very effective and leaves after six months he or she often leaves a mess behind. I cannot say that was tough luck to that community. The Department should have discretion to make tricky decisions, with which I believe all sides of the House would agree, especially if a group has dealt with its problems. I do not envisage the dormant accounts fund being used in that way. It should be applied in a very strict and focused way that is clearly additional. If that is not the case, the dormant accounts board would certainly have the upper hand on us. The one point that has been forgotten is that the board is not going away, it will remain in place and it will be able to exert a significant moral authority if what we say here is not complied with to the letter of the law.

I recall this same debate taking place in regard to An Coimisinéir Teanga and the Ombudsman. People said they would have no power. I count up the Ombudsman's complaints to my Department because it does not please us when complaints are made to the Ombudsman. If they are upheld we feel it points to a system's failure on our part. Similarly, if the board were to come back with a stinker of a report that would reflect badly on the political system.

Mr. Ryan: The Minister made a sincere and plausible case. I do not wish to get involved in an argument with him, but the truth is that if one looks at section 8, which we will come to later, the disbursement will not be decided by a system within the Department, it will be decided on the basis of a recommendation to Government which the Government may approve, with or without amendment. I have no problem accepting that a system will be devised within the Department which might well construct a set of rigorous criteria — I prefer the term “rigorous” to “rigid”

— for the disbursement. However, there is nothing in the legislation to prevent the Government deciding to ignore one of those and slip €100,000 to somebody's pet project, which might not meet any of the criteria. If there is such a provision I missed it.

The Minister would have a valid point if this were an issue decided by a professional, skilled unit within the Department operating according to transparent criteria that everybody could see. All that professionalism is not binding on Government. Why does the matter go to Government to be filleted if it wishes? I do not say that will be the case, but why should it go to Government? The Minister will probably have to wait, given the way we deal with Report Stage. That is why I will not withdraw the amendment.

Question, “That the word proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Mr. Ryan: I move amendment No. 8:

In page 11, lines 1 and 2, to delete “submit to the Minister” and substitute “approve”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Mr. Ryan: I move amendment No. 9:

In page 11, line 43, to delete “by the Minister”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Amendment No. 10 not moved.

Mr. Ryan: I move amendment No. 11:

In page 11, line 43, to delete “by the Minister”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Bill recommitted in respect of amendments Nos. 12 to 36, inclusive.

An Cathaoirleach: Amendments Nos. 12 to 24, inclusive, are related and may be discussed together by agreement.

Mr. McHugh: I move amendment No. 12:

In page 12, to delete lines 8 to 29.

A great deal of information is contained in these amendments. They return us to the issue of funding distribution and the so-called board. I still have suspicions about and problems with who will

be accountable and in who will have discretion in regard to the distribution of money. My fear is that this board will be established as a dummy, which merely fulfils the provisions of the Dormant Accounts Act for its own sake. All the indications are that the disbursement of the money will be at the discretion of the Minister for Community, Rural and Gaeltacht Affairs and his Cabinet colleagues on the basis of recommendations from the board.

The Minister agreed with me that there should be more regional governance because the system is very centralised at present. In that context, an opportunity was missed in the provision of powers to this board. A decentralised regional board could have been provided for, which would represent all the regions. On a board of ten members, will Cork, south Kerry, north-west Donegal or Louth be represented? I am not being parochial, rather I want to do justice to the thinking which is being undertaken by people on the ground. Leaving aside the specifics of Donegal, a sort of north-west regional think tank has developed in this regard. Will this area be represented on the board and, if it is, what powers will any representative have in directing funds to his or her own region?

The Minister stated that three criteria will be strictly adhered to in the allocation of funding, namely, socio-economic disadvantage, educational disadvantage and educational disability disadvantage. As the Minister knows, these criteria cover every type of activity from setting up an egg hatchery to developing an ostrich racecourse. Economic and social disadvantage covers everything and creates a window of opportunity for the Cabinet to consider every project which lands on its desk as eligible for dormant accounts funding. There is no restriction in terms of what will be funded and what will not.

At the outset of this debate, I referred to a deeper malaise which still exists, in regard to which an opportunity was missed in the provisions to establish this board. If we decide to nominate a board, which makes recommendations and proposals to the Cabinet, one-off grants will be awarded, for example, €100,000 to group A or €200,000 to group B, which will only gratify short-term needs but go no way to addressing the long-term sustainability of projects. Perhaps this money would be better used to examine regional governance and how we could give more control and autonomy to the major players outside our centralised Government, which Senator Ryan described as a Stalinist-type system.

This is a stop-gap measure which will be politicised and the Minister knows in his heart that is the case, although he will not say so on the record. I acknowledge that the Minister is genuine in his intentions, as Senator Ryan has stated, but the system will be politicised at the Cabinet table and will be used in a manner which will provide no long-term benefit to the projects which receive the funding in the short term. It is

no different from national lottery funding, the only benefit of which is that capital projects have been invested in. However, in terms of the money being well-spent and in terms of value for money, my colleagues in Fine Gael and I have a serious problem with the establishment of this board.

Mr. Ryan: As Senator McHugh stated, many issues are raised in the amendments and I look forward to hearing the Minister's response to them. When he addresses his own amendments, will he explain why we need the subsections of section 8 which form the new Part 6 of the original Act? Given his eloquent sincerity about the decentralisation of decision making, why does he propose to provide that the disbursement of sums of money, which could be as small as €50,000 or less, has to go before the Cabinet? I used the term "Stalinism" in the sense that it relates to a belief that centralised governance is better. Even in my worst moments, I would not accuse the Government of any of the social manifestations of Stalinism, but rather refer to a belief that the centre knows best. That sort of centralisation impacts on Dublin as much as it does on Donegal. For example, officials on Dublin City Council must wait for officials in the Custom House to make decisions about issues relating to Dublin which the first group of officials already know well are the correct decisions.

The convincing construct which the Minister has put together about what he wants to achieve, to which we all subscribe, is based on a belief that there is a better way to do this than through centralisation. I look forward to the Minister telling me why this is the case. I acknowledge there are issues in regard to accountability in respect of public funds. However, if the decision about who is to get money is ultimately a Cabinet one, then with the best will and Government in the world — which we do not have at present — politics will enter into that decision-making process, regardless of which party is in power. If the Labour Party was in Government, I would make the same point. The very act of transmitting the final decision about where money is to be spent into Government hands means that it is, in essence, a political decision.

I have nothing against political decisions and I acknowledge that there is not a political system in the world in which Ministers do not lobby for their pet projects. An example is for a Minister for Health to prioritise a hospital located in his constituency ahead of hospitals located in constituencies which do not have Deputies serving as Ministers. That such activity takes place we all acknowledge. Some of it is admirable and some is less so, but it happens. However, I am now supposed to believe that the €200 million or €300 million will be brought before the Cabinet according to wonderfully precise criteria, will be considered for a decision with the Government authorised to amend it, and the Government will state that it wants to be seen to be above all that and nod it through. If that was what the Govern-

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ment was going to do, we would not seek to bring it to the Government in the first place.

Labhrás Ó Murchú: Some of the issues raised by Senator McHugh would apply to any aspect of government or administration. By querying what role each individual member would have on the board and to what extent they could influence it, he is suggesting members might be able to influence a decision as to grant money to his or her own region. I presume the board members will have an opportunity, based on what is before them, to put forward their views based on their knowledge of their region. That would apply to any board or council and I cannot see that it would be any different in the disbursements board. I presume he was trying to tease out whether there would be a difference there and I imagine that there would not be.

On the points raised by Senator Ryan, it is wrong to equate Dublin, the seat of Government, the seat of the Civil Service or the seat of Cabinet in some way with general centralisation. We must accept that the board could just as easily be sitting in Galway or in Cashel, where they would be welcome. That is not the issue. The main issue is whether they have at their disposal what is required to make good and fair decisions. That is the final part of the decision-making process.

The most important part of any decision-making process is the application. If I have observed a difficulty in accessing funds over the years, it is the difficulty people experience filling in an application form and making their case, putting in the buzz words and touching all the right pulses. I know of good projects that could have been very successful if the applicants were good at that and I know of bad projects that may have succeeded as a result of the applicants being able to fill in that application form. I would go back three or four steps and in some way, if possible within the process, provide assistance for people. The Minister touched on this earlier when he spoke of academia, referring to ten people with academic qualifications on a board. On the other hand, he is not arguing against academic qualifications. He is saying there are practitioners who may not have academic qualifications who are highly experienced, highly motivated, well thought of in their community, able to motivate other people and who have a vision. All of those elements do not necessarily come under the heading of academic qualification but translating all of those positive elements onto an application form is difficult.

I wonder whether part of a process could involve an oral extension to an application form. I acknowledge it can seem laborious but there could even be a shortlist process. I am assuming now that there will not be an assessment on the ground. If there is such assessment, then there is a possibility of interacting with the people making the application and finding out exactly what they are suggesting. My biggest fear would not be at

the board level or, indeed, at Government level because that is the final part of the process.

We must be fair to the subject before us and realise that exactly the same discussions could take place on the disbursement of any funds. From where Senator Ryan is coming, however, let us show good example in this particular case. Maybe the good example is coming from the Minister. It is quite clear in his contributions. He is passionate about this. I do not believe it is just rhetoric and I know that from experience. He is quite passionate about allaying the fears we have been hearing for the simple reason that if he never heard them, he himself would be aware of them and would be determined to ensure that there would be value for money.

Senator McHugh made a point about continuation. This is also true of most capital funding, in particular. One must be very sure, having secured the capital funding, matching funds, etc., that one is capable of sustaining the project concerned. Although I may be wrong, this is not meant as the be all and end all. It is one element. It could be the very element and salvation a project would need. The important point is that it is spending focused on areas. It is precisely what Senator McHugh has been saying. He is only echoing the intention of the process, that is, to help those who are most in need and those who are able to use that funding. In itself, the fact that it may not be the totality of what is required, but one element of it, should not be an obstacle to its progress.

There are other areas where people can access funds and often there may be a shortfall. By its nature, a project may not fit fully under another heading. This, in many ways, can be the lever required. Although "partnership" is a misused and over used word, it applies here from top to bottom in that partnership looks at the community. The Government must see itself in partnership. Even ADM Limited and the board are part of that.

It is also true that all of us will be playing a role as public representatives. We will be hoping to advise and help our communities. Anybody with expertise should be making that available. I have seen that in other areas, particularly in the area of sports grants. How many sports bodies come to us individually and ask for help with the application form so that they can put forward the best case? I would not rule out our own involvement or the role we would play in this.

Mr. U. Burke: Senator Ó Murchú stated the Minister is passionate about most of his deliberations on this Bill. I would agree with him and I know his reason. Why is it necessary to allay fears? Everything I see permeating through sections of the Bill clearly indicates that the Minister will take on board more and more of the decisions. It is good that there is a board, representing the Minister's nominees and other members from the communities. Why is it necessary to sideline that board's effectiveness when everything and anything in the Bill must have the

approval of the Minister, be submitted to the Minister or examined and brought to the Cabinet for final decisions?

The Bill contains a few phrases and I ask the Minister to clarify their meaning. Stating the Minister is “to have regard” is so vague that it could mean anything under the sun, whereas “shall strictly adhere” is very appropriate — that is the most important point of all. Such vagueness could mean anything. To what is the Minister to have regard? It could mean anything in that instance.

Most fair-minded people would be satisfied if they knew that the disbursement of those resources was done initially. There are sections within various Departments where other funds are disbursed, for example, the area of sports grants. There is a section within the Department concerned which makes recommendations on these matters. That process follows strict criteria and procedures as well. In this instance the Minister seems to be bringing back everything to himself for his final approval and decision. It is that matter with which I have taken issue previously; it is unnecessary to have such control. It is unnecessary to state that everything comes back to a Minister for the decision. It shows a lack of trust in the processes that have been undergone. It shows a lack of trust in the capacity and the professionalism of those on the board and other officials who might make the decision. I imagine in this instance that the Minister should be signing off on the work completed by these people. My one fear concerns this control. I can see from where the Minister’s passion comes. It is unnecessary for the Minister to have such control. It shows a lack of confidence in the board he has established and in the people who will have responsibility for assessing according to the precise criteria. Nothing wrong could happen with that process until it is put on the Minister’s or on another Minister’s table for final approval.

Éamon Ó Cuív: On the question of Government approval with or without amendment, I thought long and hard about this issue and I have a certain sympathy with the points expressed by the Senators. However, what I have found is that where one writes something in a very constricted manner, not only does it stop one doing things that would not be desirable but at times it can stop one doing things that are very desirable. A valid question arises and this is the nub of the issue. How one legislates for this is what has been causing me the difficulty.

The Government decided two years ago to spend €30 million. The opening of the process meant that it was taking forever to spend the money and for the reason mentioned by Senator McHugh. The term “social and economic” is so open that the process was swamped with every kind of application all of which had to be considered.

Let us take the case of a decision to spend €20 million in the year 2004. As often happens the

processing within the system was slower than we anticipated. We are coming towards the end of the year and we have a belief that we should still spend the €20 million. Let us take the example of a very tight situation, as happens in my Department, where certain schemes are evaluated and a score is given to each application, not by the Minister but by people distant from the Minister. If the top score is 100 and, for instance, the Department has allocated €3 million to this, that means that every application down to a score of 70 can be funded. We can allow that very good applications were given a score of 60 or 63. At the end of a year there may be €1 million left over. We can decide to reduce the threshold to 60 points to include these applications, in which case whatever schemes score 60 to 70 will be through the hoop.

Mr. U. Burke: The criterion “having regard to” would come into play in that instance.

Éamon Ó Cuív: Yes. There will always be a problem and I do not know how we will legislate because one cannot legislate for every eventuality. I believe the cause of worry is simple. Say, for instance, Senator Ó Murchú has submitted an application and has asked that we turf out Senator Ryan’s application and substitute his one. In reality that is not the kind of decision I make as Minister. The kind of decisions I make are interesting ones such as the one I mentioned about the bridge.

Another interesting decision that comes to mind is the village enhancement scheme under CLÁR. The method is that the local community and Leader company provide one sixth of the funding while the county council and my Department provides one third. However, the Department cannot give its allocation unless all the others have recommended it and if they do so the Department gives it automatically.

A fair question was raised about church carparks in the middle of towns which are often used for public parking Monday to Saturday. Some communities want to use the scheme to deter this use. The question was whether this use was covered by the scheme. I decided that it was covered if the carparks were open to the public every day of the week for other than religious services. I will bow to the views of the local community but somebody had to make the overriding judgment as to the criteria to be used to give a fine call on whether something was private, public or communal. These are the tricky issues. If the criteria is applied to one scheme then they must apply to all. I can think of many situations where this kind of decision-making applies. The one thing we have tried to avoid is making an individual decision. In the case of most of the schemes the individual decision is made by somebody who is not in the Department.

An interesting issue arose this year in the case of the RAPID schemes. We allocated money to each RAPID area implementation team with a

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double lock on the money. The local authority would do the work as it was the property of the local authority but the RAPID committee also had to agree because of the area implementation teams. I intended that it would be used for landscaping or for closing off an alleyway. The AITs were not aware that I intended following up what I called a traffic management scheme for ramps and traffic lights, dishing of pavements for use by disabled people and so on. Some AITs decided to use the money for those kind of things this year and I was asked if I was in agreement. I said if that is what they want to do with the money that is fine, but next year we will have other parallel schemes so they will have the money for the other things next year. When I made that rule for one, I made it for all and I can give the House endless examples. Somebody has to make the final call. I will reconsider this but if there was any way of assuaging fears that the Government might make capricious decisions such as changing orders, rather than make what I would call the rational decision, I would do so.

There is a funny irony to this issue. On the weekend of my recent accident I collected all the papers pertaining to this Bill and went through every amendment tabled by the Opposition to see if I could agree to any of them. Those papers, like everything else, went up in flames but I have a good memory and I could remember quite well——

Mr. U. Burke: The ones closest to his heart.

Éamon Ó Cuív: We had a very productive discussion further in the week on the various issues.

Mr. U. Burke: They were prioritised.

Éamon Ó Cuív: On the question of decision making, the board must have three criteria, namely, appropriate skills, regional balance and gender balance. The next issue is whether it is for capital or current expenditure. It can be for both but in certain ways it lends itself to capital expenditure because capital expenditure by its nature is one-off.

The next issue raised is whether it is for current expenditure. My view is that if we are going to spend it on current programmes, the Government must be aware that when the dormant accounts money runs out it will need to pick up the tab. One cannot start very good schemes, run them for five years and then forget them. The money will eventually run out. The social and economic issue is incredibly wide. I intend to have much more detailed criteria on the operation of the schemes.

I am a little disappointed the original legislation did not place greater emphasis on community because it is argued nowadays that social and economic disadvantage applies to everybody. Last Monday in Galway, disabled people put to me the valid point that they are not seeking to be

boxed out as disabled persons but facilitated to play a full role in the community. The construction of a footpath to enable them to get to a meeting or the erection of traffic lights with special beepers is a mainstream issue, rather than a boxed issue, for disabled people. All traffic lights should have such a facility.

I would like the dormant accounts fund to be focused on the area of community, with special emphasis on people with a social disadvantage and their full integration into communities rather than treating them as separate from the rest of the community. Those of us who live in rural areas view our communities as a totality, consisting of the old, young, disabled and able bodied, rather than as a number of sections. It is a tricky balance.

I am strongly in favour of concentrating on voluntary community school schemes. We should not fall for the argument, for example, that an entrepreneur providing jobs in a RAPID area is entitled to funding because he or she is addressing social disadvantage through job creation. That would be nonsense and a subversion of what has been the purpose of the funds from the outset.

Mr. Ryan: It is fortunate that this group of amendments has been recommitted because it is difficult to discuss them without discussing the section. I understand the reason the Government would have a role in the construction of a scheme. However, the section, as proposed, states: "Applications received in response to applications shall be assessed by and or on behalf of public bodies." I accept the Minister has tabled amendments to make this procedure more transparent, particularly the criteria. The results of the assessments will be passed on to the Minister with a list of the assessed measures — nobody could disagree with that — and, where appropriate, the assessed projects. The results will also include a recommendation and the reasons for the recommendation. The Minister has also tabled an amendment regarding the funds. Once this detailed procedure has been completed, all the details must go before the Government, which can either approve or amend the recommendation without restriction.

This is the first time today I have become a little tetchy. I agree with everything the Minister has said about the approach needed. I know him well and I am aware he believes in good systems. The systems approach is thrown out the window, however, by the blank cheque given to Government to do what it likes with his proposals. The agencies examine the projects, evaluate and cost them etc., after which a submission goes before the Government which can do what it likes without any criteria being applied. Nowhere in the legislation is it indicated that the Government is bound by anything the Minister has outlined today. While the Minister, acting with executive authority in his Department, is bound by the various conditions laid down in the Bill, the collec-

tive Cabinet can do what it likes with his proposals.

I presume the Minister is capable of fighting his corner but the legislation leaves it open to the Minister for Finance, for example, to decide that some of the money should be allocated to projects chosen by his or her Department. The legislation, as framed, does not prevent the Government from driving a coach and four through all the work done properly and scientifically by people of integrity.

If the Minister were to agree to delete the subsection dealing with the bringing of assessments to Government and provide instead that, having obtained the relevant assessments, the money would be disbursed through the Department in accordance with the assessments, I would go some distance to meet him. While I do not agree with him, I could accommodate such an approach. The Bill provides that assessments be brought to Government which can essentially approve, refuse or amend them as it likes. Amendment in this context does not mean replacing commas with full stops but removing or adding to the recommendation as the Government pleases. Unless the Minister writes into the legislation that the Government's role is to ensure the Minister operates in accordance with the criteria laid down in the legislation, he will leave it wide open to the Government, under political pressure, to decide to ignore the recommendations and do as it wishes as regards needs which cannot be met out of taxation. Perhaps the Minister will indicate whether I am wrong.

Mr. McHugh: The Minister makes a plausible case and I do not believe he is being devious or trying to mislead Senators. As Senator Ryan stated, he is genuinely trying to map out the way forward and I agree with much of his language and many of his hypotheses. The bottom line, however, is that this dormant accounts fund will be a slush fund subject to ministerial approval at Cabinet level. It flies in the face of the approach taken by the Taoiseach who has always been an advocate of partnership. I agree with the Taoiseach's vision of partnership and multi-agency and inter-agency approaches as the way forward.

I advocate regionalising, decentralising spending and empowering the respective agencies in the regions. The real skill lies in tying together the different tiers, whether at agency level or among the voluntary or community groups, in a longitudinal way as opposed to taking a centralised, vertical approach. The public is sick to the teeth of vertical funding of projects, one-off allocations, slush funds and stopgap measures to appease certain groups and the wider electorate.

In the past fortnight, the Taoiseach and the Ministers for Arts, Sport and Tourism and Health and Children have visited County Donegal. I know the political reasons for their visits. Their job was to meet and appease certain groups by providing them with one-off funding and grants.

These groups are fighting hard and lonely battles to try to mainstream their projects and form some kind of sustainable future for them. The Minister knows the public is sick of this type of distribution of funds. People are sick of the politicisation of grant aid with funds allocated to groups subject to ministerial approval.

While the Dormant Accounts Fund Disbursement Board will still be in place, it will not decide where the money goes. The Minister agreed that an inter-agency approach is the way forward. We need longitudinal thinking, rather than a vertical handout mentality.

The public will give out to Opposition parties and politicians, saying it is terrible certain groups get funding while others do not. They will claim there is no planning or preparation with regard to funding allocation. However, the public fall for it every single time, which is why the system still operates. Slush funds work politically because the public fall for them before elections, remember them for approximately six months and forget about them after a year. Perhaps it is a sad reality of human nature, but the way to counteract this is to have a more accountable, transparent system where funds are distributed through State agencies using an organised inter-agency approach and not through the Cabinet in a centralised manner.

Éamon Ó Cuív: My experience of various organisations over the years is that when one takes out the political process they become over-cautious, over-regulated and unable to deal with the realities of people's lives. A wise civil servant, whom I admired and who could be strict, always warned people about dangers. Once, in Northern Ireland, he said to me, "The reality is, you cannot survive without us." The public service cannot survive without politicians either. This happened in the Northern Ireland administration over the years as it continually slowed down because of too much caution.

When I was first nominated as a Minister of State in 1997, I felt certain measures should be taken with regard to the Gaeltacht. I hope I have since carried them out in a fair and transparent manner. I approached these matters in a gung-ho fashion. At times advice was given that the then Department of the Environment and Local Government should be responsible for roads. Of course it should have been responsible, but it was not. Perhaps the Department of Arts, Sport and Tourism should have been responsible for sports, community and Gaeltacht facilities, but it was not. I felt my job was to ensure these matters were looked after, but not on a partisan basis. Areas are now getting water as a result of the CLÁR programme, and it is a fair, transparent and equal process for all. These areas would not have had a chance of piped water and a public water scheme under the normal conventional and conservative approach. The programme was politically driven by a need I, as an elected politician, knew existed. There are people in Senator

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McHugh's region who would like the scheme to be extended beyond the limits of the CLÁR programme.

Mr. McHugh: I agree with the Minister, but will his Cabinet colleagues be on the same wavelength?

Éamon Ó Cuív: They agree it was right to interfere and the system which existed was not good enough. It did not deliver people their rights. I have huge sympathy for the wording of the amendment. I thought long and hard as to whether there was any way to amend that part of the Bill which baldly states the Government may approve the submission with or without amendment. I weighed the matter carefully and will think about it again. I will perhaps go back to the Dáil on the matter and come back to the Seanad if necessary. When I considered all the checks and balances, and tried to visualise real circumstances, I felt to take away such a provision would take away the right to use common sense where needed.

Let us first consider the checks. If the Government were to reject the plan, it would have to reject the concept of a tranche of payments. We also amended this, which is the worry. The Government would have to regard the plan, the criteria laid down for that particular measure, the approved proposals and types of project, as well as assessments carried out and recommendations made. Section 5 states the Minister shall ensure that within one month after receipt of the Government's approval of the submission, a statement containing a list of the approved measures and projects specifying the amounts to be disbursed from the account for the purposes of each of them is laid before each House of the Oireachtas and made available to the public. If we ignore that provision, the board would be on us like a tonne of bricks.

The Government has a role to play if it wants to identify more plans further down the list and allow for a lower threshold. However, it will cause itself much grief unless it does so systematically.

Mr. Ryan: The Government already does so.

Éamon Ó Cuív: A substantial amount of money has been sanctioned by the board. Under the present system, I have never queried anything it has done. My approval is already required in cases involving amounts greater than €300,000. The only case I queried was where current funding was provided and I asked a legitimate question regarding sustainability. It is a fair question for a Minister to ask. I did not refuse or accept the request. I asked the board to come back and tell me if the project could be sustained after two years. There is no point establishing a project for two years and then closing it down.

Mr. McHugh: The Cabinet was not involved in that decision.

Éamon Ó Cuív: There is not a great deal of difference between the Cabinet or myself being involved.

Mr. McHugh: There is a great difference.

Éamon Ó Cuív: Maybe but maybe not. It was a legitimate and well-founded question. I am genuinely concerned that much of this money has been dealt with in such a way as to raise serious questions about sustainability. People from all walks of life come to me and ask about these bodies. "Who are they?" they say, "I never heard of them in my area. I did not know they existed." I shrug my shoulders and say the board assigns the money. People seriously query how certain bodies received the money, but I trust that Area Development Management, ADM, used fair criteria. It is difficult to be objective because the criteria is too wide. It becomes an essay competition. However, that is how ADM did it. If either Senator ever becomes Minister——

Mr. Ryan: Senator McHugh might, but I will not.

Éamon Ó Cuív: Senator Ryan might become a Minister from the Senate. There are precedents, such as Senators Seán Moylan and James Dooge.

Mr. Ryan: Those days are gone.

Éamon Ó Cuív: Stranger things have happened.

Mr. Ryan: Perhaps the Minister is making an offer.

Éamon Ó Cuív: A Senator cannot become Taoiseach or Minister for Finance but can get any other job. However, no matter who has the job of making decisions, whether it is a Leader company or a peace project, one is told a certain political group has control, does not follow fair criteria and decisions are upside down. A valid case was mentioned on the Adjournment last week, but I had to wash my hands of it because it involved a Leader company decision, not mine. I must accept the decision. The person who raised the question hoped I would be able to bring some influence to bear, but I explained I could not. The person, a member of the Opposition, was deeply unhappy with the decision. I explained it had been devolved and that I have no say as long as the company followed the criteria on a national level. No matter what structure is in place, these situations arise all the time. There is always an inherent danger.

I cannot abide the essay competition we have created in life because it means the professionals keep winning. It may not be the greatest project in the poorest area that wins. I have been involved in that sector for the past 20 years and I

dislike that type of system. One should get funding as a matter of right.

Mention was made of capital sports grants. I had to get lessons on how to fill out forms for that grant and they were very beneficial. Of the nine applications I had to consider that year all were filled in incorrectly. The substance of the application was not changed but criteria such as disadvantage were added. A GAA club had to include criteria on free training and free transport to matches. While every GAA club provided such services it was taken for granted and not written down. They were also asked if they supplied food for the children following a match. Does anyone know of a club that does not do so? However, the fact they did not include such information on the form was to their disadvantage. I dislike that method of disbursing money because it misses those who are busy on the ground but not great at keeping records.

I would like to see a less open-ended system so that the person who writes the best essay does not necessarily become the winner. To be honest, that is what I think has been happening up to now. I would rather there was much more focus on disadvantage and that the system was simpler, similar to that operated for RAPID or CLÁR. We should provide for those who really need funding. I do not know what is the perfect system. The Government and Minister must have discretion in the matter. I accept the section as drafted is bear. While I studied it carefully I have not been able to come up with an amendment which would on the one hand provide the freedom to do the sensible thing and, on the other hand, would restrict the cherry-picking of favourite-son applications, a matter about which Senators are concerned.

I will not accept the amendments today but will reflect further on the matter to see if we can come up with a way of dealing with Senators' concerns which, I accept, are well intended. I believe there are enough guarantees and checks to ensure that does not happen but I will reflect on the matter. If an amendment is found, I will bring it before the Seanad. I am not promising the section will be amended. As I said earlier, I spent a great deal of time considering the section. It is not an easy matter with which to deal but I do not want to create a suspicion of a capricious view being taken to applications.

Mr. Ryan: The Minister's response is disappointing. I have listened very carefully to what he had to say and, either he is wrong or he is being disingenuous. There is nothing in this legislation which states that the Government when dealing with the Minister's bringing forth of results of assessments to Cabinet must have regard to anything. The Minister must have regard to the approved plan when preparing the proposals out of which come the invitations for people to apply. Such applications must then be evaluated according to what appear to be more transparent criteria. That is fine though it is not what I would

like to see in the Bill. I prefer the old system. The additional Government amendments make that system better and less open to suspicion, whether valid or otherwise.

However, no conditions or criteria are contained in the following subsections as listed on page 13. I recall that a previous Minister for Social Welfare, a member of the Minister's party, when small grants for voluntary organisations were first instituted, went around with the cheques in his pocket and gave them out to the various organisations as he met them. I do not know what criteria were used but the clear statement was one of a Minister bearing gifts. I have lived with the reality of politics. No self-respecting politician will try to gain political credit for anything over which he or she has any influence. I do not believe anyone of us are that naive.

It would be possible to redraft the section and to state that only proposals for expenditure in excess of €300,000, the figure used by the Minister, will go before Cabinet. A great deal more could be done. How is it that in the old scheme of things small-scale expenditure of less than €300,000 could be decided on by the board without reference to anybody? Incidentally, I agree with the Minister's question on sustainability. It is a perfectly reasonable question to ask. I have no problems with it. However, I do not understand how what the Minister says he wants is reconcilable with an open-ended invitation to Government, given the political pressures under which Governments operate, to bend the rules. Of course there will be political flak for not doing so. Governments know that whether they do something or not there will always be political flak. It will be the political judgment of Government at a particular time as to which decision was the most politically expeditious. I do not suggest Governments do so all the time but there can be times when they decide it is better to ignore those rules and grant the money to what is considered to be most useful politically.

Despite the Minister's best intentions, once these matters go to Cabinet they are out of his hands. I do not understand why he is allowing that to happen unless it is as suspected by many of us that a particular person in Cabinet wants access to the funds because the issue is so big it could be politically useful. Otherwise, the matter would end with the structure of evaluation and some role for Cabinet on major expenditures to ensure good sense prevailed. The idea that a proposal to grant €10,000 to a small community project, áit éigin in iarthar Chorca Dhuibhne, 230 miles from Dublin would have to go to Cabinet for approval suggests either that we will collapse under paperwork or that there is some malevolent intent involved.

I am open to persuasion. The Minister is very plausible and I am capable of being persuaded. However, he has not yet persuaded me that there is any genuinely good reason, in terms of good public administration, to leave such flexibility open to Government.

Éamon Ó Cúiv: Section 8(43)(1) provides that the Minister must follow a detailed process which includes going to Government regarding schemes and programmes. That provision is included because not all these programmes will be relevant to a particular Minister's Department. Some will relate to the Department of Education and Science and others may relate to the Department of Health and Children. For example, assessment as regards disability would take place at the Department of Justice, Equality and Law Reform or the Department of Health and Children. Different Departments are given tranches of schemes and programmes to apply. They will then follow the instructions given. The question that then arises is whether each matter should be referred to its line Minister only or to Government which, in the interests of joined-up government, checks that matters were dealt with according to the programmes agreed? That is the nub of the matter. The Bill clearly states that all programmes must have regard to all the different criteria, including the Government's final decision. The purpose of the final Government decision is to ensure that each line Department and agency fulfilled what was agreed in the first place. It cannot be left to a single Minister, as he or she cannot have control over various Departments. The only body with an overview is the collective Government.

Not everything done under this will be under the remit of the Minister for Community, Rural and Gaeltacht Affairs. ADM, with its small staff, in trying to cover all areas of expertise, such as disability and social and economic issues, has shown what a mammoth task it is. It has dealt with it manfully. I do not want to criticise it but I know the limits of its expertise. Section 8, which, *inter alia*, amends section 44 of the principal Act, must be read in the context of the source being the Government, under the provision of section 43(1), deciding a programme and having the final say whether it adhered to the agreed programme.

I understand the matter of concern to Senator Ryan and I will examine it when the Bill is taken in the Dáil as I am sure the Senator's colleagues will raise it. If I can come up with a way of dealing with what the Senator fears without cracking the nut with the proverbial sledgehammer I will take it on board. It must be remembered that the Minister must publish the decisions and everyone will know what was recommended for these bodies. If the Government, without good reason, was to act contrary to the recommendations made, everyone would know. It is well known that I do not make the individual decisions on the RAPID programmes. My Department merely checks they were completed to the given criteria. However, if a call has to be made on a case, it has universal application to the other areas. In that context, the Government would collectively act as it will not affect just one Department. There is no malevolence in this proposal. The process is all connected and it is not a case of the Government coming in at the end of it.

Acting Chairman (Mr. J. Walsh): I remind Senators that Report and Final Stages are to conclude at 5 p.m. We can get stuck in these amendments but other amendments will not be dealt with.

Mr. Ryan: We are on amendment No. 24. Amendments Nos. 12 to 24, inclusive, are being discussed together, along with section 8.

Acting Chairman: Members must stick to the point as it will become repetitive.

Mr. Ryan: I can suggest a number of variations. The Minister has made plausible points, however, another plausible point is that different Ministers will have different expertise. The Minister could confine the Government's approval to it being satisfied that the criteria already set out were followed in the decision-making process. If the reason behind the process is to ensure rules are not being broken and because a Minister may not have the necessary expertise, then the Government's role should be to ensure that the recommendations are in accordance with its criteria. That is a reasonable decision for the Government. In this regard, the Minister is correct in his argument of a scenario where the Government acts more at variance than in accordance with the criteria.

This is a large fund. This month there is a crisis with hospital accident and emergency departments. Some of the dormant accounts fund is unallocated. The Minister for Health and Children could argue that if she had €10 million of it, she could provide a service to deal with the crisis. However, it would create a storm from all the community groups arguing it is their money.

Boards do not resign. Last week, the advisory committee on overseas development co-operation was criticised when a solemn promise to reach a target was broken. However, the board did not resign. In my experience, boards do not resign in Ireland. Sometimes they are sacked but they never resign. The board of Combat Poverty went through ups and downs but never resigned.

The Minister has not convinced me of his argument. I am pleased that he is listening and may reconsider the matter. However, I suggest a threshold of scale of expenditure below which Government approval would not be required. The idea of the Government continually examining proposals to give €5,000 to an organisation is a bad example of public administration. The Bill could state that the Government shall be satisfied that the procedures, plans and criteria laid out were followed. However, it is unacceptable to make a bald statement to the effect that while the Government could pay a political price for doing so, there is no legal restraint on it choosing to ignore everything.

Mr. McHugh: The Cabinet can be the watchdog and safeguard against any discrepancies in plans not being followed, as Senator Ryan rightly

pointed out. The Dormant Accounts Fund Disbursements Board should be used to decide which projects, on the basis of merit, deserve funding. The Minister and his team may be thinking this through, but we still need a commitment on the safeguards. That is the kernel of the issue.

Éamon Ó Cuív: The Senators are not looking at it in its totality. If one examines section 43 of the principal Act, the amendments will not allow me to do what Senator Ryan is proposing. Section 43(1) states: "After consulting with the appropriate Ministers, the Minister shall, ... submit to the Government for their approval, with or without amendment, a proposal concerning the programmes or types of projects in relation to which applications for disbursements from the account should be invited." Section 43(5) states: "Following the Government's approval of the proposal, the Minister shall ensure that the invitation to apply for disbursements is made available to the public." I would have to go through all the existing procedures but this amendment would require additional criteria. When I go back to Government all these hoops have already been gone through.

Mr. Ryan: Why does it need to be amended?

Éamon Ó Cuív: If one goes through all the hoops and yet the Government believes it has not adhered to these criteria, one has to go back and do it correctly. The Government would want good reason for doing so.

The Government rather than the Minister makes the ultimate decision because three or four Ministers could be involved. There is no way it can be done outside the terms of the plan, as it would be illegal. If the Minister for Finance gives the say so to the disbursements board, it is the Government that controls the flow of the money. Again, we are being careful not to do what the Opposition alleges we would, by getting rid of all the money between now and 2007. We have tried to control the spend of the moneys within a reasonable timeframe. We increased the amount

available to the board by €60 million at its requests as it had so many applications. As the programme was a year behind schedule, it was felt to be prudent to do so. We want this to last into the indefinite future to ensure sustainability of the projects.

Senator Ryan overstates the worry. We are seeking to do what I have said we are seeking to do. I will reconsider the matter but when I thought about it previously, I could conceive of no way to amend the section cogently given the built-in safeguards. The legislation requires a public application for funds, an assessment, adherence to the criteria and the publication of results. If one were to change those requirements capriciously, one would be for the high jump.

Amendment, by leave, withdrawn.

Amendment No. 13 not moved.

Government amendment No. 14:

In page 12, to delete lines 12 to 14, and substitute the following:

"concerning—

(a) the programmes or types of projects in relation to which applications for disbursements from the account should be invited, and

(b) the criteria to be applied in assessing applications made in response to the invitation."

Amendment agreed to.

Amendment No. 15 not moved.

Mr. McHugh: I move amendment No. 16:

In page 12, line 16, to delete "is to have regard" and substitute "shall strictly adhere".

Question put: "That the words proposed to be deleted stand."

The Committee divided: Tá, 29; Níl, 17.

Tá

Bohan, Eddie.
Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.

MacSharry, Marc.
Mansergh, Martin.
Mínihan, John.
Mooney, Paschal C.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.
Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Finucane, Michael.
Hayes, Brian.

Henry, Mary.
McDowell, Derek.
McHugh, Joe.
Norris, David.
O'Toole, Joe.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators McHugh and Ryan.

An Cathaoirleach: I wish to inform the House that arising from an omission to vote by a Senator who was present in the Chamber, the result has been amended to read — Tá, 29; Níl, 18 — and will appear as such in the Official Report.

Question declared carried.

Amendment declared lost.

Amendments Nos. 17 to 21, inclusive, not moved.

Government amendment No. 22:

In page 12, line 27, after “that” to insert “both”.

Amendment agreed to.

Government amendment No. 23:

In page 12, line 28, to delete “is made” and substitute “and the criteria for assessing applications are made”.

Amendment agreed to.

Government amendment No. 24:

In page 12, line 31, after “assessed” to insert “, in accordance with the published criteria,”.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 30 and 31 are consequential on amendment No. 25 and it is proposed, therefore, to discuss amendments Nos. 25, 30 and 31 together, by agreement.

Mr. Ryan: I move amendment No. 25:

In page 12, line 33, to delete “Minister” and substitute “Board”.

Éamon Ó Cuív: I oppose the amendment.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendment No. 26 is a Government amendment. Amendments Nos. 26 and 27 are consequential on amendment No. 28 and it is proposed, therefore, to take amendments Nos. 26 to 28, inclusive, together by agreement.

Government amendment No. 26:

In page 12, line 46, to delete “and”.

Amendment agreed to.

Government amendment No. 27:

In page 12, line 47, to delete “recommendation.” and substitute “recommendation, and”.

Amendment agreed to.

Government amendment No. 28:

In page 12, after line 47, to insert the following:

“(d) if a disbursement is recommended, the amount recommended.”.

Amendment agreed to.

An Cathaoirleach: Amendment No. 29 is out of sequence and, with the permission of the House, it will be taken after amendment No. 35. Is that agreed? Agreed.

Amendments Nos. 30 to 33, inclusive, not moved.

Question put.

The Committee divided: Tá, 27; Níl, 18.

Tá

Bohan, Eddie.
Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Daly, Brendan.
Feeney, Geraldine.
Fitzgerald, Liam.

Glynn, Camillus.
Hanafin, John.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.

Tá—*continued*

MacSharry, Marc.
Mansergh, Martin.
Mooney, Paschal C.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.

Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bohan, Eddie.
Bradford, Paul.
Browne, Fergal.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.

Hayes, Brian.
Henry, Mary.
McDowell, Derek.
McHugh, Joe.
Norris, David.
O'Toole, Joe.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.

Tellers: Tá, Senators Glynn and Moylan; Níl, Senators McHugh and Ryan.

Question declared carried.

Ms O'Rourke: By agreement, Private Members' business will be from 5.30 p.m. to 7 p.m. We expect to finish the Dormant Accounts (Amendment) Bill, which has been going on since 2 p.m., between now and 5.30 p.m.

Mr. Norris: We normally have two hours for Private Members' business.

Ms O'Rourke: I am aware of that. I sought agreement —

Mr. B. Hayes: The Opposition has been helpful on this matter.

An Cathaoirleach: Is that agreed? Agreed.

Mr. Ryan: I move amendment No. 34:

In page 15, to delete lines 41 to 44.

Éamon Ó Cuív: The effect of this amendment is to delete section 10 of the Bill. Section 10 is consequential to the board's chain regarding decision making in that it moves the accountability of the chairperson to the Public Accounts Committee for decisions under disbursements made by the former board. Removal of this section would create an anomaly whereby the board would no longer make decisions on disbursements, but its chairperson would remain accountable to the Public Accounts Committee for decisions in which he or she no longer had a role.

Mr. Ryan: This amendment is one of a number which try to effect change to the purpose of the Bill.

Amendment, by leave, withdrawn.

Amendment No. 35 not moved.

Acting Chairman (Mr. Kitt): Amendment No. 29, which was out of sequence, will be taken now.

Government amendment No. 29:

In page 17, line 20, to delete "monies" and substitute "moneys".

Amendment agreed to.

Mr. McHugh: I move amendment No. 36:

In page 17, between lines 44 and 45, to insert the following:

"16.—The Freedom of Information Acts shall apply to all aspects of or relating to the functions and activities of the Minister and the Board under this Act and the Principal Act."

All the activities of the board and the Minister should be subject to the Freedom of Information Act. I presume there is a stipulation which allows this. If not, there should be.

Mr. Ryan: I support this amendment. Unfortunately, the Freedom of Information Act as filleted by the Government will mean many of the Minister's proposals to Government will not become public knowledge until after they are disposed of, amended or approved. We will get some historical information, but will not have any access to the processes until after the event. Nevertheless, to the extent that one would worry that it might not be covered by the Freedom of Information Act, I support the amendment.

Éamon Ó Cuív: This amendment would apply the Freedom of Information Act to all aspects of the administration of the board under this Bill and the principal Act. Following the enactment of this legislation, the provisions of the Freedom of Information Act will apply with regard to the operation of Departments involved in the process of receiving and assessing applications for assistance from the dormant accounts board. In addition, all correspondence, analysis and advice

[Éamon Ó Cuív.]

provided by the board to me, my Department or Government will come within the scope of the FOI Acts. It would be more logical and coherent to deal with freedom of information in this way rather than introduce a standalone provision. For this reason I oppose the amendment. The normal FOI regulations will apply because it is all Department business.

Amendment, by leave, withdrawn.

Bill reported with amendments and received for final consideration.

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

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): Ba mhaith liom buíochas a ghlacadh leis na Seanadóirí ar fad as ucht an pháirt bhríomhar a ghlacadar sa díospóireacht. Ta súil agam go bhfuil an Bille níos fearr anois ó tá roinnt leasaithe déanta ann. Rinne mé iarracht éisteacht lena moltaí agus tá súil agam nuair a achtófar an Bille go bhfeidhmneofar go cothrom agus go cuí é. I thank Senators for their useful and robust participation in the Bill. This is the place for debate. The Bill has run over time and I thank the Senators for the effort and commitment they have given to it. We have made some amendments which I hope improve the Bill. I hope time will prove the commitments I have given will stand up and that people will see that the Bill will provide for better disbursement of the funds.

Labhrás Ó Murchú: Is mian liom ár mbuíochas a chur in iúl don Aire. Déarfainn go n-aontóidh gach éinne go raibh díospóireacht fiúntach againn ar an mBille seo agus go raibh an t-Aire ag éisteacht leis, mar a d'admhaigh Seanadóirí eile. Bhí sin thar a bheith tábhachtach. Cé gur thóg an díospóireacht roinnt mhaith ama, tá sé níos fearr deacrachtaí a réiteach anois. Molaim an t-Aire agus gabhaim buíochas le hoifigí na Ranna as an obair atá déanta acu. Tá sé soiléir go déanadh an obair sin go cruinn. Chabhraidh sin go mór linn mar ní raibh aon mí-thuisctint faoi cad a bhí in an mBille.

Mr. Ryan: Ní aontaím leis an mBille ach tá sé níos fearr anois ná mar a bhí sé nuair a tugadh isteach é. Dá bhféadfaí déileáil leis an gceist bhunúsach a bhí á plé againn le trí cheathrú uair an chloig tá gach seans go bhféadfaimís a bheith ar aon aigne.

I thank the Minister for agreeing to the somewhat unorthodox procedural move of recommitting amendments to Committee Stage. It is not often Ministers are that agreeable. As a result we managed to debate the nub of the Bill in a way that we never got around to before the summer and we are all the better for that.

The Bill is better because of the Minister's amendments. It is possible to deal with the major

outstanding concern that we on this side of the House have in a way which does not involve any climb-down by the Minister on what he believes to be the correct procedure. The criteria he set out for how bodies funded by the State working in local communities should operate are ones to which we would and should all adhere. However, as long as the legislation remains as it is, it will follow the path of every other fund. The social insurance fund has been raided by various Governments, even though it is meant to be for a very specific purpose. Every fund, including the national lottery, gets raided unless there are firm and unshakeable legal criteria protecting it. It is the nature of government to raid every available fund. That is not a judgment on any political party. The fundamental issue is the capacity of Government to change or ignore the rules, but that is a contentious issue which we will not debate now.

I thank the Minister for his willingness to put time into the discussion and to listen even though he does not agree with us. I am glad to see his energies are back to full scale judging by his enthusiasm on this occasion.

Mr. McHugh: I thank the Minister who stimulated the debate. He does not just follow the party line but gets involved in the issue. We set out our stall in regard to future distribution of State moneys and public funds through what I hope is a more organised multi-State agency approach.

As a point of reference, we must look at the whole area of process. I use the example of progression in regard to community employment participants whose progression reports are sitting on desks collecting dust and do not provide any value in terms of expenditure. All sides of the House are in agreement that this is not a matter of appeasing the electorate.

Ms O'Rourke: I thank the Minister and his officials for their patience but most of all for coming back to the House following the last discussion on this legislation before the summer recess. At that time, as Senator Ryan said, the Minister said he would consider the recommittal of part of the Bill, which he did. That, in itself, was very helpful. The approach of the Minister was to find consensus in the Seanad, which he mostly did. I watched most of the debate on the monitor in my office and was fascinated by how vocal were Members on the Bill.

I echo the good wishes extended to the Minister. It is good to see he is safe and sound. Thankfully, the accident has not affected his brain or his mind, but he also has a cold which made speaking difficult. All in all, the exercise has been a good one. I thank all Senators, our spokesperson, Senator Ó Murchú and Senator Brady. I wish the Minister and his officials a happy Christmas.

Question put and declared carried.

Fishing Industry: Motion.

Mr. McHugh: I move:

That Seanad Éireann condemns the Government for its inaction in relation to:

(1) A full review of days at sea, and also a comprehensive review of tonnage allocation, particularly in relation to the white-fish industry;

(2) fishermen and co-ops who are frustrated at licensing delays with the lack of response from the Department of Communications, Marine and Natural Resources;

(3) the lack of progress in relation to promised investment in harbour development;

(4) the new licensing and control regime for aquaculture and shell fish farming;

(5) fish farming delays in relation to licensing; and

(6) the promotion of sea-angling as a viable option for future tourism development.

I welcome the Minister of State, Deputy Gallagher, to the House and congratulate him on his new portfolio. His appointment indicates a deliberate attempt by the Government to acknowledge the needs of the fishing sector, as the Minister of State has the expertise, skills, knowledge and experience of living by the sea as well as understanding the intricacies of everything to do with inland and other fishing.

This motion is tabled in a form which is critical and negative. However, I hope it will stimulate debate in the long term since positive debate is required to meet the future needs of the fishing industry. It is particularly essential given the conditions which prevail at present. In our own back yard, there is a great deal of negative labelling of the fishing industry, which is overshadowing the good concrete work which has been done by the major players in the past few decades in Donegal specifically and which has a resonating impact throughout the rest of the country.

The biggest impact is that people from different parts of the country feel the marine sector is not getting the recognition it deserves in terms of a Government portfolio. It is included in the Department of Communications, Marine and Natural Resources and I understand a fight took place for it to be included in the title of that Department. Aside from all the domestics of the recent Front Bench re-shuffle, Fine Gael has highlighted the importance of having a specific marine portfolio, which is why Deputy Kenny thought it appropriate to appoint Deputy Perry to the Front Bench as the specific spokesperson on the marine. A further dilution of the marine portfolio would be bad for the people involved in the sector and for its potential.

The total length of the Irish coastline is 7,500 km. and the marine industry employs 15,000 people. The total available supply of fish from fishing activity and aquaculture amounted to

354,803 tonnes, valued at €313 million at first point of sale. Sea fish landings at home and overseas amounted to 293,868 tonnes valued at €206 million. Landings made directly into overseas ports, mainly in Scotland, Norway and Spain accounted for €35 million of this value. The aquaculture sector produced an output of 60,935 tonnes in 2001 with a value of €107 million. Some 2,500 people are engaged in the sector farming finfish such as salmon and trout and shellfish such as mussels and oysters. Production of finfish in 2001 amounted to 25,082 tonnes valued at €79 million, while shellfish farmers harvested 35,853 tonnes valued at €28 million.

The home market for seafood is currently valued at €290 million at final point of sale. In 2001, seafood exports reached €433.4 million with a total tonnage of 310,879. Some 76% of exports were sold in EU markets with the remaining 14% going to third countries. The leading market destinations in 2001 were France, Great Britain, Spain, Italy and Germany. Other EU markets amounted to €22 million. Trade with third countries amounted to €96 million, the leading markets being Egypt, Japan, Poland and Romania.

In addition to the core activities of sea-fishing, aquaculture production, processing and marketing, the industry generates additional business for ancillary services including transport, equipment supplies, chandlery and net-making among others. This activity provides employment for up to 2,000 people. Fine Gael took this on board seriously by appointing a dedicated marine spokesperson, while the Cabinet has yet to appoint its own marine Minister.

Fine Gael supports any move that would seek to safeguard fish stocks in Irish waters. It is in the environmental and economic interest of the country, not to mention the many communities that rely on fishing for their future. The difficulty many have with the policy is how it reaches its aim and the disadvantage to which many smaller fishermen are put because of the way in which the CFP is implemented. The agreement provides for a range of fishing days, from no restrictions at all to 12 days per month, depending on the type of fishing gear used and the level of cod, sole and plaice catches. Total Irish quotas for 2004 amounted to 204,379 tonnes, compared with 189,500 tonnes for 2003; an increase of 8%.

The deal secured for 2004 also included additional quota secured under the Hague preference system under which Ireland gets additional whitefish quota at the expense of certain other countries. Despite this, the time is right to look at the detail of the deal and see how many Irish fishermen are losing out under the scheme.

Fine Gael's Front Bench spokesperson on the marine, Deputy Perry, has also raised the issue of fines for breaches of these rules. Figures from the European Union show that the average fine for unauthorised fishing in 2001 was €84 in Finland and €1,040 in Denmark, but in Ireland the fine was a staggering €12,700. This is more than 11

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times the EU average. The fines for the use or keeping of prohibited fishing gear in this country are seven times the EU average and for failing to record data in logbooks, Irish fishermen pay almost six times the EU average fine. Such breaches are considered criminal offences in this country, while in other EU states only administrative sanctions are imposed. What is more, unlike elsewhere, the entire catch is confiscated upon detection of a breach of the rules.

In no way do we condone the breach of the CFP and we fully support the European Union's attempts to preserve fish stocks but there must be a level playing pitch. It is vital there is a common approach to penalties to ensure Irish fishermen are not put at a disadvantage to their EU counterparts.

The Government has shown its complete indifference to the marine tourist sector by not allocating a penny in funding for the marine and natural resources tourism programme. Although the Estimates published last month indicate that €2 million has been allocated to the sector, which is a cut of 30%, this money will not be spent as it is ring-fenced for the four infamous marina projects at Kenmare, Roundstone, Rosses Point and Caherciveen, which were given the green light without the required EU approval by the former Minister, Deputy Fahey.

The €2 million allocated is unlikely to be spent in light of the huge difficulty in Europe brought about by the manner of the then Minister, Deputy Fahey's, announcement of the four marina projects. These projects were not part of a €25 million EU-approved project to develop and transform coastal tourism in Ireland shelved two years ago because of the "economic climate of the time". With an improvement in the public finances, surely now is the time to dust the scheme off. It is particularly disappointing when combined with the 9% cut in funding for development and upgrading of harbours for fishery purposes. The Government, which has long neglected the needs and livelihoods of fishermen, is now abandoning those who are trying to create alternative ways to sustain communities and protect jobs.

Ireland's tourism industry is booming and it is vital that Ireland exploits its significant potential as an attractive destination for sea angling tourists. With the abundance of coastline and inland waterways, Ireland is the perfect destination for all types of angling holidays. Salmon, trout and sea trout are native species and Ireland's lakes and rivers have preserved their character in a landscape which has changed very little over the centuries. The Irish coastline is also one of the most varied, with dramatic cliffs and many miles of wide strands. This variety offers unlimited opportunities to the sea angler, who can find somewhere to fish all year round.

Ireland also has some of the cleanest and most lightly-fished fresh waters in Europe. The Irish landscape has over 11,000 km of riverbank for the

coarse and pike angler. This natural asset is valued by a plethora of bodies from Bord Fáilte to the Central Fisheries Board but Ireland continues to lack a consistent, persistent, aggressive marketing of its fisheries tourist potential. If it is a matter of money, let the Government contemplate the following fact, contained in the national development plan's provision to the BMW region — it was an allocation for "recreation and sport facilities" designed to include fisheries and address the urgent need for their development. By mid-2004, not a single penny of that allocation had been spent. It is not unreasonable to suggest that this underdeveloped area of our tourist potential be targeted for that investment in the years to come.

As well as the nitty-gritty of this motion, Fine Gael's aim in discussing this vital issue is to continue to put pressure on the Government to belatedly take the marine sector seriously. For too long, fishing communities, businesses in the angling sector, seafarers and all who rely on the waters of Ireland have received scant attention from a Government which, as the Celtic tiger roared, lacked the vision to see that Ireland has an invaluable resource that needs to be protected and promoted.

Fine Gael is determined to protect the livelihoods of those who work in our seas and rivers. That does not mean endless subsidies or wishful pipe dreams. It means innovative investment, proper planning and a sense of social justice. Anyone who favours those principles should support this Bill.

I want to make particular reference to a few areas. Without going into too many of the specifics of the days at sea, the groundswell response from many involved in the marine is that the days at sea versus tonnage argument is not working. It is a model designed in Europe which affects seriously the livelihoods of many small fishermen along the coast. As I stated at the outset, it is an area which requires further debate. Finding solutions to issues in the marine sector is not an exact science. The marine sector is changeable. Changing times result in different needs and demands.

There is much hypotheses and theory and many consultancy reports putting forward ideas of coastal zone management and how best aquaculture can survive alongside fish farming and tourism. Many of the studies lack common sense on how all these industries can survive together. Many aquaculture industries such as mussels, scallops and oysters are emerging, not for the first time but perhaps on a grander scale. There should be more emphasis on developing the shellfish sector in conjunction with our natural commercial product, whitefish.

The Minister of State, Deputy Gallagher, will relate to this. The lobster season, although short, is able to sustain the livelihoods of many fishermen through the country. It would make common sense to encourage fishermen to tag and throw back the female lobster. Although the lobster

industry is thriving in certain parts, our aim is to conserve. We do not want to fish our waters bare. The Minister is in total agreement with me on this. We certainly want to work on restocking. If this means fishermen getting paid to catch a female lobster, tag it and throw it back in, then that is the way we must move forward. That is one of many measures one could take. There are many such examples of what can be done for the marine harbours in Donegal. Fish farming is thriving in Scandinavia and there is no reason that it could not be thriving here also. The Minister is also well aware of the issue of the allocation of licences, which should be addressed.

Mr. Finucane: I second the motion.

I welcome the Minister of State, Deputy Gallagher, to the House and wish him well in his position. He has a great interest in the marine. In my party's recent reshuffle in the Seanad, I requested Deputy Kenny to allow Senator McHugh be spokesperson on marine because I know he, coming from Donegal, has a tremendous interest. Whereas the marine would be extremely important in fishing ports like Killybegs, Greencastle, Dingle and Castletownbere, it may not be given the same emphasis in my county of Limerick. Nonetheless it is a subject in which I have taken an interest over many years. In the other House, I was Front Bench spokesman on the marine and natural resources. Deputy Woods, a former Minister, was hailed as an all-conquering hero in Donegal. The marine sector practically eulogised him because at that time there was quite a refurbishment of the whitefish fishing fleet and generous grants were available. There was considerable success. There was a kind of momentum within the marine industry and perhaps to some degree that momentum has now dissipated.

The Minister faces a difficult time in December. I know from past experience that in the period coming up to Christmas Day most people decamp to all parts of the country from 16 or 17 December when talks begin in Brussels. The fishing organisations attend these talks and are very concerned about their outcome. The International Council for the Exploration of the Sea, ICES, produces projections on tonnages based on scientific evidence. Total allowable catches are then projected which are not necessarily consistent with ICES projections. The conservation plans of ICES would mean the death knell for much of the fishing industry. There is a certain amount of give and take when it comes to the trading in Brussels and certain improvements are made in certain fish quotas and cutbacks in other quotas. The combination of pelagic and demersal fishing led to a degree of optimism about the herring and mackerel fleets in the area off Killybegs and the fishing off the Norwegian coast.

When I was in the marine brief I took a trip to Norway. Four or five years ago the Norwegians seemed to have a more enlightened policy regard-

ing the fishing industry. I acknowledge Norway is not in the European Union and it has certain accession rights but as a sovereign state, it recognised the importance of the oil and gas and fishing industries. It struck me at the time that Norway was already making great attempts to deal with the issue of discards. It is recognised within the fishing industry that the existing type of quota system and what is allowable for fishermen to bring back to port, often lends itself to other fishing by-products being discarded. This is a pity because in many cases it involves juvenile as well as mature fish. I do not know to what degree the European Union has tried to target the area of discards to see if improvements could be made.

The weighing-in of fish catches is another element which is unfair to fishermen. In many cases the water is weighed as part of the tonnage and this is a distorted mechanism *vis-à-vis* other European countries.

Yesterday Sky News broadcast a programme on fishing which dealt with the British and Scottish fleets. An article in *The Independent* referred to the disappearing cod and hake stocks. It made for depressing reading and British and Scottish fishermen must feel very downcast about the industry.

Our fishing fleet is a very minor part of the overall European fishing scene. Spain is one of the dominant fishing countries, along with Portugal and France to some degree. Those countries often dominate the type of European fishing policies. The article describes the projected depletion of cod and hake stocks. The depletion of hake is due to the overfishing by the Spanish because hake is a very important variety for consumption in Spain.

It is quite an achievement to see the total allowable catches which shows a projected increase — I stand to be corrected if I am wrong — in hake and cod. The cod increase is small because it was seen as a vanishing fish stock and some of the conservation policies may be bearing some fruit. It is interesting to note that fish fingers are being marketed not as cod fish fingers but as being made with hoki fish from New Zealand.

I often wonder how fishermen can make forward plans. The Minister of State's officials will also remember when there were encouraging accounts of the depletion of fish quotas and the names of deep sea varieties of fish were becoming familiar to us. We heard names such as the orange rowi, grenadier and scabbard. They began to appear as part of Irish cuisine. Quotas are now being introduced because of a depletion in those stocks. It is no wonder that fishermen are becoming frustrated at going out to fish.

I could speak critically about the fishing policy but I prefer to be constructive about decisions made with regard to certain trawlers and super-trawlers in the past few years by the previous Minister, Deputy Fahey. It was a short-sighted policy in respect of the overall fishing fleet. Many

[Mr. Finucane.]
fishermen regard the decisions taken then as being unfair, inequitable and unjust.

I was pleased that Senator McHugh tabled the motion because the House rarely has an opportunity to have a constructive discussion about fishing. I recognise the frustrations with which the Minister of State must deal in Brussels later this month and the frustrations of the civil servants and the fishermen. In many areas if the fishing fleet and fish processing industry did not exist, there would be no other industry.

I wish the Minister of State well in his discussions. I note that one of the fishermen's groups is represented in the Visitors Gallery. I also wish them well in their discussions in Brussels. I can sympathise with the fishermen because they face an impasse. Senator McHugh referred to the fishing days at sea which is another impediment and fishermen must be very frustrated.

Mr. MacSharry: I move amendment No. 1:

To delete all words after "Seanad Éireann" and substitute the following:

"commends the Government's continued commitment to the sea-fisheries and aquaculture industry in its substantial programme for the reform and sustainable development of the industry as outlined in the programme for Government and the national development plan, recognises the considerable progress made to date in the implementation of those work priorities, and welcomes the Government's plans for the delivery of the Government programme and the national development plan during this Government's term."

I join with other speakers in welcoming the Minister of State to the House. I am pleased to have the opportunity to make some points about the marine issue. The motion is a highly irresponsible representation of the true facts of the industry. The House has heard all but an acknowledgement of such from Senator Finucane in that he understands the issues in play and the frustrations that any Minister of State in any Department will have in trying to deal with the issue.

It is clear from reading the motion that it could not possibly have been written by Senator McHugh, being from an area such as Donegal and being so aware of the progress made over the years. Nor was it written by Senator Finucane. I wonder if it was written by the Fine Gael spokesperson in the other House, Deputy Perry. I am sure that if it was written by him, being opposed to the marina in Rosses Point in his own constituency was not part of it. It would be interesting for his constituents in Sligo and for the county councillors in the many constituencies around the country where the other four marinas are supposed to go, to know that the Fine Gael position is to oppose the marina.

The proposed amendment to the motion is eminently justified by the facts underpinning the Government's record in respect of the marine

sector and I commend it to the House. Under this Government there has been a record level of spending and capital expenditure over the past number of years on harbours and in a wide variety of other areas. Next year, €95 million has been earmarked for the development of the marine sector and this will greatly improve marine communities around the coast. The Government has set out its developmental plans for the sector in a very clear way in An Agreed Programme for Government and the National Development Plan 2000-2006 and it is following through on the various commitments. Many have already been delivered and we are moving quickly ahead in a systematic manner to deliver on the remainder.

To refer again to the motion, under no circumstances can the action and proactive approach of recent years be described as "inaction". The person who drafted the motion is clearly not politically aware. Perhaps it would be understandable if the person who wrote it had been asleep for the past ten years. I am amazed that Senator McHugh and others with responsibility in the Fine Gael Party allowed the motion to be tabled.

Mr. McHugh: It was written by fishermen.

Mr. MacSharry: Contrary to the motion, the evidence points to a period of considerable action. I look forward to hearing the views of the Minister of State as they will give us greater insight into the various areas on which progress has been made. I note in this regard the Government's commitment to the sector, both in terms of the sum of €95 million funding allocated for next year, to which I have already referred, and its willingness to work closely with the industry to solve problems.

As a member of the Joint Committee on Communications, Marine and Natural Resources, Senator Finucane, like me, was in a position to meet all the representative organisations yesterday. If one were to ask any of the organisations, one would find that there has never been such frequent contact and meetings on all marine issues with the various fishing organisations. The level of contact is unprecedented and a clear indication of the direction the Government wishes to take and the industry's approach to working with the Government for the mutual benefit of all players.

The enthusiastic approach taken by the Government in setting out an ambitious reform programme is especially evident on the legislative front. The modern licensing system currently in place due to legislative changes advanced by the Government is a case in point. Equally good progress has been made in many other areas. I am aware, in particular, of several major fishery harbour development projects. In County Donegal, Senator McHugh's home area, €53 million was expended on a wonderful development in Killybegs.

Mr. McHugh: Thanks to former Deputy Thomas Gildea.

Mr. MacSharry: Other developments in Castletownbere, Rossaveal and Dunmore East are ongoing or imminent. These are all positive developments involving expenditure of many millions of euro. It is money well spent and I have no doubt that these worthwhile investments will yield many benefits for fishermen, the fishing industry and other harbour users in the regions in question. The Government is clearly making progress in developing the marine sector.

I will address the six points outlined in the motion. In terms of days at sea, it is significant that it was this Government which secured many important concessions in this area. I am sure the Minister of State will refer to them. It was successful in having European Union proposals adjusted to minimise the effect on the Irish whitefish sector, thus allowing the main whitefish effort, prawn fishing, to be largely unaffected. An acknowledgement of this significant achievement would be much more responsible than blindly giving out about days at sea.

As regards delays in licensing, while some may have occurred initially, the record will show that turnaround time has significantly improved and is much quicker than in the past. The motion refers to, "a lack of progress in relation to promised investment in harbour development." I have never heard such a joke given that the level of investment, amounting to millions of euro, has been unprecedented, not least in Killybegs and other areas. In addition, many smaller piers have been developed in conjunction with county councils.

I am sure the Minister of State will deal with aquaculture. With regard to the "promotion of sea-angling as a viable option for the future tourism development", there are no grounds for the claim of Government inaction. Bord Iascaigh Mhara operates a scheme under which grants are regularly allocated.

Mr. McHugh: Grants are not the issue.

Mr. MacSharry: Senator McHugh could not have written the motion as he knows much more about the issue than the person who drafted it. Senator Finucane all but acknowledged that fact by not referring to any aspect of the motion. He spoke of frustrations and his understanding of the issue given his experience as spokesperson on the marine in the Seanad and the other House. It is irresponsible of the Opposition to table the motion, on which I look forward to hearing the Minister of State's views. I commend the amendment to the House.

I acknowledge that many challenges face the fishing industry. To use a famous political phrase, a lot has been done and there is more to do. This will be the case long into the future as issues and challenges will always arise, never more so than

now. We wish the Minister well in the forthcoming Council meetings in Brussels.

Notwithstanding my short political career, I have some knowledge of the Minister of State. I can state confidently that there is not a person alive who is more experienced or talented or better placed to work on behalf of Ireland and the fishing organisations in all matters marine. I am confident that with the support of the House he will consistently achieve the best possible deal on marine issues.

Mr. Coghlan: I am glad to have an opportunity to say a few words on the motion. I welcome the Minister of State to the House. He is a man of great experience who has extensive knowledge of his brief. The question, however, is what level of Government support does he have? The Fine Gael Party suspects that, unfortunately, he enjoys little support and we sympathise with him.

The Government has allowed the introduction of days at sea limits for fishing vessels in the Irish Sea and off the north-west coast. These are useless in stock conservation terms and penalise all fishermen operating in the areas in question, regardless of whether they target or catch the stocks, particularly cod, which are supposed to be the beneficiaries of these measures.

The Government has presided over encouraging whitefish vessel owners to purchase new boats with grant aid. This leaves them up to their eyes in debt, while the fishing opportunities open to them are allowed to disappear before their eyes. It is tantamount to encouraging fishermen to commit economic suicide.

While millions are expended on developing non-quota fisheries, such as deep water fisheries for orange roughy, scabbardfish and grenadier, or, as happened previously, on the development of a driftnet fishery for Albacore tuna, which became a vital industry in ports such as Dingle and Castletownbere, measures which would all take pressure off quota stocks, the Government has presided over the decimation of fishing opportunities in the form of ever lower quotas for deep water species and the ban on tuna drift netting, measures which will have disastrous effects on the fishing industry.

Having given a gift worth more than €100 million in the form of free tonnage — effectively fishing rights — to one operator in the fleet, the scandalous Atlantic Dawn factory freezer ship, and lobbied for the project against all best policy, the Government in 2004 allowed the owner of the vessel to abuse his position as a monopoly supplier to force pelagic fishermen in the business to shell out to the tune of €10,000 per gross tonne, through its introduction of a flawed and deeply inequitable licensing scheme. In so doing, it forced fishermen to borrow vast sums of money to solve a problem of the Government's making in Brussels. Not only has the Atlantic Dawn become a byword for Irish Government incompetence, a negative ongoing factor in Brussels, it

[Mr. Coghlan.]
has forced over-capitalisation in the pelagic sector at home.

The slavish implementation of ridiculous new European Union regulations in respect of the weighing of pelagic fish at Irish ports — Ireland ran ahead of all other EU countries in its haste to implement the measure — has created the crazy position of water being effectively weighed as fish, wasting valuable pelagic quotas. The industry has issued repeated warnings that the effects of these measures would jeopardise valuable export markets for horse mackerel, for example, and effectively encourage Irish vessels to land in foreign ports. This is threatening the processing infrastructure and has resulted in Killybegs, our premier port, becoming a ghost town this winter, with factories closed and hundreds of people on the dole.

Government incompetence has resulted in fishing ports operating under a curfew system with restricted hours of landings. This is unacceptable for an industry which operates 24 hours per day, seven days per week and is dependent on weather, tides and market requirements.

The fishing industry is frustrated at the quagmire that is the Department of Communications, Marine and Natural Resources. Senators may argue to the contrary but the reality is that there are inordinate delays in all stages of issuing licences, from licence offers through to issue. The system of issuing licences under the Fisheries (Amendment) Act 2003, far from being effective and transparent, is a complete abdication of responsibility by the Government. It is a cynical effort to make amends for strokes and deals of the past, while leaving civil servants carrying the can as best they can. Last year the Government raised harbour charges for Irish fishermen by over 350% at a time when fish prices at point of first sale have never been lower, insurance, fuel and compliance costs have risen to crippling levels, and fishing opportunities are limited by ever-expanding and inappropriate regulation.

An Cathaoirleach: The Senator has one minute remaining.

Mr. Coghlan: I wish to refer briefly to the current allegations of malpractice made by one individual which recently led to a series of “Hawaii-Five-O” style dawn raids on fishermen’s houses in various parts of the country. There are serious question marks as to how such a matter became the subject of a Cabinet decision and criminal investigation. I look forward to hearing the Minister’s comments on the matter.

An Cathaoirleach: I apologise. The Senator has two minutes remaining.

Mr. Coghlan: Thank you. I thought I had a bit more time. I am not saying malpractice should not be investigated, but I am querying the criminal context. Could these matters not be dealt with

at an administrative level? There is no lack of regulation and powers in the fisheries sector. Who decided or recommended this course of action? I am not criticising the gardaí, who are merely doing their job, but the Government’s sense of priorities in choosing to deal with the matter in the manner it did. Is there evidence of a similar line taken with regard to fisheries offences in other EU countries? Is the Irish situation unique?

I am concerned about the handling of this situation and the cloud it has thrown over the whole fishing industry. It is a proud and decent community, and I had the privilege of knowing many members during the eight years I was a member of the Dingle harbour board. I urge sensitivity and balance in the conduct of the investigation, and that the overall factors which led to it be given due consideration at the appropriate time.

The Government has turned its back on fishing, fishermen and coastal communities. It seems to have decided fishing is a sunset industry, rather than a vital part of the fabric of the Irish economy in particular coastal peripheral communities. It is more concerned with broadband and sexy communications issues. The Government has relegated responsibility for the marine from a front-line Cabinet position to a semi-junior fiefdom and is in a hurry to send it the far reaches of County Cork. In saying that I am not criticising Clonakilty. However, there is a sense of out of sight and out of mind. I have paid the Minister a compliment. He is a man of experience and vision, but I worry about the support he gets at Government level.

The fishing industry was never at a lower ebb and in spite of all the prophets of doom, it could be a vast and renewable resource generating jobs and wealth far into the future. It is not good enough for the Government to bury its head in the sand or blame Brussels. It is the responsibility of the Government to support and promote Irish fishing interests in a positive, aggressive and competent manner, something it has thus far failed to do.

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

(Mr. Gallagher): I do not agree with the motion but I thank Senator McHugh for tabling it because it gives us all an opportunity to debate the various issues. It also gives me an opportunity to defend the Government’s position, not just for the sake of it but on the basis of fact.

It is ironic that Fine Gael spokespersons and Senators are not prepared to look back at the core of the problem. I am not critical of those who negotiated the Common Fisheries Policy, because at that time no one foresaw the development which would take place subsequently. It is a great credit to the industry, both producers and processors. At that time, we had an inland, inshore fleet. Those prepared to make investments were the people who had confidence at all times. The Government of the time, and after

1987, was prepared to make investments, and major investments have been made since then. A Fine Gael Minister signed off on the Common Fisheries Policy in 1983. That is the core problem. We were locked into quota and TAC monitoring. The total allowable catch was generally accepted as 4.6%. I do not want to be political about the issue.

Mr. McHugh: That was 20 years ago. We are talking about the here and now.

Mr. Gallagher: Tá an fhírinne searbh. We must look at the root cause and that is when it started. We will leave the matter aside.

Senator Coghlan referred to allegations. The Government took a decision on 10 or 11 October and investigations are being carried out. Nobody should draw any conclusions until the investigation is completed. Everybody is innocent until proven guilty. I am measured in what I say, because to comment further would be totally improper.

A number of Members from this House attended the Oireachtas Joint Committee on Communications, Marine and Natural Resources yesterday. Officials from my Department gave a detailed overview of the Commission's proposals. It is proposed to increase a number of quotas, and to keep others static. Unfortunately, it has also been proposed to reduce 15 quotas, two of which are written in stone. These are mackerel, because of the relationship with Norway and the straddling stock, and blue whiting. We will negotiate the others at official level over the coming weeks, at Council level on 20 December when we have bilateral talks with the Commission and Presidency, and in Council on 21 and 22 December. We will endeavour to secure increases in quotas because it is important for us, for the country and for coastal regions where there is no alternative source of employment. There is an obligation to create jobs, and I do not take any credit for that. Any Irish Minister would work closely with the industry and officials. We have consulted the industry and will do so again prior to the Council meeting and will take on board their many concerns.

I have just returned today with Department officials from my second meeting with Commissioner Borg from Malta. I had a bilateral meeting with him, and he possibly understands our concerns and difficulties in advance of the Council meeting.

A good barometer of the Government's record is the allocation of funding. In 2005 we are allocating over €95 million for a range of marine areas, such as fishery harbours, Bord Iascaigh Mhara, BIM, coastal protection and marine research which is also important. That is more than double the 1997 budget, the year we assumed office when the budget was €40 million. Sustainability of fish stocks is the main challenge facing the fishing industry and the Government is tackling the issue head on in partnership with the

industry. Since my appointment I have said I want to work in partnership with all stakeholders. In addition to funding levels, this partnership approach is vital. For example, during Ireland's EU Presidency we focused on delivering two key aspects of the new Common Fisheries Policy. I would like in that context to refer to the regional advisory councils which I supported when a member of the European Parliament through the European fisheries committee. While such councils are only advisory, I am convinced, having spoken with Commissioner Borg today that those representing us on the Fisheries Council will bring a great deal of experience to the table — a view which I held prior to that conversation. I am also convinced the Commission will take their views into consideration and, hopefully, will take them on board.

During Ireland's Presidency, we got EU agreement to fast tracking the development of environmentally friendly fishing methods, a long-time priority of the industry. Long before my appointment as Minister of State at the Department of Communications, Marine and Natural Resources, I recognised and appreciated the industry's views on environmentally friendly fishing methods and technical conservation measures, issues which were on the agenda in Ireland and the UK at a very early stage. Some progress has been made in that area. The fishing industry realises it is pointless landing small fish which are then being discarded, something which these new methods hopes to address.

Ireland has been active in regard to the days-at-sea regime. While we opposed a days-at-sea regime when first featured in 2002, there was no point in standing on the sidelines shouting "No" because we could not decide our destiny. We cannot dine *à la carte* in Europe. Instead, we took the practical approach and negotiated changes with the full knowledge of the industry. Prawn fishery is the most important fishery in the Irish Sea and we successfully convinced the Commission that that fishery can continue without any significant days-at-sea impact. Senator McHugh referred to non-cod fisheries off the north-west coast. We succeeded last year in securing changes that greatly help fishermen targeting other species. On the Celtic Sea, the Commission has also accepted our view that other measures such as spawning area closures can recover that cod stock.

The situation regarding the whitefish fleet has changed for the better in recent years. Total investment of €123 million involving the payment of €30 million in grant aid to 151 vessels has delivered a modern whitefish fleet that can, for the first time ever, compete on a truly international scale. We also succeeded in unblocking the cap on funding at my first Council meeting, a large percentage of which, if not all, has been paid by BIM.

The programme for Government proposes the setting of a long-term strategy for the sustainable development of our fishing industry. We have

[Mr. Gallagher.]

already successfully negotiated a new Common Fisheries Policy. Of course we would like to believe we could have changed things but there are 24 other member states to consider. If we could decide our own destiny things would be different. In that regard, reference was made to Norway. I am envious of Norway's ability to decide its own destiny, something which Ireland cannot do but on which we continue to negotiate in the best interests of all aspects of the industry.

Progress has also been made on the implementation of a new licensing scheme for the inshore sector. Many inshore vessels have been unable to avail of grant aid but, it is hoped that as a result of that success, those boats will be licensed by March next year and we will work closely with BIM on such matters. It will be necessary for inshore vessels to comply with the code of practice but the marine survey office, my officials and BIM are working on this matter as we speak. It is hoped we will be able to assist them when purchasing equipment.

A major policy statement was launched in July setting out particular plans for the whitefish sector. On licensing delays, we have taken significant steps, not least of which the reform contained in the Fisheries (Amendment) Act 2003, which established an independent fishing vessel licensing authority with an independent appeals mechanism. The licensing authority found it necessary last year to suspend the processing of licensing applications pending the completion of a new transparent EU fleet management policy and the consequent introduction of a new national licensing policy. I am informed that applications are now being dealt with speedily provided all the necessary information required has been submitted. The vast majority of applications were issued with a letter of licence within a short period.

On harbour development, the National Development Plan 2000-2006 provides for €85 million for capital investment in fishery harbours infrastructure. By end June next year, long before the national development plan expires, we will have spent almost €95 million in some 100 different locations around the coast. We will have provided 75% of funding to local authorities for many harbours in their areas. These statistics speak for themselves. Reference was made to various harbours and to Killybegs in particular. I overheard a remark by Senator McHugh on Killybegs. Consultants were appointed to and reported on Killybegs. However, that was before the Senator's time. That report lay on the then Minister's desk for 12 to 18 months and never saw the light of day until the change of Government in 1997 when Deputy Woods became Minister. One of his first acts as Minister was to travel to Killybegs to unveil that plan for which the Government provided £80 million.

Mr. McHugh: I agree with the Minister of State but former Deputy Thomas Gildea is taking credit for it.

Mr. Gallagher: I am making the point that the plan had been on the former Minister's desk for 18 months and might not have cost as much had goodwill be involved.

Work has commenced on a €25 million development at Castletownbere, an €8 million development at Clogherhead and a €6 million development at Rossaveal, County Galway. The public consultation process to identify the best option has also commenced in Dunmore East and Senator McHugh will be aware that proposals are also in the pipeline to improve facilities at Greencastle, a matter currently being dealt with by An Bord Pleanála. As my time is limited, this is but a quick snapshot of works either completed or moving through the pipeline.

On aquaculture licensing and control, the Fisheries (Amendment) Act 1997 established a modern and effective licensing system. The Act sets out the various steps that must be followed as approved by the Oireachtas. My Department undertakes an extensive monitoring and control programme in accordance with that legislation. What gives us the competitive edge in terms of aquaculture is monitoring and control. I would be the first to acknowledge there are problems in the fin fish and salmon farming sector and that we must address those. Production of farmed salmon has dropped from approximately 23,000 tonnes to 15,000 tonnes during the past number of years. Fish farming, salmon farming in particular, and the aquaculture industry provide much needed jobs in the most peripheral areas of the country. We intend to work with the industry, BIM and the Marine Institute in that regard. At a recent meeting with the industry in Dingle, I gave a commitment on the part of Government to work in partnership with it to try to overcome its problems.

I am the first to realise that critical mass in absolutely necessary. Ireland is at a disadvantage, as it is further away from the European mainland and faces competition from Norway. We are negotiating with the Commission on minimum import prices that will not leave us at a disadvantage. I acknowledge difficulties exist for the industry.

Sea-angling is a viable tourism development option which is receiving attention. A €3.7 million scheme is in place to facilitate diversification away from fisheries. Grant payments as high as €100,000 per project are available for a variety of activities, ranging from sea-angling to island tours to bird and dolphin watching. To date, the Department has approved support for 74 projects, providing grant assistance of over €1.3 million, resulting in a total investment of €3.5 million. This represents valuable support to these enterprises and communities.

Considerable progress has been made by the Government in promoting development of the marine sector. The programme for Government contains several important priorities including the reform of the Common Fisheries Policy, the introduction of a new fleet policy, the develop-

ment of a long-term strategy for sustainable development of our fishing industry, the development of our fisheries harbours and effective management and service structures. The Government will focus on the December Council meeting and do its utmost by networking with all its contacts in the European Union seeking support. I agree with the Senators' comments on conservation. We are the custodians for future generations and must ensure a proper balance is kept. Senator Finucane referred to deep water species. Recommendations for huge reductions for species that only became included in quotas two years ago have been made. In this area we need to achieve the proper balance between the socio-economic advantages of fishing these species and conservation of stocks. Scientists will look only at the conservation aspect. However, at the December Council meeting, we will be arguing for the consideration of the socio-economic advantages. While the outcome may not be what we all desire, hopefully we will have a reasonable package to allow the industry to develop.

Mr. Ryan: I always say in debates like this that I will not need my designated eight minutes. However, the Cathaoirleach probably knows me better than I know myself at this stage.

An Cathaoirleach: I do. The Senator will go for 12 minutes.

Mr. Ryan: Each time I participate in a debate on fisheries, I am always impressed by the detailed knowledge of Members from the counties with large fishing industries. This belies any suggestion that there is a fund of expertise that knows better than elected politicians. Members are intensely aware of issues such as this and are more open to the experience of the people working in the industry than some of the experts who pronounce on it.

A debate on fisheries is like the two sides on the *Titanic* having a row rather than saving the ship. The Common Fisheries Policy has been a failure for a long time. It is impossible for a European Union of 25 member states to police properly its fisheries resources and to enforce forward-looking conservation policies, observed by all. One of the most profoundly wrong strategic decisions made by Ireland occurred during EEC entry negotiations when we traded a potentially lucrative fishing industry for the short-term gains of the Common Agricultural Policy. Both policies are now nearly gone.

I also have ethical questions — some international agencies have too — about western European countries launching enormous super trawlers and dispatching them to the west coast of Africa to catch other people's fish. This deprives people, already in grim circumstances, of their natural resources to make up for the scandalous way we have abused our own fisheries. One cannot entirely blame the Irish fishing industry in this regard. The impact of the Irish fishing indus-

try on the fisheries resources of the European Union is minuscule when compared to other European countries' large fishing industries, particularly those of France, Spain and, to a lesser extent, the UK. However, the Irish industry has been disingenuous. As an outside observer, the fisheries industry seems to me to spend too much time telling us that the problem is not as bad as it is and, if it is, it does not need to be remedied. In a way, it has a point. I have no great confidence in the European Union, or in Ireland with its limited resources, to enforce many of the requirements of a proper conservation policy.

In my few years of idleness from politics, I asked a Dáil colleague to table a parliamentary question to ask the then Minister for the Marine the monetary value of fish caught in the Irish zone of economic interests by non-Irish registered trawlers. In his reply, the then Minister said the Department could only make an intelligent guess of €750 million in the previous year. How can one operate a serious conservation policy if it is not known how many fish are caught? Over 30 years, this amounts to between €15 billion and €25 billion in today's prices. That is the same amount as we received from the European Union for structural and other funds. It is a larger sum than we received from the Common Agricultural Policy. It is not an insignificant issue.

I made a joke about the *Titanic* because the European Union has a fisheries policy that will lead to the end of fish stocks in most EU waters. While I support the Fine Gael motion, I will repeat what I always say when the House discusses fisheries. As it cannot be done individually, it is time member states accepted collectively that the current regime is failing and will result in an absence of fish from most of the EU's zone of economic interest within 50 years. While the investment in harbours is a great idea, as they will provide great tourist attractions and recreational facilities, if the EU fails to fundamentally review policy enforcement at Community level and by member states, the argument will be a matter for historians to review. They will ask how we got it so badly wrong.

Mr. Kenneally: I welcome the opportunity to speak on the motion and to support the Government amendment. The sea fishing sector has faced a great deal of difficulty over the past number of years due to declining stocks in EU waters. Whether people like it or not, we must regulate the sector to address the problem. If we do not do so, the fish will disappear and there will be no industry. A number of years ago, the waters off Morocco were full of fish, but the country allowed the Spaniards access to them under various agreements which failed to provide enough safeguards for the stocks. Those waters have been completely fished out. Agadir should be one of the world's premier fishing ports, but its vessels are tied up to rust and decay. We cannot and will not allow that to happen in our waters.

[Mr. Kenneally.]

The Government has done extremely well in very difficult circumstances. The Irish Box was the priority for interested groups when asked about their fears for the Irish fishing industry in consultations prior to the Agriculture and Fisheries Council on that same subject 12 months ago. The Irish Box was established on 1 January 1986 and was supposed to be abolished on 1 January 1996, but we succeeded in maintaining it. While there were changes to it on foot of the Council meeting 12 months ago, by and large, everybody was happy with what the Government achieved. That the Irish Box will continue to operate until 31 December 2008 is a measure of Government efforts to ensure the viability of our fishing industry. The co-operation of the Department and the industry in the context of the Council was pleasing. For too long, Irish efforts in this area have been fragmented.

There was a further example of co-operation at yesterday's meeting of the Joint Committee on Communications, Marine and Natural Resources to which the Minister referred. Representatives of various fishing industry bodies attended to speak of the need for conservation of cod stocks in the south east. It is indicative of progress that industry interests came together to make such a suggestion.

However, I have certain concerns. Fishermen in my area ask why they always seem to be the ones required to suffer. There is supposed to be a cohabitation agreement. Fishermen from the south east are seeking the establishment outside the 1,500 sq. m. which have been set aside for conservation under an international agreement, of a 15 to 20 sq. m. area for gill-netting.

While most of the larger trawlers can come in and Hoover up fish, local fishermen have been asked to give up their traditional fishing grounds. They are playing by the rules and trying to ensure there is a future in fishing. The minimum mesh in the nets they use is 30 mm above the recommended size and they catch no discards or juvenile fish. Fishermen in the south east operate in a tidal fishery and can only work seven or eight days out of every 14. I ask for them to be facilitated in the context of the so-called "cohabitation agreement". There is no point in fishermen like these making conservation efforts if next year or the year after large boats enter their waters and Hoover up fish stocks. There should be some derogation for them. The complaint I hear year on year from fishermen around Dunmore East relates to large vessels. Such vessels should be prevented from coming within six miles of the shore and I hope a provision will be made to that effect.

I cannot accept some of the points speakers made about fishery harbours. They are all being developed. Improvements have taken place at Castletownbere, Killybegs and Dingle. Works continue at Rossaveel and there are proposals for Clogherhead and Dunmore East. The latter is the area on which I am most competent to speak and

I know plans for it are very exciting. The harbour is currently choked forcing boats to travel up river to Waterford. The favoured plan will involve the establishment of a new breakwater and the creation of an outer harbour providing greater capacity for fishing boats and freeing the inner harbour for tourism and leisure facilities. These plans are a great demonstration of co-operation among different interests and a model for other areas to adopt. The state-of-the-art facilities being provided nationally will enhance the attractiveness of our harbours for commercial activity.

It would be difficult to speak on these subjects without raising the vexed question of angling. We must consider salmon fishing. At the meeting of the joint committee yesterday, the Minister said he was against a buy-out of existing licences. The Indecon report of April 2003 examined the subject in considerable detail. While there is no doubt that tourism angling will add more to the economy, there are many valid reasons for allowing commercial fishermen to fish in peripheral and coastal regions. Approximately 70% of commercial fishermen would be prepared to consider a buy-out if one were offered. Referring to the buy-out in north-west England, the Minister told the joint committee that if Irish commercial fishermen were given equivalent sums, it would cost the Exchequer €100 million. I do not think fishermen would expect that much. There is a great case for a buy-out to which angling interests are prepared to contribute. A voluntary buy-out, as described in the Indecon report, is something we need to consider to a greater extent.

Mr. Feighan: I wish to share time with Senator Browne.

An Cathaoirleach: Is that agreed? Agreed.

Mr. Feighan: I welcome the Minister to the House and voice my support for the motion. Any measure that ensures we take the marine sector seriously is very welcome. For too long, fishing communities, businesses in the angling sector and seafarers have relied on the waters around Ireland. Much has been done in that context but a lot more can be done.

On the promotion of fish and the marketing of processed fish product, coming from Boyle in Roscommon, the home of Donegal Catch, I know that value can be added to a very good product. Donegal Catch is now exported to countries across the Continent and the company has provided badly-needed jobs in Boyle, north Roscommon, Gurteen, in south Sligo, and Donegal, as the Minister will be aware. That strategy should be supported because it will benefit the fish industry.

As a restaurateur I was always taken aback by the fact that salmon was less expensive than whitefish. We have underestimated the value of whitefish over the years. We did not market cod

and other whitefish as well as we should have done over the years.

We should have a Minister for the marine. The Taoiseach was hard-pressed to include the marine in the Department of Communications and Natural Resources. Natural resources are a major element of this island country. We have a fishing box but within that box there are very considerable resources, including aquaculture, oil, gas and minerals. We must realise also that there are other resources not yet tapped.

I am concerned about inland waterways. We talk about tourism and the anglers who come here from Britain. Three years ago I made the point in the House, in connection with inland waterways, that fishing here was not the same as in the past, although the suggestion appeared to be dismissed at the time. Fishermen who used to come here from England are now going to Denmark and Holland. It is obvious that the fish stocks are not available and despite assurances from the various Departments, the Central Fisheries Board, the inland fisheries or whatever, fishermen will say that the fish stocks in the lakes and rivers of the Shannon system are not the same as they were previously. That has resulted in a major downturn in the tourism business. If anything arises from this motion tonight, there must be an independent report on those fish stocks. There is now a negative aspect to the tourism industry and inland fishing and despite what we have been told, that is quite obvious. The English fishermen who came here and who taught us how to conserve and approach the tourism industry have turned their backs on us and are now going to Denmark, Holland and further afield. That problem needs to be addressed by the Department.

Mr. Daly: There is no mention of that in the motion.

Mr. Browne: I thank Senator Feighan for sharing time with me. I too want to concentrate on inland fisheries. I am not from a county with a marine tradition but one which has a very proud fishing tradition on the River Barrow, the River Slaney and other minor rivers. It was terrifying to see the report in last week's *Sunday Independent* which said that the Irish stocks of wild Atlantic salmon have been exposed by figures which reveal that anglers in Scotland and Iceland have enjoyed their best fishing in more than 20 years, in direct contrast to our own. The statistics are very worrying. For example, plaice caught today is a quarter of the size of that caught a century ago. Shark, swordfish, marlin and tuna have declined by 90%, and there is major concern about cod. In my own constituency there is major concern about salmon. There are major concerns in Carlow about drift netting, which is having an enormous impact on inland counties like Carlow. Senator Kenneally might have a different view but from speaking to anglers in Carlow, they see major difficulties with what is happening in the

south east with drift netting, which is having an impact on salmon coming up the river.

It is worth pointing out that every fisherman who comes to an area spends, on average, about €1,000 between accommodation and other associated costs. Invariably, if such fishermen catch a salmon they might throw it back into the river. They fish purely for the love of fishing, and that has a major knock-on effect on a local area. We should do everything in our power to ensure that continues for many years to come.

I read a report in *The Guardian* which was worrying. It stated that the Royal Commission on Environmental Pollution will demand that 30% of the waters around Britain be designated marine national parks. That is because it has found out that 90% of the sea beds are empty because they are over-fished six times a year. There was mention also of the coral reefs being very badly damaged, which has a major impact on the source of food for fish.

When we talk about fishing, we must not forget about inland counties with rivers which have proud traditions in fishing. We often talk about Fenit, Killybegs and so on. However, fishermen in inland counties are feeling the squeeze also and, as a result, the bed and breakfast and other tourist facilities are experiencing a severe knock-on effect as a result of over-fishing in some cases.

Mr. Daly: I wish the Minister of State well in his office. He has a proud record in fisheries matters and was a very good apprentice when he worked with me in the Department of the Marine many years ago.

There has been veiled criticism of personnel in that Department but I want to record that there are very skilled, experienced, professional people in the Department, as the Minister is aware, who deal with this area every day. I could not allow a situation arise where there might be some reflection on the personnel who deal with licensing and other issues. The Department has been criticised in a veiled manner in the motion before the House.

Several speakers on the opposite side of the House spoke about the salmon fishing industry. Why was that not mentioned in the motion? There is mention of sea angling, nor is there any mention of the inland fisheries, about which I am very concerned.

Mr. McHugh: We will bring that up the next day.

An Cathaoirleach: Senator Daly, without interruption.

Mr. Daly: I get very anxious when motions such as this come before the House. The back room people in Fine Gael must decide that because fisheries was not mentioned in the Seanad for the past two and a half years, they will be left very exposed if an election comes up.

Mr. McHugh: The Senator still has not said anything about fisheries.

An Cathaoirleach: Senator McHugh, you will have an opportunity to reply.

Mr. McHugh: I certainly will reply.

Mr. Daly: The Members opposite have not given any indication of Fine Gael's policy on that area. What is the party's policy on that issue? Perhaps Senator McHugh can tell us.

Mr. McHugh: Senator Daly should say something about it now.

An Cathaoirleach: Order, please.

Mr. Daly: When Senator McHugh gets an opportunity he might tell us and put it on the record.

An Cathaoirleach: Senator McHugh will be replying shortly.

Mr. Daly: Perhaps he will tell us when he replies. I challenge him to tell us now.

Mr. McHugh: Outside or in here?

An Cathaoirleach: There will be no challenges in this House. The Senator should make his contribution and Senator McHugh will reply.

Mr. Daly: We have yet to hear from Fine Gael, which expressed concern about the decline of salmon fishing and salmon fisheries generally. Does Fine Gael support the abolition of drift net fishing for salmon? Yes or no? It is a very simple question. Does Fine Gael wish to see drift net fishing for salmon continue or does it want to see it end? I would recommend strongly to the Opposition Members who tabled this vague, innocuous motion that they should read the BIM report for 2003, which is the latest available. The Department has a record of achievement in all aspects of the marine industry, including training, fish processing, harbours, aquaculture, salmon and mussel farming and so on. A total of 17 whitefish vessels have been added to the fishing fleet with 12 more to come on stream this year. Five new pelagic vessels were added to the fleet last year. The fishermen themselves have invested millions of euro because they have confidence in the work of the Minister of State and the Government to develop our sea fisheries, which can continue to make a significant contribution to coastal communities where it is important that employment and other opportunities should be created.

It is impossible to discuss the various aspects of this complex industry in a few minutes.

Mr. Browne: The Senator has spent three minutes giving out about Fine Gael.

Mr. Daly: It is unfair that the Fine Gael Members did not address the motion they tabled. They referred to the importance of inland fisheries but what is the party's policy in this regard? Does the party support the abandonment of drift netting? I compliment the Minister of State and wish him well.

Mr. McHugh: I am absolutely delighted. Many people approached members of Fine Gael over the past three or four years regarding issues and concerns they have relating to the marine industry, which are not being addressed. I acknowledge the Taoiseach's appointment of Deputy Gallagher to the marine portfolio. Fisheries present a major challenge. Senator Daly is correct that inland fisheries is an issue. However, there are many issues in this industry and the Minister of State did not respond appropriately to the sea angling issue. This not only involves dolphin watching; private entrepreneurs in Donegal are taking German and Dutch tourists on sea angling trips off their own bat. The issue is the need for a comprehensive marine strategy, not the provision of grants.

We have raised the tentacles of Government Members in regard to the marine industry. I recall when I was a teacher I accused a young lad of not doing his homework in front of the class. His father had called me that morning to say he had not done it. The young lad lost the head when I confronted him and he went bloody mad. Similarly, when I accused the Government of not doing its homework on the marine industry, Senator MacSharry lost the head and went absolutely berserk.

Mr. Daly: The Senator did not do his homework on the motion.

Mr. McHugh: I will not be political. There was no veiled criticism of the Department. The Department must be complimented from Greencastle to Castletownbere. The Minister of State acknowledged there were delays in the issuing of fish licences.

Mr. Daly: The Senator referred to a lack of progress.

Mr. McHugh: That was acknowledged by the Minister of State. A plethora of challenges lie ahead on marine issues.

Inland fisheries will become a major issue in Donegal. Approaches have been made to the Minister of State in this regard. The issue does not centre on whether drift net fishing is abolished. It is all about balance because there are no simple solutions to fisheries issues.

Mr. Daly: Does Fine Gael support its abolition? It ran away from this issue.

Mr. McHugh: The issue is on the table for local authorities to address. Will the local authorities and BIM draft a tourism framework for inland fisheries while disregarding the views of angling clubs? Anglers in Donegal are fed up because they were disenfranchised during the consultation process. I am flagging this issue, about which there are rumblings. Hopefully, it will not result in a scenario similar to the rod licence war.

Mr. Daly: Fine Gael also ran away from that issue.

Mr. McHugh: Everybody involved must be consulted, including game anglers and commercial fishermen. Fishermen are responsible people. They are the custodians of the sea in the same way farmers are the custodians of the countryside and they will not be found wanting when it comes to conservation of ecosystems and fish stocks.

Fine Gael wants to flag that it supports the marine sector. As Senator Feighan stated, we will appoint a Minister for the marine.

Amendment put.

The Seanad divided: Tá, 27; Níl, 15.

Tá

Bohan, Eddie.
Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.

MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Feighan, Frank.

Finucane, Michael.
Hayes, Brian.
McCarthy, Michael.
McHugh, Joe.
Norris, David.
Phelan, John.
Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Cummins and McHugh.

Amendment declared carried.

Motion, as amended, put and declared carried.

Irish Nationality and Citizenship Bill 2004: Report and Final Stages.

An Cathaoirleach: Before we commence, I remind Senators that they may speak only once on Report Stage except for the proposer of an amendment who may reply to discussion on the amendment. Each amendment on Report Stage must be seconded.

Mr. Cummins: I move amendment No. 1:

In page 3, between lines 14 and 15, to insert the following new section:

“Irish children born to non-national parents.

2.—Within three months of the passing of this Act, the Minister shall publish the guidelines which are applied by the Department of Justice, Equality and Law Reform in determin-

ing whether to grant leave to remain to the non-national parents of an Irish born child.”.

When I raised this matter on Committee Stage, the Minister said he would send a memorandum to Cabinet immediately on the passing of the Bill with a view to having proper guidelines and so on put in place. I again seek that assurance this evening. The matter needs to be clarified. How long will it take for proper guidelines to be put in place? Surely at this stage of proceedings, the Minister should be in a position to say all the guidelines will be in place within one or two months and that everything will be dealt with. The Minister said he would expedite matters and all we ask is that he would be more specific on this matter.

Mr. Norris: I second the amendment. The reason I let my two amendments go forward is that I wanted to make sure this issue was covered. During the debate on Second Stage, particularly with regard to the question of guidelines, the Minister appeared to give an indication that he would pick up on a suggestion I made, which was

[Mr. Norris.]

to publish the guidelines, after the memorandum had gone to Government and so on, in booklet form so that this would be of use to people making applications, in that they could make a directly targeted application and include the correct information. It is not intended in any sense to facilitate people who are not entitled to get this status. Can any more concrete news be given to the House this evening with regard to the publication of this booklet?

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): This amendment is opposed. The effect of it would be to impose a legal obligation on the Minister for Justice, Equality and Law Reform to publish the guidelines which are to be applied in determining whether or not leave to remain should be granted to the parents of Irish-born children. The amendment does not just cover the parents of Irish citizen children, it also covers the parents of children who, although born in Ireland after this Bill will come into operation, will not be Irish citizens. It is clear, therefore, that one set of guidelines would not apply in both cases. If the exact same set of guidelines were to be applied in both cases then a certain amount of the clarity which the Bill will bring to the area would be lost.

I presume, however, that the amendment is targeted at, first, those 11,000 parents whose applications were in the pipeline in February 2003, second, those estimated 6,000 or so parents who have had Irish-born children since and, third, those other non-national parents who had children here in the past and who may seek in the future to obtain residence permission should the possibility of their existing permission to reside in some other jurisdiction cease, or, indeed, should they develop a wish to reside in Ireland for other unrelated reasons.

Underlying this amendment is the assumption that the Minister has free rein in regard to these matters at present. That is an incorrect assumption. Section 3(6) of the Immigration Act 1999 sets out in statutory form a range of 11 different factors which must be taken into account by the Minister in determining whether to make a deportation order. These include humanitarian considerations, family and domestic circumstances, employment prospects, duration or residence in the State and any representations made.

On 18 July 2003, my Department published in the national newspapers an advertisement entitled, "Notice to the non-national parents of Irish born children", which drew attention to these provisions and which provided a lo-call telephone number, 1890 457 032, for persons who wished to discuss them. Since its establishment, over 9,300 calls have been received on that helpline, in some cases from members of the legal profession acting on behalf of applicants.

Furthermore, under section 4(10) of the Immigration Act 2004, the Minister is required to have regard to all of the circumstances of a particular

case in determining whether or not permission to remain should be granted, including, for example, any family relationships with other persons in the State and the financial needs, obligations and responsibilities which the person or the family is likely to have in the future. In fact, when this provision was introduced into the Immigration Bill 2004 by way of amendment on Committee Stage in this House on 30 January 2004, it was unopposed, presumably on the basis that its purpose was to place on a statutory footing the guidelines which would inform the exercise of ministerial discretion. Furthermore, the Minister is required to have regard to the Supreme Court and High Court jurisprudence in the area. For example the L and O case imposes an obligation on the Minister to have regard to the constitutional rights of the Irish citizen child as part of a family unit.

The website of the Department of Justice, Equality and Law Reform contains a host of information in regard to immigration and citizenship matters. All of this was done, not because there was any statutory obligation on the Minister's part to provide it — there is no such obligation — but because it is good practice. The Minister sees no good reason why he should be under a legal obligation to provide information regarding one issue, affecting one class of immigrant in the State, where he is not under a legal obligation to provide similar information regarding any other non-nationals who are resident here or any other such issue. In line with the undertakings he has already given in this House and elsewhere, the Minister fully intends to publish information in regard to claims to remain in the State on the basis of an Irish citizen child. He is not in a position to go further than that at present.

Senator Norris sought concrete news on the matter.

Mr. Norris: The Minister said he might collect the information for the different sections of the legislation——

An Cathaoirleach: Order, please.

Mr. Norris: ——and put them in an accessible format.

Mr. Fahey: He said he would give consideration to that, which he will do. He remains firmly committed to what he said so I do not think the Senator need have any worries in that respect.

Mr. Norris: I would be worried about commitments because we got the definition of a commitment yesterday in the newspapers; it is not legally binding.

Acting Chairman (Mr. Dardis): I have just arrived in the Chair and, as far as I can see——

Mr. Norris: You are very welcome.

Acting Chairman: ——we are dealing with Report Stage.

Mr. Norris: That is right. Well done.

Acting Chairman: That means we do not have a dialogue. It is not Committee Stage.

Mr. Fahey: It is always a pleasure to have a dialogue with Senator Norris. In any event, in those circumstances, I cannot accept the amendment.

Acting Chairman: Is the amendment being pressed?

Mr. Cummins: We are not pressing it but we hope the Minister will honour the commitments he gave in this House on Committee Stage. We have no reason to believe he will not honour them. The reason we tabled the amendment again was to secure further assurances. However, the reply given by the Minister of State is as clear as mud. Nonetheless, we will take him at his word.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 2 and 3 are related. Amendment No. 4 is an alternative and amendment No. 5 is related to amendment No. 3. Amendments Nos. 2, 3, 4 and 5 may be taken together by agreement. Is that agreed? Agreed.

Mr. Norris: I move amendment No. 2:

In page 7, between lines 7 and 8, to insert the following:

“(iv) if the person was born to parents one of whom is declared a refugee after the date of birth of that person, and the parent is thereby entitled to reside in the State without any restriction on his or her period of residence (including in accordance with a permission granted under section 4 of the Act of 2004).”.

I do not wish to take up too much of the House's time and acknowledge the Minister gave answers to the questions raised on Committee Stage. However, I wonder whether there has been time for what a distinguished member of the Minister of State's party described as “mature reflection”.

Amendment No. 2 relates to a question of straightforward discrimination, particularly because it affects a child born to a person while in the asylum system, when that parent is subsequently determined to have legitimately become a refugee; the matter involves a calculation of time. The point is that the parent was always a refugee and the subsequent determination does not mean the person was not a refugee from the time the application was made but rather that the determination would mean that the person was a refugee all along, which fact should be taken into account in the calculation of the period.

The other amendment also related to a question of discrimination between, for example, migrant workers and international students. It

would be futile for me to rehearse the entire argument. However, the Minister understood my point that a certain level of discrimination existed, which was unfortunate and regrettable given that students contribute enormously to our society in terms of the exaggerated fees they pay. For example, I was part of a group that originated a diploma which became an M.Phil in Anglo-Irish literature, for which the college milked fees from the students. Students at the Royal College of Surgeons in Ireland also pay enormous fees, some graduates of which continue to work and give their service here and form attachments and so on. It seems somewhat arbitrary that all this time spent in college in Ireland should be just wiped off the slate.

The other argument I made about the way in which the Bill was framed was that two persons, one of whom was a migrant worker and the other a student, might be treated differently although they might have spent the same amount of time in the country. I am happy to support amendment No. 4 in the interests of the Labour Party if the House wishes it, although it is slightly less swingeing than my own amendment No. 3, which is roughly similar in intent but seeks to delete lines 6 to 19, whereas the Labour Party amendment proposes to delete only lines 6 to 10.

Mr. Cummins: I second the amendment.

Mr. Fahey: The amendments are opposed. As the House is aware, the referendum in June was successfully carried with the support of more than 80% of the electorate. At the time, we published the Government's proposals on what legislation would be proposed in the event of the referendum being passed. The Government document made it clear that while it was committed to the basic principles of the draft, it would be disposed to propose and accept amendments which were considered to improve the final product consistent with the Government's policy on citizenship.

A central feature of the policy underpinning the Bill is that where Irish citizenship depends on the reckonable residence of a parent, all of the periods of reckonable residence must precede birth. If we deviate from that general principle, the problem will be that non-nationals will have no connection with Ireland and will have a continuing incentive to come to the State to have children and an increased incentive to claim asylum speculatively in pursuit of that goal, with which no Senator can argue.

It seems obvious that every asylum seeker hopes to be granted refugee status. If the Minister includes a provision which retrospectively confers automatic citizenship on the child of an asylum seeker who attains refugee status, then all pregnant asylum seekers will have a continuing incentive to come and have children here. This includes even the vast majority of asylum seekers who never attain refugee status. At the time of birth, they will retain the hope that they will be granted refugee status.

[Mr. Fahey.]

It is not the case that the children of asylum seekers who turn out to be refugees will be excluded from Irish citizenship forever. Section 16(g) of the Irish Nationality and Citizenship Acts, which will remain unchanged after this Bill, provides that the Minister may, in his or her absolute discretion, waive the normal conditions for naturalisation in certain circumstances, including where the applicant is a person who is a refugee within the meaning of the United Nations convention on the status of refugees.

It has been the general practice of the Minister and of his predecessors in office for many years to waive the normal residence condition of five years' legal residence and shorten it instead to three years from the date the refugee entered the State. It should be noted that this provision facilitates the naturalisation of children born abroad as well as future children born in Ireland. No fee is charged in respect of naturalisation applications from refugees. The regulations for fee exemption for refugees and stateless persons were introduced by former Minister for Justice, Máire Geoghegan Quinn, in 1993 and extended by former Minister, Nora Owen, to programme refugees in 1996.

In regard to the position of students, as the Minister pointed out on Committee Stage, the provisions in the Bill will introduce similar conditions for reckonable residence for citizenship by birth to those which currently apply for naturalisation purposes. Under the current provisions of section 16A, subsection (1) of the 1956 Act, temporary residence in the State for study or asylum purposes is excluded from reckonable residence for naturalisation purposes. The problem of students overstaying or seeking to extend artificially their permission to remain is well canvassed at this stage and is known to every Member of this House.

In April 2002, that highly respected international institution, the International Organisation for Migration, published a report which is intended to inform the development of Irish immigration policy with research on the policy and practice in other jurisdictions. That report highlighted the fact that it was internationally recognised that the downside of the export education industry was that of students overstaying and using the pretext of initial entry as a student as a *de facto* means of illegal migration. It also highlighted the fact that particular features of a country's citizenship laws can influence inward migration pressures.

Last month, the Minister for Education and Science published an interdepartmental report on the internationalisation of Irish education services. The report, which is designed to promote Irish education services abroad as an export product, also highlights the problem of overstaying. If we are to take this matter seriously, we must act in accordance with these widely recognised concerns. The Minister does not want a situation to arise where persons, who knew they were in the

student category from the day they arrived, plan to have a child after three years in order to prolong their stay. If, by chance, they become doctors or nurses or whatever in the future, then their immigration status will change and they will be able to build up reckonable residence from that point. They will also be able to apply for citizenship for themselves and their children after five years reckonable residence in that case.

Therefore, we want our asylum seekers to come here as asylum seekers, not as citizenship seekers. We want students with extended stays here to be here for the quality of the Irish educational experience, not for the potential that birth on the island of Ireland might bring. This forms a comprehensive case and no "mature recollection" is necessary because the Minister and the Department have taken a very reasonable approach to this issue.

During my time as Minister of State with responsibility for labour affairs, I witnessed the significant problem we have with the numbers of young people who have been coming to this country in recent years under the pretext of wishing to become students and participate in Irish education, but having no intention of doing so. Thousands of such people are here illegally, which cannot be accepted or underwritten by legislation. For these reasons, I cannot accept these amendments.

Mr. Norris: To deal with the Minister of State's last point, that is a slightly different matter. People who come in and use education as a subterfuge and disappear into the undergrowth are very different from those who spend five years studying here. Although I respect and accept the Minister of State's experience, it is not directly applicable in this case and I am sure that, on mature reflection, he would agree. The one point the Minister of State made in this regard that I welcome was that if people were granted asylum without citizenship and then conditions appeared to change in the country from which they were fleeing, there would not be any great alacrity on the part of the Government to say to them that conditions at home are much better and they should return there.

I do not see why there is this fear of students, if they are bona fide students. I accept what the Minister of State, Deputy Fahey, said. If they come to Ireland in an unauthorised fashion, are only posing as students and then disappear, that is a very different matter.

Mr. Fahey: On a point of clarification, they come in as bona fide students. That is the basis on which they receive their visas.

Mr. Norris: However where they do not remain as students and waltz on that agreement there is a good case for expelling them. They are not the kind of people of whom I am thinking. It depends on the definition of "student". If people are taking courses at reputable third level centres of

learning, then it seems they are precisely the kind of people who would be useful in this country.

The Minister of State seemed to suggest that if one allowed the children the period of reckonable residence and citizenship to come into operation, then this might act as a lure and we would get more asylum seekers. I do not see how this would be so because if it is subsequently determined that they are not refugees, then they will not have any significant advantage. Therefore, spurious claims of asylum or refugee status would not confer any advantage on either them or their child. I do not see how it could be an inducement for them to take up this position. I recognise that the Minister of State will not change his mind but at least I will have this on the record, not that it will be a great comfort to the people who have briefed me on this matter.

Mr. Fahey: The simple answer is that when the baby is born the parents live in hope and we do not want to anticipate that situation. I am a great admirer of the eminent professor, who has impressed many students. I cannot help saying—

Mr. Norris: Me? I never scaled those dizzy heights. I am a *mignon*.

Mr. Fahey: The Senator has a reputation of being an eminent professor with many of his former students—

Acting Chairman: Did the Senator say *mignon* or *minnot*?

Mr. Norris: *Mignon. Mignonette*, if you like.

Acting Chairman: Pardon me.

Mr. Fahey: —who are good friends of mine. I would never suggest that Senator Norris would be naive but I think he is being a little naive on purpose in the case of the bona fides of many of those students. The reality is that across the world, in Canada, the United States and Australia, there is ample evidence to show that the student visa system operates on the premise that study abroad is countenanced as a temporary phenomena. It is designed to last as long as the course. The fact of the matter is that we must continue to insist on the temporary nature of such students living in Ireland. We cannot in any way give them a false hope that there are possibilities for them to remain here, therefore, it makes good common sense to have these provisions in the Bill. While we would all perhaps empathise with the case being made by Senator Norris, it is not on. We would be leaving ourselves wide open for much abuse of our visa and citizenship processes. Unfortunately I must reject the amendment.

Amendment, by leave, withdrawn.

Amendments Nos. 3 to 5, inclusive, not moved.

Bill received for final consideration.

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

Mr. J. Walsh: We should compliment the Minister of State, Deputy Fahey, and indeed the Minister, Deputy Michael McDowell, who pioneered the legislation through the House and who has been forthcoming with answers and explanations on queries and amendments raised. It is the ultimate manifestation of democracy. The House is giving effect to the will of the people which was decided by an overwhelming majority in the referendum in the summer. The fact that the draft legislation was on display prior to the referendum gives great weight to what we have decided here. It is a significant step forward in how we handle the growing multiculturalism within the country.

Mr. Cummins: I also thank the Minister of State for attending the House and especially thank the Minister, Deputy Michael McDowell. We had a healthy and robust debate on the Bill and, as Senator Walsh stated, we are implementing the will of the people. We have done everything possible to expedite this legislation through the House. We needed proper balance and I hope we secured that in the Bill as passed. I thank the officials who prepared this legislation. We have had many disagreements in the debate on the Bill but it has been a difficult one on which get proper balance. I hope for all our sakes that we got that balance and are implementing all the wishes of the people.

Mr. Norris: I join in what my colleagues have said. I thank the Minister of State and also the officials, who were helpful and gracious during the passage of the Bill. I very much thank the Minister for Justice, Equality and Law Reform, Deputy Michael McDowell, because he showed great respect, coming into the House, spending a long time here and teasing out the issues on Committee Stage. He did not see his way to accepting amendments but what he did was interesting. He gave his views and he gave the context within which decisions would be taken. Of course he gave some interesting and helpful information to the House, for example, the idea that if he was to give particular instances, then he might be, in law, held to those. He gave the instance of female circumcision, that if he accepted one case and gave specifically that as a reason or as a guideline, he might have half sub-Saharan Africa landing on our doorstep. That was a useful illustration and I am grateful for it. I learned a good deal during the progress of the Bill.

The Minister made what, I suppose, one could call commitments and undertakings about the particular way in which these matters would be handled. He felt he could only do so in general terms, not by accepting amendments. This Minister, despite the political reputation that he has

[Mr. Norris.]

sometimes developed, has shown himself in the past to be sensitive, humane and decent. I serve notice that those of us who tried to table amendments will be watching during the application of the Bill once it becomes law. We very much hope and expect that the Minister will live up to the humane commitments he gave to this House on Committee Stage.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): I assure the House that the Minister will be delivering on the commitments. Now that the Bill is finally passing into law it will not be long before Members will see action on the part of the Minister. I thank the Members for a very interesting debate on this legislation. I thank the Cathaoirleach and Leas-Chathaoirleach and the staff of the House. I know the Minister particularly enjoys the debates in this House and that is probably the reason he gives it so much time. As a former Member of the House I agree it is important the Minister attends. He asked me to attend on his behalf only because he is taken up with very important business in Belfast today.

As Senator Norris pointed out, this is a very complex piece of legislation. Our officials in the Department did an excellent job in the preparation of this legislation. I thank them for the comprehensive briefing given to me as I came to the debate at a late stage. The people have made their choice and this legislation implements that choice. I hope it gives genuine people the right to Irish citizenship while at the same time protecting Irish citizenship from those who do not deserve to have it.

Acting Chairman: I thank the Minister of State, Deputy Fahey, and the Minister, Deputy McDowell and their officials for their work on the Bill.

Question put and agreed to.

Acting Chairman: When is it proposed to sit again?

Mr. J. Walsh: Tomorrow at 10.30 a.m.

Adjournment Matters.

UN Reform.

Mr. Mooney: I welcome the Minister of State at the Department of Health and Children, Deputy Tim O'Malley, to the House. I appreciate and acknowledge the fact that the Minister for Foreign Affairs is otherwise engaged on very important matters of state on which all of us in this House wish him and the Government well as they pursue a resolution of the peace process in Northern Ireland.

In the context of this resolution I think it timely to raise this matter as the high level report on UN reform was published last week. I appreciate the Government had an opportunity to set down its position in the other House and there was a debate on the matter. However, this House which has a long tradition of highlighting issues relating to Ireland's international participation in institutions worldwide, should also have an opportunity to hear the Government's position on the high level report.

I was struck by the phrase in the report in which the panel stated that any reform should increase the involvement of those who contribute most to the UN financially, militarily and diplomatically and make it more representative of the broader membership especially of the developing world. Reforms should also increase the democratic and accountable nature of the body but should not impair the effectiveness of the Security Council. This was published in *The Financial Times* of Thursday, 2 December 2004 and encapsulates the challenges now facing the UN as a body and Ireland in particular.

Ireland's illustrious history of active participation and support for the United Nations as a body and its membership of the Security Council at critical times in the recent past, places it in the centre of the reform initiative. Two models are being proposed and I wish to deal with the second. It would create no permanent seats but would establish a new category of eight four-year renewable term seats which would be shared equally between Asia, Africa, Europe and the Americas. Germany and Japan opposed this idea. They are in favour of the first model which is to create two new rotating seats and six permanent seats without a veto.

Ireland should be central to these debates and discussions because it fulfils all those criteria. We have been committed militarily, financially and diplomatically. I therefore urge the Government to pursue every avenue to ensure Ireland's support for the UN in difficult times would be acknowledged in some practical and effective way.

The report refers to the impairment of the effectiveness of the Security Council. This is having a direct effect on Ireland's international obligations, especially within the European context where the trend is now towards regional solutions to regional conflicts under the UN mandate. The best example is one that has been touted on a number of occasions in the past. When the situation in Macedonia flared within the last two years, the UN and the sentiment of the UN Security Council was towards a UN involvement. China vetoed a UN resolution to provide that mandate because Macedonia had recognised Taiwan, the separate existence of which is opposed by China. Under the triple lock mechanism, Ireland could not participate in that force.

Sweden is a non-aligned country, as distinct from a neutral country and was able to participate. I recently visited Stockholm and met

officials from the Swedish Department of Defence as part of a British-Irish interparliamentary report on the common defence policy implications for Britain and Ireland. They indicated that Sweden sent a force because it interpreted the sentiment of the UN as a body and it wished to be involved. I do not propose nor do I wish to have my remarks interpreted as in any way diluting the triple lock mechanism as it currently operates. That is something for a future debate.

My motion was tabled to provide an opportunity for the Government to outline its views on the reform plan and where it sees the way forward. Unless there is reform of the Security Council, the manner in which it operates and the mechanisms for decision-making, I am firmly of the opinion that the UN as a credible international body will have its reputation severely diminished. Ireland and many other EU countries understand and appreciate this situation. It is a very important issue for this country's international policy position because we are strong supporters of the UN. There has been much criticism by people on all sides of the House about Ireland's provision of fuelling and landing rights at Shannon Airport. Ireland has always operated under a UN mandate. In that context I believe this debate is only beginning. I am anxious to ensure that a wider public debate takes place on what is a long overdue and effective reform of the Security Council and of the UN as a body.

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I thank Senator Mooney for raising this matter on the Adjournment. The Senator's question relates to one of the criteria for reform of membership of the United Nations Security Council proposed in the recent report of the UN Secretary General Kofi Annan's high level panel on threats, challenges and change.

By way of background, I should mention that the high level panel was established in November 2003 by Secretary General Kofi Annan to examine how best collective action can meet current and future threats to peace and security. The Secretary General established the panel in response to the increasing strains on the multilateral system evident in 2003, most notably international divisions over Iraq. He memorably described the situation as having reached a "fork in the road" for the United Nations and stated we were in a period as decisive as when the UN was founded in 1945.

Ireland welcomed the establishment of the panel and, during our Presidency, co-ordinated a European Union contribution to it. I am glad to note the central elements of the EU contribution are reflected in the panel's report. Specifically, the panel was tasked with analysing current and future challenges to international peace and security and assessing how best collective action can meet these challenges. It was asked to recommend changes necessary to ensure effective collective action, including but not limited to a

review of the principal organs of the United Nations.

The issue of institutional reform of the United Nations has tended to dominate public commentary in advance of the panel's report and in the period since its release. In framing the terms of reference for the panel, however, the Secretary General was careful to avoid excessive emphasis on the question of institutional reform. This has proven to be a prudent approach.

Although Security Council reform is an important issue on which Ireland holds strong views, it has proved contentious at the United Nations. Ten years of deliberations by member states on Security Council reform at the United Nations General Assembly have not yielded any tangible progress towards agreement on change. It is an issue on which the European Union does not have a common position on account of the divergent views of some partners.

The panel's report sets out the case for reform of the UN system, including that of the Security Council, as the logical outcome of the case it makes for an enhanced collective consensus on security. I will return to the specific issue of Security Council reform shortly but let me briefly refer to the essence of the report. The report makes a compelling case for a new, more comprehensive consensus on security. It shows how important it is to have collective strategies which understand how threats and challenges are linked in today's world. For instance, weak states can be a haven for terrorists. The economic repercussions of a terrorist attack can undermine the global economy and make weak states even poorer.

The report demonstrates how security cannot be built in isolation, looking only to one's own immediate concerns. It is important to have a mutual recognition of threats. Effective collective security demands that we address poverty and underdevelopment as well as terrorism and the proliferation of weapons of mass destruction. This also reflects the central premise of the European Union's contribution to the panel that there can be no hierarchy of threats.

The report makes a number of specific recommendations on preventing threats, including terrorism, poverty, internal conflict and the proliferation of weapons of mass destruction, many of which are sound, constructive and worthy of support. A particular emphasis of the panel, one which Ireland would strongly endorse, is the need for sustained multilateral support for peace building in countries emerging from conflict.

Ireland also welcomes the report's acknowledgement of the growing acceptance of the responsibility of states to protect their citizens rather than use sovereignty as a screen to hide massive human rights abuses. We also welcome the impetus the report has given to reform of United Nations institutions.

Having made the case for a new consensus on collective security, the panel assessed the institutional reforms required in the UN system to

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implement this consensus. On Security Council reform, the panel noted that the Council had been slow to adapt to changing circumstances. Since the end of the Cold War, its overall effectiveness had improved but it had not always acted consistently or effectively in the face of genocide or other threats. Accordingly, the panel recommended criteria for reform, including those raised by the Senator.

As well as greater involvement for those who contribute the most financially, militarily and diplomatically, the panel selected three other criteria which are as follows: the Security Council should be more representative of the developing world; change should not impair the effectiveness of the Security Council; and reform should lead to an increase in the democratic and accountable nature of the Security Council. The first criterion informed the Senator's question and reflects Article 23 of the UN Charter which sets out the criteria for election of the non-permanent members with "due regard being specially paid, in the first instance, to the contribution of Members of the United Nations to the maintenance of international peace and security". The panel proposes two models of reform of the Security Council. Six new permanent and three new non-permanent seats would be established or the Security Council would have no new permanent seats but a new category of eight seats to which candidates would be elected for a four-year term on a renewable basis, along with one additional standard non-permanent seat. The former is the preferred model of aspirant permanent members. The panel recommends against extending the right of veto.

Ireland believes the Security Council needs to be more representative for the sake of its legitimacy and thus its effectiveness. We have long favoured a regionally balanced increase in membership to create an enlarged Security Council of between 20 and 25 members. We will, in this regard, study carefully the proposals put forward by the panel. The reform of the Council is unquestionably a priority and an aspect of reform to which Ireland attaches great importance. However, Ireland believes that the key immediate task ahead is for UN member states to work together and with the Secretary General to strengthen the UN system.

It is critically important that at the high level meeting at the United Nations next September, which will also examine progress in achieving the millennium development goals, we agree a package of reforms, including institutional reforms, to improve the functioning and effectiveness of the UN system. Ireland will play a full and active part in this critically important work.

Mr. Mooney: I am grateful to the Minister of State. I am particularly pleased that he outlined Ireland's position and its proposals on the reform of the Security Council. It could be inferred from his reply that Ireland may be part of an enlarged

Security Council of between 20 and 25 members. This issue lay at the heart of my contribution because of Ireland's long-standing and important contribution to the United Nations.

I hope the Taoiseach and the Minister for Foreign Affairs will follow the example of Prime Minister Tony Blair in supporting the continued role of the United Nations Secretary General, Kofi Annan, against threats from certain right-wing elements in the United States Congress who are calling for his resignation. If Mr. Annan's position was threatened in any way, it would be a disaster for the United Nations, particularly small countries.

Schools Refurbishment.

Mr. U. Burke: I welcome the Minister of State to the House and thank him for taking this matter on the need for the Minister for Education and Science to approve the selected tender for the extension and refurbishment at Moyglass national school, Loughrea, County Galway, because the school has waited for more than five years for works to commence.

Moyglass national school has two teachers and 37 pupils. The Department's records classify it as a three teacher school on the basis that it is a base for a language support teacher. As such, the teacher has no place in the school because it only has two rooms.

The school was listed by the INTO among 40 schools unsuitable for human habitation. Were it not for the dedication and commitment of the board of management, parents association and principal teacher and his staff, the school would have long since been closed for human habitation. All of those concerned have committed their own resources to keeping the school open until the Department takes action.

On 11 December 2001, I tabled a parliamentary question on this issue. The then Minister for Education and Science, Deputy Woods, informed me that the planning stages had commenced. At the time, however, Members were informed that every school was on the list. In January 2002, in response to a further parliamentary question, the then Minister stated that planning had advanced from the previous year. We are at a crucial stage as regards the proposed refurbishment in so far as tenders have been submitted to the Department and the lowest selected. The Department is in negotiations to prune certain items from the tender.

Can the Minister of State ensure the Department will no longer delay this project? It is nothing short of a scandal. Two new classrooms are required together with the refurbishment of existing classrooms to allow facilities to be converted for an all-purpose special needs room as well as the other facilities required for a school of this size which delivers first class education under particularly bad conditions. Windows are falling out, dampness is visible everywhere and there is little or no heating. This description clearly indi-

cates that were it not for the patience of all involved, the school would have long since closed.

This was one of the schools listed in the media three years ago and progress has since been slow. I welcome this opportunity to raise the matter. I ask the Minister to influence officials not to allow it remain on their desks one day longer than is necessary. The tender will be approved and the builder will be on site. If credit is handed out to people involved in providing top-class education under appalling conditions, this merits an award. The Minister should immediately ask officials to deliver on the matter quickly.

Mr. T. O'Malley: I thank Senator Ulick Burke for giving me the opportunity of outlining my Department's plans on the proposed extension project at Moyglass national school, Loughrea, County Galway. At present the school has a principal, one mainstream class teacher and one shared support teacher. The enrolment on 30 September 2004 was 37.

The school authorities were authorised to proceed to tender for the provision of an extension and refurbishment of the existing building as part of the 2004 school building programme. The tender report was received in my Department last September but the outcome of the tender process is substantially in excess of what was envisaged.

The school authorities and their design team have been asked to achieve substantial savings to bring the project cost down to an appropriate level of investment for a school this size. When the school and the design team respond with these savings, the matter of this project progressing will be considered further by my Department.

Hospital Accommodation.

Mr. Browne: This matter relates to whether the number of beds and facilities at the National Rehabilitation Hospital, Dún Laoghaire, County Dublin, can be extended and expanded. I recently received a query from the family of a constituent, which brought home the fact a person's life can be changed in a few minutes. The gentleman in question was working on a gas mains and had excavated a large hole in the road around which were bollards. An elderly lady lost control of her car, and landed on top of him. He is now seriously ill in hospital, and his family are keen to have him moved to the National Rehabilitation Hospital. When I made a representation on their behalf, I was horrified to discover there is a three to six month waiting list for the hospital. This man has two young children, and the situation is extremely traumatic for them.

Previously, a constituent of mine in his mid-forties had a bad stroke. We went through the same procedure trying to get him into the rehabilitation hospital. Without casting aspersions on the hospitals these men were already in, their families were keen to have them moved to the rehabilitation hospital as it has an

excellent record in dealing with patients with their needs. The Minister should take this opportunity to outline the Government's plans, if any, to expand the service which must be crying out for extra resources. I look forward to the Minister's reply.

Mr. T. O'Malley: I am pleased to take this opportunity to clarify the matter relating to the provision of beds at the National Rehabilitation Hospital, NRH, Dún Laoghaire.

The provision of health-related services for people with disabilities, physical, sensory or intellectual, and for those with autism is a matter for the Eastern Regional Health Authority and the health boards.

The Sisters of Mercy founded the National Rehabilitation Hospital in conjunction with the National Organisation for Rehabilitation in 1961. This specialised hospital has a capacity of 123 beds and serves people from all over the country. It provides treatment and rehabilitation for patients with spinal cord injuries, head injuries, amputation, traumatic and non-traumatic brain injury, strokes, neurological disorders, children's disabilities and spina bifida. It also provides wheelchair and mobility aids assessment. Since 1986 the hospital has run pre-vocational and vocational training programmes involving a wide range of social, personal and work-related skills with a view to enhancing opportunities for each individual for further training, employment and educational options.

The NRH has been undergoing development in the past number of years. In January 2004, the new Corofin millennium lodge and rehabilitative training unit was built with the help of funding from the millennium fund and the Eastern Regional Health Authority. The 12-bed unit provides an invaluable resource to people with acquired brain and spinal cord injuries and to their families and carers. It enables clients from outside the greater Dublin area to access services in the hospital and in the rehabilitative training unit.

The NRH also submitted proposals regarding the redevelopment of the hospital. The redevelopment relates to a 235-bed hospital on its site in Dún Laoghaire and the Government is committed to capital investment in this project under the capital investment framework 2004 to 2008. This redevelopment is at early planning stages.

One of the most positive features of disability services here in Ireland is the strong partnership which now exists between all involved in the planning and delivery of services. This partnership includes the Government, health boards, voluntary agencies, families and friends and of course persons with disabilities themselves. I am pleased that both this Government and the previous Government have been in a position to make a significant investment in these services in recent years.

Since 1997, additional funding amounting to €643 million has been invested in health funded

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support services for people with intellectual, physical and sensory disabilities and those with autism. A total of €400 million of this was allocated to services for persons with intellectual disability and those with autism. Services to people with intellectual, physical or sensory disabilities and those with autism is one of the limited number of areas in which additional funding has been provided by the Government in any Department over 2003 and 2004. The health funded services in this sector have advanced greatly over the past number of years but further work is required. To that end, I am pleased the Government was in a position to announce in the budget a special disability multi-annual funding package with a total value of close to €900 million over the years 2006 to 2009. This funding is being dedicated until 2009 to ensure delivery of these high priority disability services. The package includes guaranteed additional current spending of almost €600 million. The Government has also agreed to allocate €300 million out of the revised capital envelope to these high-priority disability services.

The bulk of the new funding package will go to the health sector where it will be invested in services for persons with intellectual disability and those with autism, services for persons with physical or sensory disabilities and mental health services. It will focus, in particular, on the provision of extra residential, respite and day places, extra home support and personal assistance and extra places in community based mental health facilities. Funding of residential places for people with significant disabilities and the provision of extra home support and personal assistant services will assist in the speediest discharge of NRH patients and alleviate pressure.

Mr. Browne: I thank the Minister of State for his reply. I am shocked to learn the hospital only has a 123 bed capacity, a small amount of beds given the hospital serves the whole country. We are catering for an ageing population who, unfortunately, often suffer strokes before dying from a heart attack.

I get the impression from the Minister of State's reply that patients currently taking up

beds at the hospital should not be doing so. The horrible term "bed blockers" comes to mind.

Acting Chairman: The Senator cannot debate the matter now.

Mr. Browne: I am aware of that. The Minister of State is speaking in terms of the larger picture and the provision of 235 beds when he speaks of a quicker turnover of patients and better support for them. However, there is currently no scope for a quicker transfer rate of patients at the hospital. Is it a question of extra beds or is there a bigger picture in terms of matching services? With how many additional beds can the current complement of staff cope?

Mr. T. O'Malley: I am not responsible for the impressions which Senator Browne gets from my reply. The services provided by the staff at the National Rehabilitation Hospital in Dún Laoghaire have been acknowledged nationally and internationally. As I stated in my reply, the Government plans to provide a much bigger hospital at that location. There have been many advances in technology in terms of new treatments of illnesses. Patients are often happier to be taken care of in their home environment. There is no suggestion of such people being considered bed blockers. The consensus of opinion, as technology and new methods of treatment advance, is that it would be better to treat many people in their home environment or in a place near to home. Clearly that would not be possible with all patients.

Mr. Browne: How many additional beds can the current complement of staff cope with? Are they operating at maximum capacity now?

Mr. T. O'Malley: Yes, they are.

Mr. Browne: So, if extra beds are provided further staff would be needed.

Mr. T. O'Malley: Yes.

The Seanad adjourned at 8.25 p.m. until 10.30 a.m. on Thursday, 9 December 2004.