

SEANAD ÉIREANN

—
Dé hAoine, 10 Nollaig 2004.
Friday, 10 December 2004.
 —

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

—
Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for Health and Children to provide extra funding for the Spina Bifida and Hydrocephalus Association in order that it may maintain its existing level of services.

I regard the matter raised by the Senator as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

Tributes to Deputy Head Usher of the Houses of the Oireachtas.

Ms O'Rourke: With the permission of the Cathaoirleach I wish to pay tribute to the deputy head usher of the Oireachtas, Mr. Frank Lane, who is retiring this evening, as the opportunity will not present itself again. Is that in order?

Cathaoirleach: That is in order.

Ms O'Rourke: We all know Frank Lane. He is one of the very familiar faces in the House. From the first time that a new Member enters the House he or she quickly comes to recognise him as "the envelope man". I do not know how ambiguous that may sound but he gave Members their monthly envelopes.

Mr. Bradford: White envelopes.

Mr. Finucane: Always white envelopes.

Ms O'Rourke: Of course the envelopes were always white, like Frank Lane himself. He joined the staff of the Oireachtas in 1960 when he was a packer and porter in the stationery office. In 1973 he became an usher in the Houses of the Oireachtas. He was promoted to senior usher and in June 2003 he became deputy head usher. As

may be seen he worked his way right through the system.

Frank is the very face and demeanour of public service, which he exemplified to the full. If ever a Member found something wrong with a chair, a desk, or the light in his or her office, Frank was the man to contact and he then co-ordinated with the Office of Public Works. Members always felt there was someone they could go to, in the event, or if they needed some service or other which might not otherwise be available. He was always so friendly, nice to meet and down to earth. He was responsible for co-ordinating and making the House ready for the visits of important personages such as Chancellor Kohl, Prime Minister Blair, Presidents Reagan, Clinton and Mitterand as well as the two visits from the then President Robinson and one from President McAleese. In all of those Frank Lane was the equivalent of the head housekeeper, whose role was to ensure everything was right and done properly.

He is married to Rose and they have a daughter, Frances, who is a member of the usher staff, as well as a son, Vincent. Frank Lane previously served in the Permanent Defence Force and the Reserve Defence Forces and, in all, has spent more than 40 years in the public service. That is some length of service to the State, given his time in the Defence Forces linked to the Houses of the Oireachtas. Any Member of the House would be proud to have such a record of service. On behalf of this side of the House Members wish to pay full tribute to Mr. Lane. I cannot be sufficiently fulsome in his praise. His is one of the faces that will be missed so much, when he leaves this House. We wish him well in his retirement, along with Rose, his wife. His name is being carried on in Leinster House, which is good. I wish him well and want to thank him, personally, and on behalf of the Fianna Fáil Party for all his years of service to every Member of the Oireachtas.

Mr. B. Hayes: On behalf of the Fine Gael Senators in the House, I would like to wish Mr. Frank Lane every success in his retirement. Frank is a very special person, not least because he is a constituent of mine. As I travel around St. Aongus's estate in Tallaght I see him regularly cultivating his chrysanthemums. He has been a feature of this House for many years. His commitment to the dignity of the Oireachtas and his personal attention to Members embodied the man because his tradition is the Army. He has spent a considerable period of his life in the Defence Forces and even when he left he was very much involved in the FCA in terms of recruiting young people, particularly in Tallaght, and encouraging them to become involved. I know of his commitment to the Army, the FCA and this House. It is right that we mark his retirement today. On behalf of Fine Gael Senators, I wish him and his wife every success in his retirement. Whether the day was good or bad, Frank never changed his expression. He remained

[Mr. B. Hayes.]

expressionless, a trait which is useful to glean as a politician. I learned a lot from him over the years in that regard.

Mr. Ross: I join in the expressions of regret, congratulations and applause for Frank Lane on his retirement. He has been here as long as the Cathaoirleach and me and it is a tribute to his endurance that he has served so many Members and been so popular for so long. He has one of those extraordinary talents now lacking in many in modern Ireland in that he always has time for people. He has always been prepared to stop to relate an anecdote, to be cheerful and to take the trouble to talk with people. He has not been affected by the kind of impatience from which many of us suffer in this modern competitive world. It is a great tribute to him that he is still serving the Oireachtas. We will miss having him stop and tell us what is happening in the real world.

Frank Lane is a man for whom we all have enormous affection. He is even tempered and decent and takes the trouble to assist Members which is in the finest tradition of all the ushers. He is a man who will go the extra mile for Members. The Captain of the Guard is in the Press Gallery so perhaps I should not say this. However, when I would meet him late on a Friday at approximately 9.59 p.m., Frank would always be prepared to give me a lenient extension on time. Sometimes he would not close the gate quite at the time he should. I will miss that sort of leniency and generosity in his passing. His passing should make us——

Mr. Norris: He is not dead yet.

Mr. Ross: His passing out through the gates this evening should make us aware of the great value of all the ushers. They are all tremendously helpful and do much for us that we often take for granted. I do not think the Leader mentioned the party for Frank this evening at 5.30 p.m.

Ms O'Rourke: He may not let the Senator out tonight to attend that.

Mr. Ross: I assume all Members are welcome and now they are aware of it, some will be there. Frank Lane was a great usher and we will miss him greatly.

Mr. McDowell: I join others in paying tribute to Frank Lane. I did not know until the Leader mentioned it that he was the deputy head usher and had risen to such greatness. Like everybody else, I associated him principally with providing services, not least the envelopes. I also confess that I never thought he was a chrysanthemum kind of man. I am not sure he will thank Senator Brian Hayes for putting that about.

Mr. B. Hayes: The secret is out.

Mr. McDowell: I do not intend to sound critical, but some ushers tend on occasion to be a little over deferential in a way——

Mr. Ross: Only to Senator McDowell.

Mr. McDowell: ——that puts some distance between them and us. Frank Lane was never like that. He always approached Members as people involved equally in the public service, which is as it should be. He was friendly and gave advice, which was sometimes quite caustic or clear, as to what should or should not be done. He did so always in a fashion intended to be helpful. I am sorry he is leaving. He bears his years well. If many of us were as fit and well as he is at his age, we would be happy. I wish him and his wife all the best on his retirement.

Mr. Dardis: On behalf of the Progressive Democrats I too would like to pay tribute to Frank Lane. There is always a tendency on these occasions for tributes to sound like obituaries. That is not our intention.

Frank Lane is a long-standing member of Oireachtas staff and has looked after us well. One of his characteristics, which applies to many of the ushers, is his military bearing. One can tell people who have had military training because it stands out, not just in their general deportment but in their approach to people. As someone who has looked after Heads of State and important visitors here, one of his greatest characteristics has been that he treats everybody the same, irrespective of their station, which is a valuable trait.

He was above ground until the postal service went underground and he was consigned to the dungeons. He will, hopefully, now be released into the daylight. I know he has a boat on the Shannon at Banagher which I hope he and his wife enjoy. We wish him every success and good wishes on his retirement and thank him for the service he has given over such an extended period.

An Cathaoirleach: I would also like to be associated with the tributes to Frank Lane. He was a well liked and highly-respected member of the staff of the Oireachtas. As Senator Ross said, he is here as long as me. I think he was here when I came, which is a long time. His commitment to the Oireachtas has been second to none. Much of the fine furniture, including the table at the entrance to the Seanad, were restored by him because of his recognition of their worth. I am delighted Senator Ross informed us of the party for him. I am sure he will enjoy it.

Frank Lane had many interests outside Leinster House and he gave significant time to community and social work and activities. I wish him well on his retirement. It will allow him to pursue his many interests, especially boating and fishing. I wish him a happy retirement with his wife and family.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Proceeds of Crime Bill 1999 — Report and Final Stages, to be taken on the conclusion of the Order of Business and to conclude no later than 12.30 p.m.; No. 2, Garda Síochána Bill 2004 — Committee Stage (resumed), to be taken on the conclusion of No. 1 until 1 p.m. This Bill is being inserted today and may get a little more time; and No. 3, Health Bill 2004 — Second Stage, to be taken at 1.30 p.m. and to conclude no later than 4 p.m., with the contributions of spokespersons not to exceed 15 minutes and those of other Senators not to exceed 10 minutes. Members may share time and the Minister is to be called on to reply no later than five minutes before the conclusion of Second Stage. There will be a sos from 1 p.m. until 1.30 p.m.

Mr. B. Hayes: There have been requests in this House in the past week calling for a full debate on Northern Ireland. I know the Leader is doing everything in her power to ensure we have such a debate next week. Can she confirm that such a debate will take place? This would be very important, given the events of the past 24 hours. It is important that the debate would be full and broad and not confined to leaders.

I would prefer if we could have a one-day debate. I say that for the following reason. It is now clear that there is a difference between the Government parties on the issue which constitutes the ending of IRA criminality and violence. In this matter, a certain debt of gratitude is owed to the Progressive Democrats who have sought clarity on this matter in the past 24 hours.

We now discover that a side deal, which was not published and was not part of the discussions at the press conference this week, contains other information, such as that surrounding the release of the killers of Detective Garda McCabe and the information sought by my colleague, Senator Cummins, and by me on the issue of the two persons still at large for the manslaughter of Detective Garda McCabe.

However, there is another matter, that of Seanad reform. We now discover that the Government is attempting to give some seats in this House to the Northern Ireland parties and that this was part of a side deal. Whatever about the rights and wrongs of this position, I thought we were all of the view that Seanad reform should not be cherry-picked, that we in this House produced a body of reform proposals that would be taken in its entirety.

Mr. Norris: Hear, hear.

Mr. Ross: All or nothing.

Mr. B. Hayes: We agreed that one bit could not be excluded in favour of other bits. It is important at this juncture that that debate would occur next week and that every one of the 60 Members of

this House would be encouraged to participate in that debate.

Following his joint statement with the Taoiseach in Belfast, Tony Blair spoke to the House of Commons that night. The following afternoon, Paul Murphy led a full debate. We have yet to have a debate in this House. The Government has conceded to a debate next week in the other House. It is not possible to go into the Christmas recess without a full debate on this matter. These matters are so important, not just to the integrity of this House, but to the integrity of the process itself.

Mr. Norris: I support what Senator Brian Hayes said. It came as a surprise to me to hear there was this side deal. It is insulting to this House that it was done without reference to the House. Can the Cathaoirleach or the Leader indicate to the House whether they had prior knowledge of this wheeling and dealing with Seanad seats? It worries me particularly because I did refer last week to the IRA demands for the release of bank robbers who were involved in something that could not be excused by a political fig leaf and were defining themselves within an ethos of criminality. Are we going to have criminals — ordinary, not decent criminals — parachuted into this House?

I note the IRA also balked at a phrase which indicated it would not continue with paramilitary beatings and so on. This is very worrying. If there is going to be a cessation, we demand an entire cessation. It is not tolerable that people would continue knee-capping, beating and exiling people, and, on the fringes, get involved in drug running. I would support a call for a full and open debate. At this stage the Government should make clear to us the full terms of any agreement that was being negotiated.

I also call for a debate on Iraq and the Middle East. This morning we heard on the radio the report of the head of the Iraqi Red Crescent who was at last allowed into Falluja. There were no families visible. Many houses that were still extant had white flags on them. A potato barn full of bodies was discovered. I did ask yesterday that the Leader would request the Government to ask for a full statement from the occupying forces on the condition of the civilian population in Falluja. We are entitled to that statement.

Finally, could I draw the attention of the House to the very worrying report on bullying in today's *Irish Independent*? It highlights the bullying of gay students. It is taken so seriously by that newspaper that there is an editorial on it which states that a survey of school teachers found that 94% of teachers in boys schools have witnessed bullying of homosexuals while the equivalent figure for girls is 55%. Some 87% of teachers who had witnessed bullying of homosexuals saw more than one such incident in a school year.

I contribute to a charity in central Africa and I received from it the biography of a remarkable young Irish doctor, Dr. Mike Meegan. In an aside

[Mr. Norris.]

half-way through the book he told the story of somebody who worked with him in the past — whom I think is also a doctor — who was bullied so severely in a suburban Dublin secondary school where he had the word “fag” carved with a knife on his back, that he attempted to commit suicide. We have dealt in this House with the issue of suicide. We know there is a high rate of suicide among young males. The House should also take into account the fact that there is a seven times multiplier when those young people happen to be of a homosexual orientation. This is a report we should take very seriously.

More than half those schools do not use any teaching material, even though it is provided in various books, regarding sexual identity and sexual orientation. This is necessary in the interests of the welfare of the young people in schools.

Mr. McDowell: I join with colleagues in seeking a debate on Northern Ireland. There was a time in the early part of the peace process when most of the parties engaged in a measure of constructive fudge. In fairness, it got us over some humps and difficulties which might otherwise have been difficult to avert. That time is now over. As we hopefully move to closure on a final agreement there is a need for clarity and for everything to be up front and clear to the public. It baffles that the Government should in that context engage in side deals or covert arrangements with one party or another.

We are aware of the sensitive issues involved. Those of us on the Opposition benches know that as much as anybody else. Nonetheless, what is important now is that everybody has faith in the process going forward—

Mr. B. Hayes: Hear, hear.

Mr. McDowell: — that we know what is happening and that everything is up front. If it is necessary to make difficult or unpleasant decisions we should at least know what has been agreed in our name by our sovereign Government. We owe a debt of gratitude to the Tánaiste for making it clear that it is not just the issue of photographs that is outstanding. I urge the Leader to speak to the Taoiseach, in particular on the issue of Seanad reform and to inquire of him what, if anything, has been agreed in regard to that issue. There is a good tradition of appointing members of both communities in Northern Ireland to this House and it is right that that should continue.

Mr. Norris: Hear, hear.

Mr. McDowell: However, it is right and necessary that it should be a balanced approach and that we should seek to get the representatives of both communities. Efforts to do that will necessarily be damaged if Seanad reform appears to be driven by the needs, requirements or desires of

one party, which appears to be happening at present. I join with Senator Brian Hayes and Senator Norris in seeking a debate on this matter next week.

Mr. Dardis: There is general agreement on all sides of the House that this very important matter needs to be debated within the coming week. There is no dispute about that. I also agree with the proposition that there should be more than just one speaker from each group. However, it has been my experience in the past that when we have very vigorous calls for debates, the vigour of the calls is not matched by the vigour of the participation in the debates. I question if it would need to go on for a whole day. We also need to be fairly circumspect in the utterances we make with regard to these issues. I said as much earlier this week.

The recognition of the need to uphold and not endanger anyone's personal rights and safety is not a side issue; it is contained in the document.

It explicitly states that all IRA volunteers have been given specific instructions not to engage in any activity which might endanger the new agreement. In terms of the settlement, we have to know if the IRA will give up all its activities, including criminality, as well as the verified decommissioning of its arms. One cogent example of such activity in the context of this State's democratic system is the surveillance of Members of both Houses. This is intolerable in a democratic State; it cannot happen.

Mr. B. Hayes: Hear, hear.

Mr. Dardis: The IRA must be prepared to explicitly state that these types of activities will be discontinued; it is a *sine qua non* of the settlement. The Tánaiste was correct to state that the issues involved are more than a matter of pictures. We need to debate the matter. On these occasions, I am always mindful of the fact that I served in this House, as did others, with Senator Wilson and recall what he said in the face of what he had to suffer. Perhaps there is a message there for all of us. All of us, from all sides, will have to accept some very unpalatable aspects in order to bring a conclusion to this matter.

Mr. Finucane: Yesterday, I too requested such a debate. I also pointed out that the Tánaiste had stated that more than a photograph was at issue. I am glad she made that statement because the spinning of Sinn Féin — which is masterful at such activity, as is the DUP — was that it came down to the issue of a photograph. However, we now know in terms of what has been revealed today that it is about more than that. It would appear the IRA was not prepared to sign up to end criminality such as exiling, knee-cappings and so on. How could the Minister for Justice, Equality and Law Reform, Deputy McDowell countersign a deal on behalf of the Progressive

Democrats, in which this important component was not agreed to?

Yesterday, we witnessed the nauseating occasion in the Lower House of Deputy Caoimhghín Ó Caoláin congratulating the IRA on its involvement in this matter. I am glad that people turned on him in response. Let us cut out this hypocrisy now. If there are other elements to the deal, let us have a discussion and air them in the open. My party has always been constructive and supportive of this agreement and the Taoiseach's actions throughout. I strongly resent the recent statement of the Minister for Defence, Deputy O'Dea, that Fine Gael was trying to make a political football of the matter by raising in the Lower House a question about whether the release of the killers of Detective Garda Jerry McCabe was part of the agreement. I come from that area and I make no apologies to anyone for stating my view on the issue. I remind the Minister that the same viewpoint is shared by other parties in the area. It is a very important issue. We need this debate next week and we need to discuss in the open exactly what is happening.

Dr. Mansergh: I support the requests for an ample debate on Northern Ireland next week because it is necessary. While we were very close to agreement and while not underestimating the importance of what remained to be agreed, it is important that people from all parties and the Governments do not draw back from what they have been prepared to agree. I was encouraged, for example, that the IRA interview in *An Phoblacht* yesterday exactly matched what was in the statements released by the Governments the previous day. It was not, as has happened in the past, promptly withdrawn from the table when no deal was reached. I was equally encouraged when Jeffrey Donaldson, on behalf of the DUP, confirmed that his party was sticking with what it had agreed on other fronts. It also behoves the Governments to stick to what they have been prepared to agree.

In the case of unpopular aspects, it may require a certain degree of discipline and backbone. However, I am encouraged. There has been admirable unity among Ministers sitting at the Cabinet table during difficult negotiations, which are not easy for anyone. We need to understand those considerations.

Dr. Henry: There is definitely a need for a debate on Northern Ireland. There would be time for it next week if we delayed taking Committee Stage of the Health Bill. I do not know if Senators have had a chance to read it as it was passed by Dáil Éireann yesterday but it has changed considerably from the Bill as initiated. It is reported in today's newspapers that it is not proposed to implement this legislation on 1 January. Therefore, we would have time to take Committee Stage of this very important Bill when the House resumes and have the debate on Northern Ireland next week.

Will the Leader ask the Minister for Education and Science to come before the House to address the issue of bullying in schools, which was raised by Senator Norris? A pilot project on this issue was carried out in Donegal, which was devised by Professor Mona O'Moore of Trinity College. It was a huge success and everyone agreed it should be promoted all over the country but this has not happened. We moan and groan about young people committing suicide, yet we could make a difference in this area by implementing policies on bullying in schools but the Department of Education and Science is doing nothing about it.

Mr. Hanafin: I request a debate on the communications industry, in particular the recognition by the regulator, ComReg, that there is a "tacit understanding", which in anyone's language means a duopoly, for a pricing arrangement between Vodafone and O2. It has been my opinion for some time that the Irish mobile telephone business is something of an Irish take-away. In the first instance, Vodafone purchased Eircell in a paper transaction, knowing full well that the results Vodafone had to publish that year would indicate that the price of those shares would fall and they have not really recovered to date. However, Vodafone has made substantial profits and continues to take substantial amounts of money out of the Irish economy. It is unwilling and unhelpful and has blocked the regulator's attempt to provide an MVNO, which would allow companies to use existing carrier networks and purchase block amounts of air time at a discount rate and sell them on. This has happened consistently. It is wrong and should be regulated. The Irish economy must provide good value in the mobile telephone market.

Mr. Cummins: Last week, I raised the status of the so-called "on-the-runs" and whether they would be entitled to an amnesty. I asked what was the Government's position on the matter and whether those concerned would not serve one day in prison as a result of their crimes. The Leader informed us that she would raise the matter with the Taoiseach. It appears from today's newspapers that the answer is before us; these people will be included in any deal, of which fact we were not informed previously. I also note that these new converts to democracy are now insisting on dictating on who should be Members of this House and how it should be reformed.

Dr. Mansergh: That is a complete misrepresentation.

Ms O'Rourke: That is a lie.

Mr. B. Hayes: The Senators were not interrupted.

Mr. Cummins: It is absolutely disgraceful that this could even be contemplated.

Mr. Norris: Hear, hear.

Mr. Cummins: I firmly support the requests for a debate on Northern Ireland, which would deal specifically with these matters.

Dr. Mansergh: Has the Senator read the report on Seanad reform?

Mr. Cummins: I read and contributed to that report. I will keep my remaining comments for the debate on Northern Ireland.

Labhrás Ó Murchú: A debate on Northern Ireland would be helpful because it is important that we do not allow a vacuum to develop which would be filled by people and issues often associated with agendas which have nothing to do with the peace process. I agree with the speakers on both sides because this House should be central to the debate. Senator Brian Hayes referred to what happened over a 24-hour period. It worries me that we are changing modes at a very accelerated pace. We made progress in the past because we had a cross-party agreement. It is important that we can ascertain the credibility or otherwise of some of the statements now in the newspapers. I do not know the status of this deal but I accept that the status of the central deal which was made available to us by the Government and to which all of us in this House agreed was particularly important. We all agreed we should debate it.

Regarding the Seanad Éireann issue, I am a Member of this House for more than seven years. Throughout those years, I and other speakers promoted the idea of Seanad representation from Northern Ireland — and not simply one or two people nominated by the Taoiseach — particularly because we realised one can be much more successful dealing with issues face to face rather than through megaphone diplomacy. Many of us disagreed with some of the proposals for Seanad reform but I heard no disagreement in this House on the proposal for representation from Northern Ireland.

I do not know who is putting the other spin on this issue but such a spin, if correct, would be hurtful. I do not believe it is correct. I support calls for an “ample” debate. A balanced debate should take place. I hope we can maintain the cohesion of purpose which we have had among all Members in public life.

Mr. Quinn: I fully agree with what has been said on this issue, and in particular with what Senator Ó Murchú said. Over the years I have said that this is the wrong time for a debate on Northern Ireland because intemperate language can do a great deal of harm when discussions are going on. I now believe the time is right for such a debate. So much is happening. Now that an agreement has been published, and because it appears there are some doubts about part of that agreement which did not initially appear in public, it is time for a debate. Intemperate langu-

age in the past caused harm when negotiations were going on, but this is the right time to discuss the issues.

On another matter, my attention was drawn yesterday to the absence of an opportunity for unused coins to be donated to charity or used for some other purpose. According to figures I was given yesterday, every person in Britain has 350 small coins either in jam jars or down the back of sofas or somewhere else. I read that when Finland issued the euro currency, it decided not to issue one cent and two cent coins. Perhaps the proposal should be put to the Minister for Finance, or to whoever makes the relevant decisions, that in the new year we should consider whether we value those coins. I am told that in Britain, more than half of the coins issued, 13 billion out of a total of 22 billion, are lying unused. We could perhaps give our coins to charity or decide not to issue one cent and two cent coins in the future, and do so without giving rise to the dangers of inflation. I do not know about other Members but I do not see the younger generation using these coins in the future. They seem to have no regard for these coins as they leave them behind, or on the ground. Let us consider abolishing them or finding some other solution.

Mr. Bradford: Members have spoken with great sincerity about Northern Ireland this morning, which indicates that we need a comprehensive debate on the issues as soon as possible. No doubt the Leader will ensure that such a debate takes place next week. It would be helpful in bringing us towards a degree of clarification. Reading the media dispatches over the past 48 hours, it is easy to forget that 72 hours ago we appeared to be on the verge of great progress, of a major step forward. An agreement was drawn up between the British and Irish Governments. The Irish Government went into this agreement presumably with full collective Cabinet responsibility. Every component of both Government parties agreed to the document issued. It is therefore disquieting now to see some division in the Government on the substance of what appears to have been agreed, whether in the official document or in some sort of side document. We need certainty and clarity as soon as possible.

We must be careful how we approach this issue. Over the years we have said that it is not a matter for point scoring either within the political parties or between them, because the issue is far too important. At the last meeting some months ago of the British-Irish Interparliamentary Body, which I and some of my colleagues attended, I made the point that while we had crossed many bridges, the one quality still somewhat lacking was generosity. I feel that even more strongly today. We have difficult hurdles to jump and some will cause pain to many sides. We must nevertheless keep to the fore of our mind that we are steps away from bringing peace to an island that has been at war for generations. As we approach Christmas, that is a huge prize. Sacri-

fices have been made on all sides and in all political parties. I hope we will have the mature political leadership to bring us through.

An Cathaoirleach: It seems likely we will have a debate on the matter next week.

Mr. Bradford: I look forward to that and I hope we will approach it maturely and will be allowed to ask the hard questions, because people have genuine fears and concerns. I hope we will also try to listen and understand, and appreciate that we can finally solve this problem if people are generous, understanding and forgiving in their approach.

Ms O'Rourke: Well said.

Mr. Ross: I was struck by what Senator Ó Murchú said and it should be echoed on this side of this House. The recent leak to the newspapers which raised the possibility of it being somehow embedded in the agreement that we would have representatives from Northern Ireland in this House has been interpreted as somehow slipping terrorists into the House. If that were so, all of us would condemn it and protect ourselves from any such element of a deal.

In the past, this House has been a proud debater of Northern Ireland specifically because it has people from the extraordinarily different traditions which make up Ireland. We should exploit that rather than fight shy of it. For all its faults, one of the great talents or bonuses of this House has been those Members from Northern Ireland appointed by successive Taoisigh. They have come from both traditions and have made a tremendous contribution to understanding between Members of the Irish Parliament.

Mr. Norris: Hear, hear.

Mr. Ross: Let us not underestimate that. I include Seamus Mallon, John Robb, Gordon Wilson and all others. They played a significant and serious role. There is however a terrible danger in a reluctance to allow us to debate Northern Ireland on the grounds that we are somehow irresponsible, or will say something improper. We are elected representatives, here to discuss immediate issues in a mature fashion. The idea that we would say anything that was inflammatory is insulting and should not be countenanced. I plead with the Leader of the House to insist, whether the Taoiseach likes it or not, that before Christmas we have a debate on Northern Ireland. If the Taoiseach says "No" the Leader should tell him we are having it anyway.

Mr. Norris: : Hear, hear.

Mr. Bannon: I wish to support the call for a debate on Northern Ireland next week. It is long overdue and the time is right for such a debate.

As soon as possible in the new year, will the Leader invite the Minister of State, Deputy

Parlon, who is responsible for the Office of Public Works, to debate the progress of the restoration programme by Waterways Ireland of the Royal Canal which will open up the canal for boat traffic from the city to the Shannon, up into Northern Ireland and down to Limerick? There has been somewhat of a go-slow in the progress for the past two years. There was a great hullabaloo when funding of €20 million was announced five or six years ago and much work was done. The canal has been opened up past Mullingar to Abbeysrule. I believe there are five or six culverts in my own County Longford on which action needs to be taken quickly in order to open the waterway to the Shannon. This would benefit tourism north, south, east and west. It is of the utmost importance that it be tackled and acted upon as soon as possible in 2005 and it warrants a debate in the House.

Mr. Browne: I plead with the Leader of the House that next week when the Health Bill is being taken it would not be rushed through the House as happened in the other House yesterday. I regard as disgraceful the manner in which the Government brought forward many amendments on Report Stage.

An Cathaoirleach: We are not discussing the Dáil Bill now, Senator.

Mr. Browne: I wish to explain the background.

(Interruptions).

An Cathaoirleach: Order, please.

Mr. Browne: The Bill will come to the House next week but it has not been properly debated——

Ms O'Rourke: It will be in the House today.

Mr. Browne: It will be here today but Committee Stage will be taken next week, I presume. Disability groups and other groups have not been given a chance to look at the amendments.

An Cathaoirleach: : Next week's business has not been decided yet.

Mr. Browne: The Government has overturned amendments on Committee Stage. It is a very important Bill and the time limit on discussing it seems to have moved. This House should debate it properly because it was not properly debated in the other House.

I understand the schools building programme may be announced next week and this may be an opportune time to invite the Minister for Education and Science to the House to outline the programme. I am sure there will be many disappointed schools next week——

Mr. Brady: And some very happy schools too.

Mr. Browne: It is very worrying that the Government has failed to spend this year's budget for school buildings and it is important that this does not happen again. I ask the Leader to invite the Minister to the House next week for a short debate.

Ms O'Rourke: Senator Brian Hayes, the Leader of the Opposition, spoke about what he termed, "the side deal". He said that Seanad reform should not be cherry-picked. I wish to be quite clear about the matter. The report on Seanad reform was issued to every Member of this House. The Senator was a member of the committee that sat here in the Chamber and which met with parties from Northern Ireland and from this jurisdiction. Everything was published in the package on Seanad reform. This House debated the matter for three days and everybody was given an opportunity to speak on the matter. The Minister for the Environment, Heritage and Local Government has set up a committee and he has written to each party leader asking them to put forward a name. Senator Brian Hayes is aware of this because—

Mr. B. Hayes: I never suggested anything to the contrary. I do not know what the Leader's point is.

Ms O'Rourke: I ask the Senator to allow me to finish. I sent him a copy of the letter.

Mr. B. Hayes: What is the Senator's point?

Ms O'Rourke: I will make my point.

An Cathaoirleach: Order, please. I ask that points are made through the Chair.

Ms O'Rourke: I apologise, a Chathaoirligh. Senator Brian Hayes was given plenty of time to posture and I will make my point now.

Mr. B. Hayes: I do not regard my comments—

(Interruptions).

Mr. B. Hayes: I will not put up with catty remarks from that person. I will not put up with those catty remarks.

Dr. Mansergh: That is a sexist adjective.

Ms O'Rourke: What did he say?

Mr. B. Hayes: Those are catty remarks about posturing. I did nothing of the sort.

Ms O'Rourke: How dare the Senator.

Mr. B. Hayes: How dare you.

Ms O'Rourke: How dare you, come on.

An Cathaoirleach: We might avoid this if all the replies were addressed through the Chair and not to individual Senators.

Ms O'Rourke: I served in this House for two six-month periods with Seamus Mallon and Bríd Rodgers and many other distinguished names have been here through the past two decades who successive Taoisigh have asked to serve in this House. They have served with great dignity and understanding and we have learned much from their presence. That is the value of this House. We are well served by Senator Maurice Hayes.

Mr. Norris: Hear, hear.

Ms O'Rourke: When he speaks in this House he is remarkable because he gives us an insight into matters of which we would never know.

Mr. B. Hayes: Cherry-picking is the issue.

Ms O'Rourke: Sorry, how dare you.

An Cathaoirleach: Order, please.

Mr. B. Hayes: The Leader is misinterpreting me.

An Cathaoirleach: The Leader to reply without interruption, please.

Ms O'Rourke: I have to set it in context.

Mr. B. Hayes: The Leader's own context.

Ms O'Rourke: The Taoiseach is minded and concerned that he would appoint as Senators persons from all the different political backgrounds by means of a constitutional amendment and not at random. He wishes that it be formalised in a formula which would ensure that different political voices would be heard in this House. I think that is a very good idea and it has been embraced by different Taoisigh of all persuasions down through the years.

Mr. B. Hayes: This is not the issue; cherry-picking is the issue.

Mr. Dardis: No, the cherry-pickers are all over on the other side.

Ms O'Rourke: Yes, indeed.

An Cathaoirleach: Order, please. The Leader without interruption.

Ms O'Rourke: I must set out the background to this. I think it is a remarkably good idea. The next thing Members will ask is when did I know. The Taoiseach spoke to me on Tuesday night. He told me he was very keen to have a formal arrangement for different political voices from different political backgrounds here in this House.

Mr. Bannon: Dictator.

An Cathaoirleach: Order, please.

Ms O'Rourke: I cannot call that cherry-picking because it is a very good idea and one which should be embraced by all sides of the House.

Mr. B. Hayes: No reform of the Seanad bar that.

Ms O'Rourke: There is reform of the Seanad.

An Cathaoirleach: Senator Hayes, please let the Leader reply.

Ms O'Rourke: The Senator insists on continuing. It is rather difficult for the Cathaoirleach. On reform of the Seanad, the Senator knows the committee is being set up and I have spoken to him but I will be more careful in the future.

(Interruptions).

Ms O'Rourke: I do not call that cherry-picking; I call it a good forward-looking step to embrace different backgrounds in this House. I do not call it cherry-picking; I call it an excellent move. There is a package and a committee has been set up to deal with it and the Senator knows that.

Mr. B. Hayes: A whole package?

An Cathaoirleach: Please, Senator O'Rourke, through the Chair.

Ms O'Rourke: Yes, exactly.

An Cathaoirleach: I ask the Leader to speak through the Chair and not to be provoked by interruptions.

Ms O'Rourke: Exactly. The Senator just wants his own way.

Senator Norris asked that the full terms be included in the debate. I wish to inform the House that we have gone to extraordinary lengths and we hope to have the Taoiseach here if the time issue can be resolved.

Senator Norris also referred to the report on the bullying of gay students and spoke about the doctor who told him of the experience. I read about it in the *Irish Independent* this morning. I agree that literature dealing with various sexual mores should be discussed in the classroom. The world is made up of all sorts of different people and it would be very helpful if young people knew that from an early age. As the Senator observed, boys' secondary schools adopt the wrong measures.

Senator McDowell asked for a debate on Northern Ireland. He said there was a need for clarity and I agree with him that people have faith in the process.

Senator Dardis asked if the IRA will give up criminality. I was very struck by the language

used by the Tánaiste on Seán O'Rourke's programme last Sunday night. She used the word "criminality" quite clearly so it is not a new word which has just now emerged in the lexicon. Senator Dardis referred to the surveillance of Members of the Houses and I agree with him that it is entirely wrong. He said there were several unpalatable things which we will all have to swallow and I agree with him.

Senator Finucane was very passionate in his contribution. He has right on his side. It is a national as well as a local issue.

Senator Mansergh stated that we are close to agreement and should not draw back. He is correct that we need to show a degree of discipline in discussing the matter. We must also keep the objective firmly in mind and avoid clouding the issue.

Senator Henry asked a question concerning Committee Stage of the Health Bill. I hope the Tánaiste and Minister for Health and Children will come before the House as it will allow us to raise the issue. The Senator also called for a debate on bullying in schools, an issue also raised in recent days by Senator Glynn.

Senator Hanafin referred to the telecommunications regulator and noted the need for a proper communications strategy. Senator Cummins referred to issues which have been emerging. The Taoiseach's statement concerning Detective Garda Jerry McCabe, which gave rise to much ire on the part of his widow, Mrs. McCabe, was very public.

Mr. Cummins: That is not the issue I raised. I referred to those who are on the run.

Ms O'Rourke: I am coming to that. A document issued last autumn during the talks in Leeds Castle fully addressed the issue of those who are on the run.

I agree with Senator Ó Murchú that a vacuum is dangerous. He also stated that, as part of Seanad reform, Senators would be honoured to be joined by people from diverse political persuasions. Senator Quinn referred to the need for a debate and called for the decommissioning, if I may use that word, of one cent and two cent coins. That would lighten our pockets. I have jars of these coins all over the place.

While I do not mean to be patronising, I admire the manner in which Senator Bradford spoke. He spoke generally and said we should stop point-scoring. I fully agree with his comments which will not help his popularity in the Fine Gael Party.

An Cathaoirleach: The phrase used by the Leader was unnecessary.

Mr. Norris: Is the Leader scoring points?

Mr. B. Hayes: She is patronising the Senator.

Ms O'Rourke: We are steps away from peace and should be steady and mature in what we say.

Mr. B. Hayes: The Leader should lead by example.

Ms O'Rourke: Exactly.

An Cathaoirleach: Allow the Leader to speak without interruption.

Ms O'Rourke: Senator Ross referred to the need for a debate. He also said that one of the strengths of the House is its ability to embrace different viewpoints and people from diverse backgrounds.

Senator Bannon called for a debate on Northern Ireland. He also requested that the Minister of State at the Department of Finance, Deputy Parlon, come before the House to debate the five remaining culverts on the Royal Canal. Senator Browne referred to the Health Bill.

Order of Business agreed to.

Proceeds of Crime (Amendment) Bill 1999: Report and Final Stages.

An Leas-Chathaoirleach: I welcome the Minister for Justice, Equality and Law Reform, Deputy McDowell, back to the House. 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 thereon. In addition, on Report Stage each amendment must be seconded.

Ms Tuffy: I move amendment No. 1:

In page 10, between lines 2 and 3, to insert the following:

“and

(c) by the addition of a paragraph (e) as follows—

“(e) under the Companies Acts 1963 to 2003 for the carrying on of any function exercisable by the Director of Corporate Enforcement, ’.”.

This amendment was tabled on Committee Stage but not moved when the Minister of State at the Department of Justice, Equality and Law Reform, Deputy Brian Lenihan, indicated that the Department would consider the matter. The reason for it is that while the Criminal Assets Bureau may pursue companies, it does not have the powers of the Director of Corporate Enforcement to pursue them fully. It would, for example, assist the Criminal Assets Bureau in pursuing companies which have dealt with the proceeds of crime if it could exercise powers under the Companies Act. Conflict could potentially arise if the Criminal Assets Bureau were to enter into negotiations with a company at a time when the Director of Corporate Enforcement still wished to pursue the company on the matter. Giving the Criminal Assets Bureau the powers of the Direc-

tor of Corporate Enforcement would resolve the issue.

Mr. Cummins: I second the amendment.

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I am grateful to Senator Tuffy for clarifying the amendment. The amendment seeks to insert into section 5 of the Criminal Assets Bureau Act 1996, which related to the function of the bureau, a new subsection which would allow the bureau to take all necessary actions to carry out the functions exercisable by the Director of Corporate Enforcement under the Companies Act.

The remit of the Office of the Director of Corporate Enforcement is to encourage compliance with company law and bring to account those who disregard that law by investigating and enforcing suspected breaches. It differs considerably from the remit of the Criminal Assets Bureau, which is to pursue the proceeds of all crime by identifying assets which derive from criminal conduct and freezing and confiscating those assets. Each body has distinct and separate roles with differing objectives.

Following the Committee Stage debate, my officials consulted the Office of the Director of Corporate Enforcement and the Criminal Assets Bureau on the proposed amendment. Each body expressed concerns lest the amendment might in some way lead to confusion in their respective operational roles. Neither organisation indicated that the change would be desirable. Accordingly, while I am grateful to the Senator for raising the issue, it should not be an objective of the Criminal Assets Bureau to enforce company law, nor is it necessary.

There are obvious requirements with regard to freezing assets deriving from criminal activity. These apply to the Revenue in dealing with proceeds of criminal activity which are subject to tax and the Department of Social and Family Affairs in dealing with social welfare entitlements of persons engaged in criminal activity and fraud. Staff conducting investigations may be inhibited by threats or other forms of intimidation. The Director of Corporate Enforcement does not require the Criminal Assets Bureau as an ally in his jurisdiction. It could create significant confusion in the minds of members of the public and the officers of both institutions if we were to blur the distinction between their respective roles, which are substantially different.

Amendment, by leave, withdrawn.

Bill reported without amendment and received for final consideration.

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

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): This Bill is complex and technical and will considerably bolster the powers

of the Criminal Assets Bureau in the continuing battle to go after the proceeds of all types of crime, including white collar crime and corruption. It represents a significant delivery on the programme for Government's commitments in this regard. The amendment to the Criminal Justice Act 1994 and the Prevention of Corruption (Amendment) Act 2001 will be of great benefit to the Garda Síochána and customs officials in pursuing all of those who seek to profit from crime.

I thank Senators for their positive contributions, constructive engagement and careful scrutiny of the Bill, as is always the case. I wish I had been present in the House for more of the debate. Unfortunately, affairs of State took me elsewhere. I commend to the Bill to the House.

Mr. Kett: I thank the Minister and his officials for their assistance in helping us to understand all the aspects of the Bill which enhances the Proceeds of Crime Act 1996 and the Criminal Assets Bureau Act 1996. This legislation will enable those working at the coalface to tackle individuals living on means not legitimate to their way of life. Such people are involved in murky business for the trappings of wealth with which it provides them. Anything that can be done by this House, by way of legislation, to provide those working against such criminals with the powers necessary to deal with them is to be welcomed. The Garda Síochána and Customs and Excise officers are to be congratulated on their efforts to date since the enactment of the 1996 legislation which provided them extra investigative powers. Anything that ensures these individuals are second-guessing themselves in terms of what they stand to lose by virtue of the powers now given to these officers is good. The introduction of these new powers may set such people on a different track. The Bill does much to assist those dealing with crime.

Mr. Cummins: I, too, thank the Minister and his officials for their assistance and for explaining to us every aspect of the legislation. Any measure to ensure criminals suffer where it hurts, in their pockets, is to be welcomed. The measures now being introduced will assist CAB, the Garda Síochána and customs officers in their fight against crime.

I hope the enactment of this legislation will result in investment in communities affected by crime, an issue on which I have strong views. While some work is being done in that area, more could be done. It is hoped some of the money confiscated by CAB will be ring-fenced towards helping communities ravaged by crime.

Ms Tuffy: I thank the Minister and his officials for their work on this Bill. Like Senator Cummins, the Labour Party also proposes that money obtained under this legislation be reinvested in disadvantaged communities, in the prevention of crime or, as reparation to communities affected by crime. I understand the Minister is

constrained in that regard in that this is not something for which the Minister for Finance will provide. However, it is hoped the Minister will continue to pursue the Minister for Finance on this issue in terms of the principle behind it.

Question put and agreed to.

Garda Síochána Bill 2004: Committee Stage (Resumed).

Debate resumed on amendment No. 82:

In page 37, between lines 32 and 33, to insert the following new subsection:

“(3) Information shall not be deemed to be of harmful effect if it can be shown that its disclosure was inadvertent or procured through fraud or deceit.”.

—(Minister for Justice, Equality and Law Reform.)

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I do not know what more I can say on the subject. The Bill has been extensively revised and rebalanced in terms of the heads put out for public consultation. As I said yesterday, the Official Secrets Act inhibits public servants from divulging virtually any information and, as far as I am aware, the Department of Justice, Equality and Law Reform is a remarkably leakproof institution. I am grateful to my officials for their constant vigilance in upholding the highest standards of confidentiality in that Department.

A fairly lurid headline in today's newspapers arose from remarks I made yesterday to the effect that I may not be able, given the rush of legislation, to review the Official Secrets Act. In that regard, I appear to be capitulating on the programme for Government. The article stated that “all targets may not be met”, a sweeping statement in the context of what I had to say. If it makes people happier, I will redouble my efforts to have officials review the Official Secrets Act. It is hoped, given the substantial legislative programme before us, we will be able to deal with that issue. It is important to point out that 25 items of legislation have passed through the Department of Justice, Equality and Law Reform within the past two and a half years. The volume of legislation dealt with has been phenomenal and I am grateful to my officials for their effort in that regard.

Mr. Cummins: Most of them were dealt with this week.

Mr. M. McDowell: I was fascinated by the statement in today's newspapers that “all targets may not be met”. That is not the case. Targets will be met. If the question is whether I am certain all legislation will be completed to the nth degree in the remaining two and a half years of this Government's term in office, that is a chal-

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lenging agenda. I am trying to be honest and suggest that the sooner we get on with our legislative task, the better.

The Bill before us is important and I am grateful to Members of this House for ensuring it is dealt with before the Christmas recess.

Amendment, by leave, withdrawn.

Amendment No. 83 not moved.

An Leas-Chathaoirleach: Amendment No. 85 is an alternative to amendment No. 84. Amendments Nos. 86, 87 and 105 are related and may be taken together by agreement.

Government amendment No. 84:

In page 37, subsection (4), to delete lines 40 to 47 and substitute:

“(a) is made to—”.

Mr. M. McDowell: Amendment No. 84 seeks to tidy up the particular subsection following consultation with the Parliamentary Counsel. The purpose of the amendment is to delete the existing subsection (a) in paragraph (1) and provides that subsection (1) does not prohibit a person from disclosing information referred to in that section if the disclosure is made to the persons or bodies set out in the following subparagraphs. A new version of the provisions of the deleted paragraph (1) is included as a new subsection, the purpose of amendment No. 88 which we will deal with later.

I will not accept amendment No. 85. The Bill provides a mechanism for the disclosure to certain prescribed persons including Members of the Oireachtas. Accordingly, on any reasonable review of the situation adequate provision already exists for a concerned person to bring something to notice in a responsible and appropriate manner. Amendment No. 85 would facilitate unauthorised disclosures where a person was of the opinion that the matter was within the public interest requirement without a proper test of balance or reasonableness being applied. We cannot have only a subjective view on this matter, an objective standard must be applied. The Bill as drafted supports the objective view.

Amendment No. 86 inserts a reference to the new Garda inspectorate or an office of the inspectorate. That addition is necessary in view of later provisions dealing with the establishment of the inspectorate. I propose to accept amendments Nos. 87 and 105 in the names of the Labour Party Senators and am grateful they tabled them.

Ms Tuffy: I appreciate the Minister's acceptance of these Labour Party amendments.

Amendment agreed to.

Ms Tuffy: I move amendment No. 85:

In page 37 subsection (4)(a), between lines 43 and 44 to insert the following:

“(i) the public where such disclosure is a matter of exceptional and overriding public interest in all the circumstances,”.

There may be exceptional circumstances where it would be legitimate for a member of the Garda Síochána to bring a wrongdoing to the attention of the public via the media. The Minister has said that the provision regarding Members of the Oireachtas would be sufficient for such a situation. However, what if Members in such a scenario did not want to pursue such a matter? Limits are imposed on who could bring this information into the public light. If none of the 226 Members wished to go the distance, this amendment would provide for a member of the force to place the information into the public domain. Our amendment does, however, state that this could only happen in exceptional circumstances.

Mr. M. McDowell: The problem is who would judge there are exceptional and overriding public interests in all the circumstances. If the right to invoke that defence is given to individuals, would it be an objective or subjective test? For example, a person may strongly believe that paedophiles should be exposed and may come across a particular case which he or she considered most horrific. The person could then give the file to a newspaper. That is not the appropriate way to deal with such a problem. With 166 Deputies and 60 Senators, the chances of a compelling matter of public interest not being disclosed is extremely remote. Members of both Houses are traditionally vigilant. If pressed with any credible information on a matter which should be brought into the public domain, the chances of them turning it down are small. There are also other persons and bodies to whom such information can be brought. There would have to be a massive conspiracy by everyone in public life to suppress such a matter. In these circumstances, providing such a flexible route in allowing a member of the force to disclose a matter of overriding public interest is not justified.

Amendment, by leave, withdrawn.

Government amendment No. 86:

In page 38, subsection (4), between lines 8 and 9, to insert the following subparagraph:

“(ix) the Garda Síochána Inspectorate or an officer of the Inspectorate,”.

Mr. M. McDowell: I have already spoken on this amendment and commend it to the House.

Amendment agreed to.

An Leas-Chathaoirleach: Amendment No. 87 tabled by the Labour Party has also been tabled by the Minister.

Government amendment No. 87:

In page 38, subsection (4)(a)(x), line 11, to delete “necessary for” and substitute “relevant to”.

Amendment agreed to.

Government amendment No. 88:

In page 38, subsection (4), between lines 15 and 16, to insert the following subparagraph:

“(d) is made in the course of, and in accordance with, the duties of that person’s office or employment or his or her duties under a contract or other arrangement to work with or for the Garda Síochána.”.

Mr. M. McDowell: This amendment arises from the acceptance of a previous amendment. It is necessary to restate the provisions of the former section (55)(4)(a), deleted by virtue of amendment No. 84. It provides for a case where a statement is made in the course of, and in accordance with, the duties of that person’s office or employment or his or her duties under a contract or other arrangement to work with or for the Garda Síochána.

Amendment agreed to.

Government amendment No. 89:

In page 38, between lines 36 and 37, to insert the following subsection:

“(8) In this section ‘personal information’ has the meaning given to it by section 2(1) of the Freedom of Information Act 1997 and includes personal information relating to a deceased individual.”.

Mr. M. McDowell: This amendment provides for personal information in the section to have the meaning given to it by section (2)(1) of the Freedom of Information Act 1997 and to include personal information relating to a deceased individual.

Amendment agreed to.

Mr. Cummins: I move amendment No. 90:

In page 38, between lines 36 and 37, to insert the following subsection:

“(8) Where an order under *section 2* in respect of the commencement of this section is proposed to be made, a draft of the order, shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.”.

This is a fallback position because other amendments have not been accepted. The amendment proposes that when section 55 commences, the order must come before and be affirmed by a

positive resolution of each House of the Oireachtas.

Mr. M. McDowell: It has always been the intention that this section will come into effect in the ordinary way, as with the rest of the Bill, in accordance with the making of a commencement order by the Minister under the provisions of section (2)(1). Notice of the making of that order will be published in *Iris Oifigiúil*. It is not usual for a commencement order to be dependent on a prior resolution of both Houses. The commencement is delegated conventionally to the Minister. Great uncertainty would be caused if a conditional commencement were later rejected by one of the Houses.

Amendment, by leave, withdrawn.

Section 55, as amended, agreed to.

Sections 56 and 57 agreed to.

SECTION 58.

An Leas-Chathaoirleach: Amendment No. 92 is an alternative to amendment No. 91 and the amendments will be taken together.

Mr. Cummins: I move amendment No. 91:

In page 39, subsection (1), lines 10 and 11, to delete “3 members, all of whom are” and substitute “one member who is”.

Why has there been a departure from the good precedent set by the Northern Ireland Police Ombudsman? There is only one holder of that office, which has proved highly effective. It is probably too effective from the Minister’s perspective in that he is proposing three appointments. The Minister will set out a list of reasons the commission should only comprise three individuals instead of one. Having examined the experience in Northern Ireland, the Minister’s proposal will dilute the proposed office, rendering it less strident in discharging its functions and, consequently, less effective.

Ms Tuffy: Our amendment has the same intention as Senator Cummins’s. There should be one key person in the ombudsman commission with a similar role to the Northern Ireland Police Ombudsman. There are many reasons for that. It would be useful for the profile of the office of the ombudsman commission if people had one person they could identify with it and have confidence in. It works very well in the cases of the Ombudsman and the Information Commissioner. We hope the Minister will accept our amendment with this purpose in mind.

Mr. M. McDowell: I have considered carefully whether there should be one, two or three members of the commission. It is desirable that there should be more than one. This will not be

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a disadvantage to the commission or reduce its status and effectiveness. Providing for three members increases the chance that an internal debate will take place before any decision is made, which is in itself a good thing. The commission is thus likely to act deliberately and to have thought through carefully the consequences of its actions.

I am not critical of the arrangements in Northern Ireland, where there is a single ombudsman, Ms Nuala O'Loan. I have no doubt that she carries out her work in a very effective manner. The Republic is a larger country and the load Senator Tuffy proposes to place on one person's shoulders could be enormous in this community. It is reasonable to share the load among three people. Senator Cummins used the word "strident" in this context. I do not consider stridency to be a characteristic of Ms O'Loan or one we should seek in a commissioner. We need a cool, calm, deliberate commissioner rather than a person who is strident. I do not want stridency to be the hallmark of the commission's activities here.

Mr. Leyden: I do not agree with the amendments, the flaws of which the Minister has pointed out very well. It is not correct to compare the commissioner with an ombudsman who deals with complaints about particular entitlements as the circumstances in this instance are quite different. As very serious allegations could be made against members of the force with effects on their careers and families, it is preferable that they would be judged by three people rather than one person. Far safer guidelines are being laid down than those proposed in the Opposition amendments. I fully agree with the Minister.

Mr. Cummins: I am open to being convinced by the Minister that three commissioners would be better than one, but wonder about decisiveness in that context. If two commissioners were strongly to hold polar opinions on a matter and the third could not make up his or her mind and abstained, it might not be possible for a decision to be reached. While the Minister feels three commissioners would be better than one, I continue to have reservations. If the three can come to proper decisions, that will accord with what we all want.

Ms Tuffy: I am concerned about public perception of the commission. Where people can identify one person with an office, they are much more aware of its profile. People know who is the Minister for Justice, Equality and Law Reform and expect certain things of him. To appoint one person only would be very positive from the perspective of the commission's profile. While I am very happy the Minister is establishing an ombudsman commission, its operation as a three-person body should be reviewed down the line. The public likes to feel there is one person they can hold ultimately accountable. While the

Supreme Court is a very different body, it is one with whose individual members people are generally not familiar beyond those involved in the legal system. Where an office is identified with one person, it is easy to understand its role. If the Minister will not reconsider the matter now, perhaps he will do so after the commencement of the operation of the commission.

Mr. Kett: I agree with the Minister and the old adage that three heads are better than one. A permanent chairman should not be appointed as three people will bring to the commission their individual talents. While it might be useful to appoint a chairman when considering particular cases in respect of which he or she has more experience than the other members of the commission, it is best to operate in general on a three-person basis.

Mr. M. McDowell: We are sometimes inclined to think that because the Patten commission suggested a course of action in Northern Ireland, we should adopt it in the Republic. We should consider similar jurisdictions to ours. The police complaints commission for England and Wales and the public complaints commission for the Royal Canadian Mounted Police each have more than one member. If one looks around the world, one sees it is not necessarily the case that only one ombudsman can be appointed. I prefer the idea of appointing three members to the commission.

While I suppose I agree with Senator Tuffy that a single appointee would become more identified with the job, I am not sure it would be a wonderful advantage. A person's attributes come into focus in such cases. If a male appointee wore a particular shirt and tie combination one day, it might be asked if a flashy dresser was the kind of man we wanted in the job. If he were to drink in a certain place, would it be asked if the act had implications in the context of the identity of the commission. It is better to depersonalise the commission. That is one of the advantages of the Supreme Court. People do not ask which members of the Supreme Court hand down particular judgments. Such judgments are deemed to be handed down by the court. We do not ask who are the Revenue Commissioners. We know very well what they do to us and do not contend it would be great if there were only one whom we could identify and love dearly. The appointment of a number of members to a commission is preferable. It is not unprecedented internationally.

Amendment, by leave, withdrawn.

Amendment No. 92 not moved.

Mr. Cummins: I move amendment No. 93:

In page 39, lines 15 and 16, to delete subsection (2), and substitute the following subsection:

“(2) Where the Ombudsman office is vacant or becomes vacant, applications to fill the vacancy shall be—

(a) advertised within and outside the State,

(b) encouraged from persons outside the State.”.

It is would enhance the independence and standing of the commission if competition for vacancies was open to persons outside the State. A person eminently suited to a position on the commission might not be from the State.

Mr. M. McDowell: It is in vogue to advertise all important jobs and see if applicants put forward their names. In this era of transparency that is frequently cited as desirable but I have noted that it has a counter effect which is not often recognised or spoken about, namely, that some people would be willing, if asked by the Government to become one of the members of this commission, to consider it if they were approached. However, they are not willing to put their name forward in some kind of open competition where their willingness, and the fact that they have been overlooked or rejected as a candidate, will be a downside to the whole process. That is an important point.

In respect of the Judicial Appointments Advisory Board, if we had an advertised competition and invited people to put their names forward, those who are rejected as candidates for the Bench — I will not use the word “humiliated” — would have a negative perception of what had happened. If, on the other hand, we create a secret applications procedure as exists in regard to the Judicial Appointments Advisory Board, people will then say they do not know how the institution works, how a particular name came up or the reason it was done in a certain way.

It is important that these nominations will be persons appointed by the President. The persons in question will be the subject of resolutions of both Dáil Éireann and Seanad Éireann recommending the appointment. That surely is enough transparency. It will not be the case that people who are substandard will be put forward because their qualifications will be scrutinised and it will be a very formal arrangement. It will not be something one will learn about in *Iris Oifigiúil* one day. The two Houses will have to carefully consider any proposal for appointment to this body. In that regard it will be similar to the appointment of the Ombudsman. The Ombudsman is appointed by the President on the recommendation of the Houses of the Oireachtas. The only difference in this case is that the Government gets a formal role of nomination but that nomination has to be approved by both Houses of the Oireachtas in a public forum where, if an unsuitable appointment was being made, it would be apparent to everyone.

Amendment, by leave, withdrawn.

Question proposed: “That section 58 stand part of the Bill.”

Mr. Leyden: Will the Minister examine the qualifications regarding membership. Section 58(6)(a) states: “A person is not eligible to be nominated or appointed under this section if he or she is entitled under the standing orders of either House of the Oireachtas to sit in that House.” Will the Minister elaborate on that? Unless somebody is a convicted criminal, he or she can sit in these Houses. Everyone eligible to be appointed an ombudsman should be eligible to sit in these Houses if they are of good standing in the community. The section states: “ ... is entitled under the standing orders of either House of the Oireachtas to sit in that House.” Does that mean to be elected to that House, a candidate for this House or a former Member of this House? We need clarification on that issue.

The section also excludes a member of a local authority. Elected members of local authorities are in a difficult position in that if they are elected to a body they could be compromised if they have to make a decision on a particular complaint. It also excludes a member of the Garda Síochána. There is no such debaring order for a Minister for Justice, Equality and Law Reform being a former member of the Garda Síochána so why would they be deemed ineligible for this job when the Minister could have been a serving member of long standing of the Garda Síochána? There has been experience of that in this House, as the Minister is aware.

Mr. M. McDowell: I will not comment on that last point but I am grateful to Senator Leyden for reminding us about it. I was reading a 1923 edition of *An Cosantóir*, the Defences Forces journal, of which I came into possession. It was a very interesting volume which came out every week in those days. There is an election news section and it recorded the fact that the Commander in Chief of the forces had just secured election with over 20,000 votes. That indicates that our views of separation of powers were quite different in those days than they are now. Of course, that was before the Curragh mutiny and it was a different era. It was interesting that membership of these Houses was open to many people and double jobbing was the practice. We are very sensitive about the dual mandate now yet it was not considered inconsistent then to be Commander in Chief of the Defences Forces and a Member of the Oireachtas. I suppose in an emerging democracy that was considered appropriate in the short term.

I do not know why the section does not read, “is a Member of either House” rather than, “is entitled under the standing orders of either House of the Oireachtas to sit in that House.” Clearly, nobody is entitled to sit in Seanad Éireann under standing orders unless he or she has been elected or nominated to it. I will examine whether it can be simplified to refer to a Member of the Houses of the Oireachtas or

[Mr. M. McDowell.]

someone who has been elected to the Houses. It may be that is a standard form which the Parliamentary Counsel has used to include people who have just been elected. I do not know precisely how that would read. We will look at it but “is a member of a local authority” is very clear and I do not understand why we cannot have such clear language in regard to the Oireachtas. I will consider the matter between now and Report Stage.

On the question of former membership of the Garda Síochána, as far as I am concerned that is a red line issue. I want the public to know that this commission is wholly separate.

Mr. Leyden: We accept that but the Minister for Justice, Equality and Law Reform is not ineligible.

Mr. M. McDowell: No.

Ms Tuffy: Perhaps the reasoning behind it is that if someone runs for European or local elections it will not contaminate his or her role on the ombudsman commission. I do not mean contaminate in the normal sense of the word but the idea appears to be that because the European and local authority elections are more remote, so to speak, they will not damage their role. I am not saying I agree with that. I have the same problem with it as Senator Leyden.

Question put and agreed to.

Section 59 agreed to.

SECTION 60.

Ms Tuffy: I move amendment No. 94:

In page 40, subsection (2), between lines 34 and 35 to insert the following paragraph:

“(d) to prosecute summarily members of the Garda Síochána where it decides to do so.”

The ombudsman commission should have an independent power of prosecution and should not be dependent on referring all criminal matters to the Director of Public Prosecutions. Otherwise, its effectiveness will be undermined as has been the case with the Garda Síochána Complaints Board. I understand the Minister intends to refer to the section which allows the commission make a complaint to the Garda or the Director of Public Prosecutions but making a complaint to the Garda would undermine the independence of the commission. They can go to the Director of Public Prosecutions. However, they should have the independent power to pursue their own prosecutions.

Mr. M. McDowell: The policy underlying this provision is that all decisions relating to procedures following investigation by the ombuds-

man commission into complaints made against members of the Garda Síochána which appear to involve offences will be a matter for the Director of Public Prosecutions. Section 60(2)(d) requires the commission, “in appropriate cases, to report the results of its investigations under *Part 4* to the Garda Commissioner or to the Director of Public Prosecutions and, if it reports to the Director, to send him or her a copy of each investigation file.” A short-circuit therefore exists in that one can send the file to the DPP.

Section 93 deals with procedure to be followed after completion of the investigation by the ombudsman commission into a complaint which appears to involve an offence. Subsection (3) requires the DPP to inform the ombudsman commission about a decision by him “whether or not to institute a prosecution in relation to the conduct that is the subject of a report received from the Commission...”. Therefore, there is feedback to the commission from the DPP. Should the DPP decide to institute a proceeding he or she is further required to keep the ombudsman commission informed of the progress of the prosecution and whether it results in conviction or acquittal of the member.

It is clear that in the context of a criminal proceeding the role of the ombudsman commission is purely investigatory in nature. I am not prepared to deviate from this. Indeed, it would be wrong for the commission to have a prosecution role in addition to its investigatory role in establishing facts. We are taking away from investigating gardaí the general right to prosecute independently of the DPP. It would be strange to make gardaí second-class citizens in that they alone would be subject to criminal charges without independent intervention and supervision of the DPP. Representative associations would be unhappy if the DPP’s independent, supervisory role was suspended in the case of the Garda Síochána.

There is a provision in the Bill with regard to the extension of time periods. In summary offences, complaints must be made within a certain period of time. The period for making a complaint is extended in section 76 and the period for prosecution is extended in section 96. Currently a significant problem exists in that statutory periods for prosecution of summary offences are frequently eaten up by the Garda Síochána’s complaints commission investigation. There is little if any time for a prosecution to be brought on a summary basis. The Bill proposes to extend the time period for invoking the summary jurisdiction of the courts. In the case of indictable offences, there are no statutory time limits.

Amendment, by leave, withdrawn.

Question proposed: “That section 60 stand part of the Bill.”

Mr. Leyden: I ask the Minister and his senior officials to closely examine the submission from

the Garda Representative Association before Report Stage. I draw their attention to pages 10, 11 and 12. I can see both sides of the coin. However, it is extremely difficult for a member of the force to make a complaint against another member. This issue is not addressed in the Bill. I received the briefing and understand their point. I will not delay the House, because it is important the Bill goes through. However, it will not allow a member of the force with a genuine difficulty regarding a situation, such as happened in County Donegal, make their case known to anybody else. They must go to a senior officer and could be reprimanded. They cannot make a complaint against another member of the force.

There is another important point in the Bill. It does not prevent a partner or spouse making the same complaint as a member of the public. There is therefore a way out. It is an unlikely situation, but such situations arise. The ombudsman commission would be justified in investigating a complaint made by a member of the force against another member. I would be interested in the Minister's view. Perhaps he could give the matter due and careful consideration. It would be an unusual situation, but a member of the force may need to rely on a spouse or relation to make a formal complaint against another member, outlining what has occurred on his or her behalf. There is a question regarding the disclosure of information from a garda to a person outside the force, which could prejudice their role as covered by the section we have just debated.

It is only fair that when issues are brought to our attention by a reputable organisation such as the GRA we must bring them to the attention of the House, the Minister and his officials. Both the Minister and his senior officials have been extremely open to every possible recommendation. They have argued their case well. The Minister possibly has a strong view on this issue, but he should perhaps give it consideration. It is of great importance to our 10,000 gardaí, of which there will be 14,000 by 2007.

Mr. Cummins: I am not sure this issue is covered by the section we are discussing. However, a garda should have the opportunity to make a complaint against another garda. Otherwise it is pointless, as borne out by recent tribunals and inquiries. There must be some mechanism within the Bill to allow for this. It is fundamental to the Bill.

Mr. M. McDowell: The purpose of the institution is to deal with members of the public who make complaints against members of the Garda Síochána. It does not exist to resolve disputes within the force. The Garda Síochána is a disciplined force. If people can issue complaints and have them investigated by the ombudsman commission, the entire process would be completely fouled up with reports. Every dispute, rivalry and disagreement within the force would be referred to the commission for consideration. Such a situa-

tion would be a cause for concern. Perhaps we can return to the issue in subsequent legislation if it transpires to be a good idea. However, let us deal with what the legislation addresses, namely members of the public making complaints against the Garda Síochána, not members of the force settling disputes among themselves.

Mr. Cummins: What about the situation in County Donegal? How would we deal with a matter such as that?

Mr. M. McDowell: The facts relating to that situation could well come to the attention of the ombudsman commission in a different manner. The absence of a complaints mechanism did not lead to the events in Donegal. A complaints mechanism exists at this time with regard to Donegal. What is being asked for here is totally different, namely that gardaí should be allowed make complaints against each other. I am unconvinced, and must be persuaded the present proposals of the Bill are grossly inadequate before I change my mind.

Mr. Leyden: A grievance procedure exists in the Garda Síochána code. There may be room to improve on that opportunity. It is noteworthy that in one instance, implementation of the grievance procedure led to a member being subjected to the Garda Síochána disciplinary regulations, under regulation 9, for having made an allegation against a superior which was not proven. The code of practice was introduced by the then Commissioner, Mr. Culligan, in November 1995. If that code were strengthened it would be worthwhile and perhaps could be the solution to any difficulties the Garda has. It means there would not be repercussions within the force for members bringing forward a complaint under the Garda Síochána code and invoking the grievance procedures. I agree with the Minister that it would then be an internal matter for the Garda Síochána, which is a disciplined force. Perhaps the Minister might review the grievance procedure code introduced by Commissioner Culligan. I believe it would obviate the need for action to be taken through the ombudsman.

Mr. P. Burke: There is an ombudsman for the Defence Forces. Senator Leyden mentioned earlier that a spouse of a member of the Garda Síochána could make a complaint on his or her behalf. It would appear farcical that a spouse can make a complaint when a member of the force could not. That might well be worth looking at in the context of the further legislation the Minister said is being contemplated. It seems farcical that a spouse could make a complaint to the ombudsman while the person who is the subject of the disagreement could not take such an initiative.

Mr. Leyden: From reading the legislation there is nothing to preclude a member of the public who may or may not be related to a garda from

[Mr. Leyden.]

making a complaint. The Minister may say that could not happen, but they are not precluded. I just note that this is a possibility. It might not ever arise and it would be unfortunate if it did. I am not advocating that it should arise and I do not believe it is proper procedure, particularly as there is a code of practice within the force to allow members to make legitimate complaints against superior officers or colleagues.

Mr. M. McDowell: As the Acting Chairman knows, the Act provides that complaints can be made by a member of the public who is directly affected by or witnesses the conduct. It is not just anybody. One has either to have had direct personal knowledge of the incident, or to have witnessed it, to comply. Section 94(4) provides that the ombudsman commission may, if it appears desirable in the public interest to do so and without receiving a complaint, investigate any matter that appears to it to indicate that a member of the Garda Síochána may have committed an offence, or behaved in a manner which would justify disciplinary proceedings. How would the ombudsman commission come to such a conclusion? Obviously, it would have to receive information in some way which did not amount to a formal complaint. I have no doubt that if, for instance, a garda witnessed another member of the force beating up a number of people and for some reason the victims felt so intimidated as not to proceed with their complaint, that such a matter could be drawn to the attention of the commission. The commission could consider the issue under section 94 to see whether it was an appropriate case on which to act.

Question put and agreed to.

Sections 61 to 63, inclusive, agreed to.

SECTION 64.

Mr. Cummins: I move amendment No. 95:

In page 42, subsection (1), line 10, after “Reform” to insert “who has applied for an advertised position, has been interviewed and selected and”,

It is clear from section 64 that the staff in the Garda Complaints Board will have the opportunity to transfer to the ombudsman commission. I understand this is the usual practice. However, I am not entirely convinced this is appropriate in these circumstances, if the staff in the complaints board is transferred in its entirety to the ombudsman commission.

The commission needs a fresh start and I believe this Bill provides for that. The existing staff should be eligible to transfer to the commission but should first be evaluated and left in no doubt that this is a new regime and old practices will not apply. That is the gist of the amendment as tabled. A new start is required and I hope it is not just a matter of transferring old

practices into a whole new system as proposed in a different context. As somebody put it to me, that would be like going to court with the devil, with the jury from hell. I am not suggesting that applies to this section of the Bill, but I do not want to want to see the ombudsman commission just replacing the old complaints board.

Mr. Kett: I take a different view. The fact that people are coming from an investigative background enhances the ability of the commission to be effective. Such people will have had vast experience in these systems. As well as that, they will be under new guidance. The person that cracks the whip, in effect, will be driving them. I would be more worried, on my reading of the Bill, as to whether people will have an option to transfer if they do not want to. The Bill suggests to me that they are simply transferring and that it is not within their ambit to refuse, even if they want to move. I just wonder whether that is the position.

Mr. M. McDowell: Nobody will be press-ganged into service against his or her wishes. If Senator Kett’s reading was open, I would certainly insert “with that person’s consent”. I do not in any sense want to shove a person into something that he or she does not want to be in. There are well-established procedures in that regard.

The provision under section 64(2) underscores the point. Any voluntary staff transfers would also have to be considered in the context of proposals for decentralisation, which is another issue that arises in this regard. There are practical considerations that have to do with the provision of expertise to the ombudsman commission during its initial start-up phase. If the commission is get under way at all, it requires to have working for it people with at least a vague idea of what is involved, rather than staff being brought in absolutely cold, on a given Monday, to be faced with an entirely new taskload. The commission has the power, in due course, to advertise and recruit its own staff. Provision is made for it to do that under section 63.

I want to stress that we are talking about the performance of administrative functions involving people who know what it is like to receive a complaint and how to process it. It would be a mistake to throw such experience and expertise on to the dump heap just to symbolise that this is a new start. The alternative view is that this body would effectively spend months in trying to find its feet and attempting to set up administrative techniques, making mistakes which others, perhaps, have made in the past without having available to it any personal knowledge of the pitfalls as regards where it could be going wrong. I believe the administrative staff should be capable, with their own consent, of being transferred, but that the commission should be the ultimate arbiter on who serves it. That is an aspect of independence that is critical. It is not a case of the Minister for Justice, Equality and Law Reform

stipulating that only certain staff may be used all of whom must be his or her nominees. That would undermine the commission.

This is an enabling section the purpose of which is to attempt to get the various functions of the ombudsman commission operating as quickly as possible and to avoid a situation where the establishment of the commission would be followed by a period of inactivity while inexperienced administrators struggled to set up filing systems and methods of dealing with complaints, etc. I agree with Senator Cummins that we do not want old wine in new bottles. On the other hand, we do not want to pour the wine we have down the sink.

Mr. Cummins: I take on board what the Minister has said. It is a matter of public confidence. The last thing we want is that the complaints body would be similar in effect to old wine in new bottles. I agree there are people with expertise who should be eligible to become members. I will withdraw the amendment as the Minister is taking these concerns on board.

Amendment, by leave, withdrawn.

Section 64 agreed to.

Section 65 agreed to.

SECTION 66.

Acting Chairman (Dr. Henry): Amendments Nos. 96 and 97 are related and may be discussed together by agreement.

Mr. Cummins: I move amendment No. 96:

In page 42, subsection (1), line 36, after “may,” to insert “where exceptional circumstances arise”.

The headnote in this section appears misleading. It refers to special assistance, but there is no reference to special assistance in the section. The headnote gives the impression that the assistance of gardaí will only occur in a special way or circumstances when the opposite is clearly the case. Perhaps the term “habitual assistance” would have been more accurate. I propose that the words “where exceptional circumstances arise” be inserted so as to ensure that the assistance of gardaí can only be sought in exceptional circumstances.

Mr. M. McDowell: I am not prepared to accept this amendment because I do not want to make the ombudsman commission unworkable. The policy underpinning this provision is that it should be open to the commission to engage whatever expertise it deems necessary for the effective performance of its functions. Given that the commission, just like the Northern Ireland ombudsman, has the power, if it so chooses, to conduct inquiries and investigations by using the services of experienced police officers, members

of the Garda Síochána and otherwise, as well as other experts with other forms of relevant expertise, it is not necessary that there must be an exceptional circumstance before an independent body such as the commission can engage such additional support. The commission will be best placed to make its own judgments in this matter in the light of whatever circumstances prevail at the time.

I am not prepared to accept amendment No. 97 either, as it would unnecessarily limit the investigative expertise that might otherwise become available to the commission in the ranks below superintendent. There is nothing wrong with gardaí investigating gardaí. They do it every day of the week. In a case of dangerous driving causing death, a garda will investigate a garda. I am not against that concept. I am also not against the commission having the faith to use gardaí as investigators where it considers it appropriate to do so. I have never gone down the road that it is either “all duck or no dinner” on this issue or that the creation of the ombudsman commission implies that no garda is ever to be trusted with the investigation of another member of the force. I do not believe that.

In the ordinary course of criminal law, the DPP, unfortunately in some cases, must use gardaí to compile cases against other gardaí for matters like dangerous driving or other offences. It is a sad fact that there have been a few rotten apples, who have been investigated thoroughly by their colleagues. I do not believe gardaí have been pulling their punches in those cases. The vast majority of gardaí believe it would be their duty to investigate one of their colleagues in the ordinary course of criminal law if there were grounds for such an investigation. This happens on the infrequent occasions when members of the Garda Síochána commit criminal offences.

I am not prepared to push the ombudsman commission into a corner where it can only use gardaí in exceptional circumstances. It should be free to choose when it will use them. It is worth noting in this context that where the commission does use members of the Garda Síochána, it can require that they be used under direct supervision or it can grant a wide latitude to the investigators to do the job in a quasi-autonomous way subject to the power of revocation. This is the right way to deal with the matter.

I do not want to set up a massive quango. If I was to say that gardaí should only be involved in these investigations in exceptional circumstances, I would probably have to recruit 150 or 200 investigators. The Northern Ireland ombudsman, Nuala O’Loan, has the enormous advantage that she has the rest of the United Kingdom to aid her in these matters. Somebody doing this function in Ireland does not have such resources at his or her beck and call. Therefore, I do not intend making the work of ombudsman commission more difficult by putting greater impediments to it using members of the Garda Síochána.

[Mr. M. McDowell.]

The commission will sort out clearly when the public interest is best served by the commission doing the investigation or by it asking members of the Garda Síochána to do so. It is impossible to see how the balance will be struck. However, to say that it could only happen in exceptional cases would mean that I would have to build up a huge investigative mechanism. I am not naive on this. I do not want to put hundreds of people into an office block somewhere waiting for gardaí to make mistakes or to have them running around the country looking for work for themselves.

We must be sensible about the issue. The commission must have a number of options open to it, to do its own investigation, to bring in expertise from outside on an *ad hoc* basis, if appropriate, or to ask members of the Garda Síochána to carry out investigations. I have great faith that the new institution will approach that choice and discretion in an effective manner that will command public confidence.

Mr. Cummins: With regard to amendment No. 97, the perceived lack of independence and the failure of the Garda Complaints Board to adhere to its fundamental principle of not being judge in its own cause has, ultimately, led to its downfall. It is not acceptable that members of the Garda Síochána be brought into the ombudsman commission to investigate other gardaí. I disagree with the Minister in this regard. Many gardaí, superintendents and chief superintendents also feel this way. If, as the Minister suggested, the assistance of highly-qualified gardaí is required, this should be restricted to the rank of superintendent and above. The emphasis should be on bringing in experts from outside the jurisdiction to investigate in such cases. Independence and perception are two vital characteristics which the ombudsman commission must have. The Minister must do all he can to foster this. The section as drafted will not do the ombudsman any favours whatsoever.

Mr. Leyden: The Minister is aware of the views of the Garda Representative Association. It is interesting that that group is not anxious to have gardaí investigating gardaí, and it has made that quite clear. In cases where the commission would ask a garda to investigate a situation, the decision would be made by the three person ombudsman commission. It would not be made by the investigating garda. In such cases, the garda would investigate the case, prepare information and make a detailed submission which would go to the commission for a decision. This should be pointed out.

I can see the difficulty in getting experienced people if the Minister has to recruit hundreds of people to carry out this job. Training would be required which would have to be separate from Garda training. A complete new structure would need to be established. I can understand the practicalities of the situation. The commission may

decide not to get a member of the Garda to investigate a particular case, it may decide to get the Garda Commissioner, an Assistant Commissioner, chief superintendent or superintendent. It is also open to the commission to get somebody from Northern Ireland or from outside the State to carry out an investigation. There is ample flexibility in the system. However, it cannot be ruled out that the commission would not call on a member of the Garda from a different region to prepare a report on a situation. That person would not have the final say on the case, which is important. I look forward to the officials having further discussions with the Garda Representative Association, although I doubt very much if they would have any influence at this point.

Mr. M. McDowell: I have had discussions with the Garda Representative Association on this issue. I can assure Senators Cummins and Leyden that this issue was the subject of extremely frank and robust exchanges between us. We understand our positions very clearly.

Amendment, by leave, withdrawn.

Amendment No. 97 not moved.

Section 66 agreed to.

Sections 67 to 69, inclusive, agreed to.

SECTION 70.

Ms Tuffy: I move amendment No. 98:

In page 45, subsection (2), lines 3 to 5, to delete paragraph (a).

A similar amendment was discussed yesterday in regard to the Garda Commissioner which my colleague, Senator Ryan, withdrew. He took on board what the Minister said. This amendment is in a different category in that it deals with the ombudsman commission. The prohibition on the expression of opinions on the merits of Government policy is incorrect. When changes were proposed in regard to the operation of the Freedom of Information Act, it was appropriate that the former Information Commissioner was able to express a point of view on the proposed changes. If a similar situation arose once the ombudsman commission is up and running or, let us say, if after a couple of years the Minister of the day decided to make changes, I suggest it would be of benefit to get the view of the ombudsman commission on the proposed changes.

The members of the commission should be able to express their views and I am concerned that this provision would prevent them from doing so. They, more than anybody, would know whether there were problems in terms of the operation of the legislation. I ask the Minister to reconsider the matter for that reason.

Mr. M. McDowell: Without re-opening old wars regarding the Freedom of Information Act,

the former Information Commissioner chose to use a report as a mechanism to get across some views to the Oireachtas in ways which stretched things to the very limit of the actual phraseology of the statute. I will not put it any further than that.

This is a standard provision which is to be found in legislation covering the establishment of statutory bodies such as the ombudsman commission. Other bodies that are similarly covered include, believe it or not, the Human Rights Commission, the Ombudsman for Children and the Equality Authority. The purpose of this section is to allow members of the Committee of Public Accounts the opportunity to question the commission on its accounts. While it is clearly open to Oireachtas committees to discuss any matters relevant to the terms of reference, the intention behind the revision is to ensure that committee members do not seek to draw the commission into discussion on matters of public policy in such a setting.

The reason for the provision is because politics is a competitive business and clearly it would be hugely advantageous to somebody who disagreed with a Government policy to recruit important independent bodies to his or her cause. I have no doubt that if we did not have this kind of provision for the Human Rights Commission, people would call it in to say something along the lines of, "Don't you agree with me that what the Minister, Deputy McDowell, is doing is wrong." In those circumstances the commission would be drawn into conflict because some of its interrogators at these committees would have a political interest in recruiting its members, so to speak, to their cause. It is better that bodies, in the context of being accountable to the Oireachtas, would stay out of day-to-day politics and would not get sucked into such policy debates.

The point was made yesterday that they are free to comment on Opposition policies, which I suppose is true. However, they are very unlikely to do so or to be asked to do so, in so far as the Opposition has policies.

Mr. Cummins: I assure the Minister we have many of them. We had them before the Minister's party existed.

Acting Chairman: Order, please. Is the amendment being pressed?

Ms Tuffy: I will not press the amendment, although I do not think the ombudsman commission would operate in the way the Minister suggested if that provision were not in place nor, I believe, would the Human Rights Commission get involved in the nitty-gritty of day-to-day politics. However, the commission members should be able to comment on policy that relates to their own operation.

The Minister referred to changes to the Freedom of Information Act. I consider it helpful that

the former Information Commissioner was able to comment in the way he did.

Amendment, by leave, withdrawn.

Section 70 agreed to.

SECTION 71.

Ms Tuffy: I move amendment No. 99:

In page 45, subsection (3), line 22, to delete "has been".

We feel the current wording is too broad and that it permanently protects any matter that ever went before a court or tribunal. For that reason, we propose the deletion of the words "has been".

Mr. M. McDowell: The alternative is to ask the commission to get involved in second guessing the outcome of court and tribunal proceedings. I do not think that is desirable either. We have to have some degree of certainty in regard to these matters. I would prefer not to do that.

The purpose of section 71 is similar to that of section 70. My comments in regard to the focus of such discussions at Oireachtas committees are relevant in this context too. I do not consider it appropriate in the context of an examination of the commission's administration for such committees to draw the commission into a discussion of cases which are, have been or might be the subject of judicial-type proceedings. Such matters are simply not relevant to such an examination and are an opportunity for politicians to re-open issues which at that stage should be closed or *sub judice*.

Amendment, by leave, withdrawn.

Progress reported; Committee to sit again.

Sitting suspended at 1.30 p.m. and resumed at 2 p.m.

Health Bill 2004: Second Stage.

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

Tánaiste and Minister for Health and Children (Ms Harney): Frank Lane, who has been the deputy head usher of Leinster House for a considerable length of time, is retiring this evening. I wish to avail of this opportunity to pay tribute to him for the outstanding service he has given to Members on all sides of the House throughout his 40 years working here. I wish him every success in his retirement and hope he is moving from the busy life of Leinster House to the quieter life of retirement, but I equally hope that it is as fulfilling as was his life here for the past 40 years.

I thank the Seanad for facilitating an early discussion on Second Stage of the Health Bill 2004 and, I hope, its smooth, albeit speedy, passage through the Oireachtas next week. I am very

[Ms Harney.]

pleased to have the opportunity to speak to the Bill in the House. As the House will be aware, the legislative basis for the structures and organisation of the health services has been in place since 1970, with the passing of the Heath Act 1970. Since that time, there have been many developments in the area of health care. New treatments have been developed to treat and cure previously incurable illnesses and treatments are available to improve the quality of life of ill patients and to help extend their lives. We are also experiencing for the first time in over a century a growth in our population and, as with other countries, an increase in our ageing population. We are now investing very large sums of money in our health services, more than €11 billion next year, which puts an added onus on us to ensure that this funding is used wisely.

It is time to reorganise the management of our health services to ensure that it meets the demands of the 21st century. We must ensure that the patient is at the centre of health care. This reorganisation must ensure that effective management is in place to make the best use of the tremendous resources we are applying to health, and to get clear value and results for that money. The legislation we are considering today has developed from the Government's health service reform programme. That programme is based on the findings and recommendations of two reports, namely, the Commission on Financial Management and Control Systems in the Health Service, otherwise known as the Brennan report, and the Audit of Structures and Functions in the Health System, otherwise known as the Prospectus report. The Government announced the reform programme on 18 June 2003.

The central proposal of the programme was the establishment of a single health service executive which would assume responsibility for the management of the health services and which would replace the health boards and 27 other agencies. The Government also stated that it was committed to the establishment of a health information and quality authority and to re-focus the role of the Department of Health and Children. A clear message emanating from the reports was the need for clarity of responsibility and accountability. We undertook to provide that under the reform programme. This Bill provides for the first time that clarity of roles and responsibilities within the health system. The lines of responsibility and accountability are very clear in this legislation. Political responsibility rests with the Minister while operational responsibility rests with the executive.

A wide-ranging communications process with those employed in the health services and with the general public was undertaken and has continued throughout this preparation period up to today. This legislation is the result of a long deliberative process undertaken by many people both before and after June 2003. Its success will be measured in three ways, namely, better outcomes

for patients, better value for taxpayers' money and a better working environment for the 120,000 people employed in the health services.

The purpose of the Bill is to provide the legislative basis for the new organisation and accountability structures proposed in the health service reform programme. The Bill provides for the establishment of a health service executive on a statutory basis which will take over responsibility for the management and delivery of health services from the Eastern Regional Health Authority, the health boards and a number of other specified agencies. It also provides for the establishment of a national health consultative forum, regional health forums, advisory panels and a statutory complaints framework.

Owing to time constraints, provision is not made in the Bill for the establishment of the health information and quality authority, but this will be provided for in legislation which I will introduce in early 2005, which will also address issues arising from the national health information strategy.

Section 6 provides that the health service executive will be established on a day to be appointed as the establishment day. It is my intention that establishment day will be 1 January 2005. Section 7 clearly sets out the object and functions of the executive so that its responsibilities are clear to all, as is its accountability for delivering on those responsibilities. The objective of the executive is to use the resources available to it in the most beneficial, effective and efficient manner to improve, promote and protect the health and welfare of the public. The executive is required to perform the functions under the enactments listed in Schedule 3 which, prior to establishment day, were performed by the health boards and the other bodies dissolved on that day. A review of these enactments gives an indication of the very broad scope of the functions and responsibilities performed at present by the health boards and being taken on by the executive.

The executive is required to manage and deliver health services or arrange for the delivery on its behalf in accordance with the provisions of the Bill. In managing the health services, we are requiring the executive to integrate the delivery of those services. I consider this requirement essential. Frequently we hear of patients being unable to access services when moving from one health care setting to another because of the lack of integration between the various settings. The reorganisation of the management of health services must put an end to this and the movement of the patient through the health system must be a seamless process. The executive is also being required to facilitate the education and training of students in health professions and its employees and the employees of service providers to the extent practicable and necessary to enable it to carry on its functions.

With regard to the accountability of the executive, a key objective of reform in the health

system, as identified in both the Prospectus and Brennan reports, involves the separation of policy and operational responsibilities. It is my firm view that the executive should be as widely and directly accountable as possible for its decisions, plans and actions in regard to the discharge of its statutory functions. Such an approach is central to ensuring that the highest standards of service are achieved and maintained. This approach should be reflected in the quality of service it provides to all its clients and customers, including the service it will provide to Members of the Oireachtas in responding to queries and providing information about the management and delivery of health and personal social services whether at national, regional or local level.

The executive must establish an effective system of rapid response to inquiries from the public and public representatives, establishing systems capable of reaching into the organisation and rapidly retrieving the necessary information from the authoritative source. This is one of the many potential benefits of having streamlined administrative arrangements in place and is one in which all of us here, as public representatives, have a particular interest. The IHSE is aware that it has responsibilities in this area and has been making plans to ensure that arrangements are put in place to meet them. It has already announced that the function of managing parliamentary affairs would be assigned by the chief executive officer to one of the central governance areas.

I am aware of, and strongly support, the important role played by the voluntary and community sector within the overall health system. In recognition of that role, the Executive is required to have regard to the services similar or ancillary to its own provided by that sector when performing its functions. As the activities of other public authorities can also impact on the health of the public, the Executive is required to co-ordinate its activities and co-operate with those other authorities. It must also have regard to the policies and objectives of the Government or of any Minister to the extent that those policies may impact on the functions of the executive.

Section 10 provides that the Minister may issue general directions in writing to the executive for any purpose in this Act or any other enactment. This provision is necessary as it enables the Minister to inform the executive of policy decisions made by the Government and to direct it to perform its functions in compliance with Government policy. The Minister is also empowered to issue directions regarding the provision by the executive of information and statistics which relate to its performance. The executive is required to comply with any directions issued by the Minister under this section. As part of the structures to underpin the accountability of the executive, Ministers in future will be obliged to lay copies of any such directions before the Houses of the Oireachtas.

Part 3 of the Bill deals with the board of the executive. The board will consist of a chairperson

and 11 members appointed by the Minister, along with the chief executive officer, who will be an *ex officio* member.

The Minister will appoint persons to the board whom he or she considers have sufficient experience and expertise on matters connected with the executive's functions so as to enable them to make a substantial contribution to the work of the executive. Members of the Houses of the Oireachtas, the European Parliament or a local authority will not be eligible for appointment to the board.

The provisions relating to the operation of the board are set out in Schedule 2. The term of office of a board member is five years and members can serve a maximum of two terms. Five members of the first board will serve for a period of five years and five will serve for three years. This ensures that not all of the board members leave office at the same time with the consequent loss of experience and expertise.

Section 14 provides that the Minister may remove all of the board members in the event of the board failing to meet any one of a number of specified obligations including failure to comply with a direction of the Minister or any other requirement under this Act. The Minister may also appoint an independent person to review any matters related to the board's performance of its functions, if he or she is of the opinion that they are not being performed effectively. In the event of this independent review being undertaken, the executive is required to co-operate with the person undertaking the review and provide him or her with all reasonable assistance.

To further provide clarity regarding responsibility and accountability, the Bill provides in section 12 that the board is to be the governing body of the executive. Provision is made for the delegation by the executive of some or all of its functions to the chief executive officer, who has operational responsibility for the day-to-day running of the executive under section 18.

We recognise that in order to enable it to perform its many functions effectively, the executive will require expertise in specific areas. Section 15 therefore allows the executive to establish committees to provide it with assistance and advice. The persons appointed to these committees need not be members of the board, but may be persons who have the experience and knowledge required to advise the board.

The Minister will appoint the first chief executive officer on the recommendation of the board of the executive. After that, the CEO will be appointed by the appointed members of the board following a recruitment process carried out in accordance with the Public Service Management (Recruitment and Appointments) Act 2004.

Section 17 provides that the Minister may appoint an interim CEO of the executive on the recommendation of the board of the interim health service executive. This is to address the current situation where the board has appointed Mr. Kevin Kelly to be acting CEO of the execu-

[Ms Harney.]
tive pending the appointment of a permanent CEO.

As I said earlier, the CEO is responsible for the day-to-day operations of the executive. He or she will be responsible to the board for the performance of his or her functions and for the implementation of the board's policies. The board is empowered to appoint a deputy CEO in the absence of a CEO or if the position is vacant for any reason.

We are providing for a formal system of delegation of functions. This again reflects the emphasis we are placing on clarifying the lines of responsibility and accountability within the executive. Section 19 provides for the delegation by the CEO of some or all of his or her functions to other employees within the organisation and their subsequent sub-delegation by those employees. This system of delegation will also provide employees of the executive with clarity regarding their roles and responsibilities within the organisation.

Section 20 provides that the CEO will be the Accounting Officer of the executive within the meaning of the Comptroller and Auditor General Acts 1866 to 1998. Appointing the CEO as the accounting officer requires the establishment of a Vote for the executive. This is provided for in paragraph 7 of Schedule 5. The Vote will be established on establishment day. This move ensures that the executive will operate as a separate entity with the CEO accountable for that Vote. The CEO will be responsible for the preparation of the appropriation accounts and the Vote of the executive in the same way as a Secretary General of a Department. This role is central to the system of accountability for public money. It is designed to be an open and transparent system for scrutinising the manner in which funds are used having regard to the principles of regularity, propriety and value for money. This is a very strong form of accountability for public funds and will give much greater clarity than before as to where responsibility for the management of public funds lies. The key element in the accountability framework is the Committee of Public Accounts, which will examine the expenditure of public funds and report to the Dáil on its findings.

As well as the CEO being required to appear before the Committee of Public Accounts in his or her role as Accounting Officer, provision is also made under section 21 to require the CEO to appear before Oireachtas committees when requested by those committees to account for the performance of the executive.

Under the provisions of section 22, the executive is allowed to recruit its employees subject to the terms of the Public Service Management (Recruitment and Appointments) Act 2004. The overall numbers, grades and terms and conditions will be determined by the executive with the approval of the Minister for Health and Children and with the consent of the Minister for Finance.

The transfer of those staff currently employed by the ERHA, area health boards and health boards and the other dissolved bodies is provided for in section 63. These employees will transfer on establishment day on terms and conditions no less favourable than those enjoyed prior to the transfer. Staff of bodies which will be dissolved at a later stage by order of the Minister will also transfer under similar terms. The executive may change the terms and conditions of such staff, but only on an agreed basis following negotiations with the trade unions representing staff interests.

The 1970 Health Act contained provisions which provided an employee with access to appeal to the Minister in the event of a proposal to dismiss him or her. This provision is being repealed. It is considered more appropriate that the employees of the executive have the protection of the employment legislation, for example the Unfair Dismissals Act 1977 to 2001. The provisions of this legislation were extended to local authority employees in the Local Government Act 2001.

Under section 23 the executive is required to prepare an employee superannuation scheme which it must submit to the Minister for Health and Children for approval, with the consent of the Minister for Finance. Regarding staff transferring to the executive from the dissolved bodies, section 60 provides that superannuation benefits of staff transferring to the executive will be no less favourable than those applying to them in their current employment.

Members of the Houses of the Oireachtas or of the European Parliament are not eligible for employment with the executive and where employees of the executive are elected to any of those institutions, they will immediately be seconded from employment with the executive. Provision is made by way of amendment to the Local Government Act 2001 to allow the Minister to designate certain grades or classes of employees who may not become members of a local authority. The executive and its employees will have a very important role to play in the lives of all Irish people in terms of the services they provide to the public. As a result, we have made provision in section 25 to require that the board, the employees and any advisers engaged by the executive maintain proper standards of integrity, conduct and concern for the public interest. The members of the board and the senior management will be subject to a code of conduct under section 10 of the Standards in Public Office Act 2001. The executive must prepare a code of conduct which it must make available to all its employees and advisers. This code of conduct must indicate the standards of integrity and conduct to be maintained by these persons in the performance of their functions and will form part of the terms and conditions under which a person is employed by the executive or engaged as an adviser. Part 7 sets out the requirements placed on the executive in respect of its accountability.

The executive will be required by section 35 to prepare a corporate plan which will set out its key objectives for the three-year period concerned, the manner in which it proposes to measure its achievement of these objectives and how it intends to use its resources. This plan will set out the executive's key objectives and its plans for their achievement for the following three-year period for all to see. The corporate plan will be laid before both Houses of the Oireachtas once it is approved by the Minister and will be published on the Internet or in accordance with any other arrangement specified by the Minister. The Minister will also be able to monitor the executive's progress in achieving the objectives it has set for itself as it will be required to report on progress in this regard in its annual report and at such other intervals as the Minister may decide.

On an annual basis, the executive will be required under the provisions of section 31 to prepare and submit a service plan to the Minister for his or her approval. The service plan must indicate the period of time to which the plan relates, the type and volume of health and personal social services it intends to provide and estimates of the number of employees for the period in question. It must comply with any directions issued by the Minister and accord with the policies and objectives of the Minister and the Government. It will also be required to submit an estimate of its income and expenditure relating to the plan.

Provision is made to allow the Minister to direct the executive to amend the service plan if it does not comply with the requirements set out section 31. The executive is permitted to amend an approved service plan, but this must be resubmitted to the Minister for approval. The approved service plan will be laid before the Houses of the Oireachtas and made publicly available by the executive. The provisions of section 33 require the executive to manage the delivery of the services indicated in an approved service plan to ensure they are delivered in accordance with the plan.

The Bill requires the executive to obtain the Minister's prior written approval before entering into any arrangement or committing itself to major capital spending in excess of a figure to be set by the Minister.

The Government considers it very important that the executive sets out clearly the governance arrangements within which it will operate. This provides direction for its employees and reassurance to the public that the organisation is aware of and committed to adhering to its responsibilities in this area. The provisions of section 35 require the executive to prepare a code of governance which outlines the guiding principles applying to the executive in its performance of its duties, its structure and the responsibilities of its board and the CEO; the processes and guidelines used to ensure compliance with the requirements of this Act; and its internal controls, including procedures relating to internal audits, risk man-

agement, public procurement and financial reporting.

The code will also outline how the executive intends to integrate the delivery of health and personal social services and the nature and quality of services persons can expect when receiving those services. The executive is required to submit the code to the Minister for approval and to make it publicly available. It must give an account in its annual report on its arrangements for implementing and adhering to the code.

As the House will be aware, under current legislation the health boards are permitted to enter into arrangements with providers for the delivery of services on its behalf. It is intended that the executive should also have such an ability. The arrangements between the executive and the service provider will be on such terms and conditions as the executive may determine and will be subject to the resources available to it and any directions issued by the Minister. The service providers entering into these arrangements will be required to keep all proper and usual accounts and records of income and expenditure as specified by the executive and to submit accounts annually for audit. To reinforce the accountability role of the executive in respect of expending its funds, it is enabled to make whatever arrangements it considers necessary to monitor the expenditure incurred and the services provided under these arrangements and to request any information from the service providers it considers material to the provision of those services.

Section 65 of the Health Act 1953 which is being repealed by this Act, was the basis on which many voluntary groups were funded for services which are similar or ancillary to the services provided by the health boards. These can range from large bodies providing a service in the disability area to very small groups providing a local service such as home helps, meals-on-wheels services, friends of the disabled groups and so forth. As it would not be appropriate to have most of these groups funded in accordance with an arrangement under section 38, the executive will be enabled to fund and support in a flexible way the range of community and voluntary groups which are currently funded under what are commonly known as section 65 grants.

The board will be responsible for adopting the income and expenditure accounts. These will have to be reconciled with the appropriation accounts which will be submitted by the Accounting Officer to the Comptroller and Auditor General.

The executive's annual report will provide the executive with an opportunity to report on its activities during the previous year. It will be a very informative document for the public as it will be a method of measuring the executive's progress on implementation of its corporate plan. It will also contain a report on the operation of the complaints framework.

One of the central themes of the debates concerning this Bill is the need for the involvement

[Ms Harney.]
of public representatives and the users of the services. The Government recognises the necessity for such involvement. The Government is providing for the establishment of four regional health forums which will comprise members of city and county councils within the functional area of the forum. This will give local public representatives an opportunity to make representations to the executive on the delivery and operation of health and personal social services within their area. The health strategy recommended the establishment of consumer panels on a more structured basis so as to involve the local community more in the decisions about the delivery of health services which affect them. The provision for the establishment of advisory panels in this legislation is designed to address this recommendation.

The executive is permitted to establish whatever mechanisms it considers appropriate, including advisory panels, to assist it in seeking the views of local communities or other groups in respect of health and personal social services. These panels may consist of users of a particular service or a mix of users, providers and community groups.

Many people and groups have been calling for the establishment of a statutory framework for complaints. In the health strategy, the Government committed to putting in place such a framework. Part 9 of the Bill provides for the establishment of a statutory complaints framework which initially seeks to resolve the complaint at local level but with access to independent review if the complainant is dissatisfied with the outcome of the complaint. It also provides for access to the Office of the Ombudsman or the Office of the Ombudsman for Children if the complainant is still dissatisfied following the outcome of a review. This statutory framework will also apply to all service providers providing services on behalf of the executive. They can either avail of the executive's complaints system or establish their own if the executive is satisfied that its standards are comparable to that of the executive. If a person is unable to make a complaint because of illness or age or disability, a complaint may be made on his or her behalf by certain specified persons. Complaints must be made within 12 months of the actions giving rise to the complaint. Complaints cannot be made about certain issues which include matters which are or have been the subject of legal proceedings, matters relating to clinical judgment and matters relating to the recruitment and appointment of employees. The procedures relating to the operation of the statutory framework will be set out by way of regulations made by the Minister.

Part 10 of the Bill sets out the provisions dealing with the dissolution of the specified bodies and the issues arising as a consequence. The bodies to be dissolved on establishment day include the health boards, the Eastern Regional Health Authority, the area health boards, the General Medical Services (Payments) Board and

the Health Service Employers Agency. *Comhairle na n-Ospidéal* is also being dissolved on establishment day. All property, liabilities, contracts, etc., of these agencies will transfer to the new executive. Section 59 provides for the transfer on establishment day of all the functions of the specified bodies listed under Acts listed in Schedule 3, to the executive. Section 60 provides for the transfer of staff and, as I have already stated, this will be on terms and conditions no less favourable than those enjoyed under the current system. The executive will be responsible for the preparation of the final annual accounts and annual report for each of these agencies. Prospectus identified a number of bodies for dissolution and the transfer of the functions, staff, assets and liabilities to the executive. A number of these bodies were established under the Health (Corporate Bodies) Act 1961 and while it is not intended to dissolve them immediately, it is necessary to provide the Minister with the power to do so at a later stage.

Schedule 5 contains a number of transitional provisions to assist in the smooth transition from the regional health board structure to a single executive structure. As the health boards are involved in many diverse and extremely important areas, it is important that the functions undertaken by their employees immediately prior to establishment day can continue seamlessly, on and from establishment day, under the remit of the executive. For this reason, we have included provisions to ensure that delegations of functions and appointments of authorised officers can continue until varied by the executive.

Schedules 6 and 7 contain amendments to other legislation arising from the abolition of the health boards. The Office of the Attorney General advised that these amendments are required to ensure that with the dissolution of the health boards and the transfer of their functions to the health service executive on its establishment, no difficulties should arise from this in discharging responsibilities and carrying out functions under or in connection with the Acts.

As Senators will note, while this is comprehensive and complex legislation, its thrust and purpose are simple. It will establish a single organisation with a clear mandate to manage and deliver health services which put the patient at the centre of the system. The lines of accountability are clear and unambiguous. The legislation begins the process of reform. While much work remains to make the reform a reality, I am convinced the patient will be the real winner when he or she sees that the system is delivering quality, front line services to him or her when they are needed. I commend the Bill to the House and look forward to hearing the views of Senators.

Mr. Browne: I welcome the Minister and her officials to the House. Her concluding remarks were somewhat ironic as she indicated that patients would be the winners. She also admitted

the legislation is simple in one respect but complex in others. Why was the Bill rushed through the Dáil? The events in the other House yesterday, when amendments were accepted on Committee Stage and overturned on Report Stage, gives politics and politicians a bad name. I understand only 30 of 150 amendments tabled on Report Stage were discussed before the guillotine was applied. It is regrettable the other House did not get time to fully debate the Bill because the legislation brought before the Seanad has not been properly debated and the House will suffer as a consequence.

The exercise in which the House is participating today and next week is futile because the Bill will not be amended. The Minister has made up her mind and while she may listen to our views, they will not be incorporated in the legislation. This is in direct contrast to the previous Bill from the Department to come before the House, the Health and Social Care Professionals Bill 2004. The Minister of State at the Department of Health and Children, Deputy Tim O'Malley, accepted some genuine amendments to the legislation during a fantastic debate, during which Senators debated the issues. This, rather than the shambolic events in the Dáil this week, which will no doubt be followed in the Seanad next week, is how Parliament should operate.

The Fine Gael Party broadly welcomes the Bill but it has two difficulties, namely, the absence of real reform and the lack of accountability. Although the Minister referred to reform on numerous occasions, the Bill does little to effect it. According to recent figures, administrative staff numbers have increased by 98% in recent years, whereas nursing numbers have increased by only 22%. The Minister did not indicate whether there will be job losses or redeployments, which does not make sense. While it is fine to reduce the number of health boards from 11 to four, if no structural changes occur subsequently and matters continue as normal, one must wonder whether reform is taking place.

I was amazed the Minister indicated the Bill would be enacted on 1 January 2005 because this directly contradicts a report in today's issue of *The Irish Times*. During a briefing given by officials from the South Eastern Health Board this week, Oireachtas Members from the south east were informed that the chief executive officer of the board will remain *in situ* for a further six months.

Ms Harney: The CEO in question will be the head of the hospitals office.

Mr. Browne: There is considerable ambiguity in this regard. Despite holding no meetings since last June, the health boards will remain in place for some time. The public is confused. Having initially been told the boards would be abolished as of 1 January 2005, we are now informed they will continue to operate for another six months.

Ms Harney: The date is 1 January.

Mr. Browne: That is definite.

Ms Harney: Yes.

Mr. Browne: That brings some clarity to the matter. The Minister spoke about consulting widely but has not done so. I have been contacted by many groups which are appalled at the manner in which the Bill was rushed through the Dáil. They suggested that some amendments which, incidentally, reflected Government policy, were not accepted or even properly debated. The Irish Nurses Organisation, the trade unions, including SIPTU and IMPACT, and others have grave concern about the pace at which the legislation is proceeding through the Houses. The Minister has not consulted as widely as she should have.

The public is cynical. I was appalled to read in newspaper reports recently about a survey, of which none of us can be proud, in which the public gave all politicians a thumbs down on health. People believe we cannot do anything in health. We have had report after report in recent years but little action.

Ms Feeney: The Bill is action.

Mr. Browne: That remains to be seen. We learned recently that the previous Minister for Health and Children spent €30 million on commissioning reports. We have still not received the full figure but I understand approximately 150 reports were commissioned during his five year tenure during which approximately €2 million was spent on public relations and spin. This damages the perception of the role of politicians, although I accept that some politicians make a positive contribution to the health service.

The Minister must accept some responsibility given that she is a member of the Cabinet and the concept of collective responsibility applies. We have seen Government splits emerge recently on several issues, which casts doubt on the operation of collective responsibility. I will not dwell on the position as regards the North but the headlines in today's newspapers——

Ms Feeney: The Senator should stick to the topic.

Mr. Browne: Trust and integrity are important.

Ms Harney: I assure the Senator that the Government is at one on the North.

An Cathaoirleach: The House is discussing the Health Bill.

Mr. Browne: One of the Government parties appears to be retreating from a deal agreed unanimously by the Government on Tuesday.

Ms Harney: The Senator does not know what he is talking about.

Mr. Browne: I am merely referring to the issue. The main issue is that we will not have real reform of the health service. When I asked members of staff of the South Eastern Health Board the areas to which they would be redeployed, they were uncertain about where they would end up. Higher ranking officials in the health boards are concerned that they may lose out. All health board staff need to know where they will end up.

Following enactment of the legislation, I wonder whether in six or 12 months the system will have been reformed or the name of one organisation replaced by another. Will we have done nothing more than confer substantial powers on 11 people with a budget of €11 billion at their disposal or will we have introduced genuine reform? The pace at which the Bill was rushed through the Dáil indicates the Government is not genuine seeking the public's confidence that it will deliver a good health service.

It is worth repeating that the main purpose of the Bill is to improve, promote and protect the health and welfare of the population. This will be the ultimate test of whether the legislation has been successful. I note also that the 2001 health strategy, Quality and Fairness — A Health System for You, provided for an independent audit of structures and functions in the health system. A similar report was published in 2003, yet we are rushing through this legislation as this late stage, which is regrettable.

Under the Health Act 1970 employees have an option to appeal directly to the Minister in the event of a proposal to dismiss him or her. While this may make sense in the context of current labour law, it strikes me that the Minister is keen to wash her hands of any difficult decisions down the line. This is a major concern of the Fine Gael Party. Who will ultimately be held accountable? Will the Health Service Executive be blamed for everything? I saw this approach at work in my previous position as spokesman on transport.

Ms Harney: I doubt if the Fine Gael Party will blame the HSE. It will still blame me.

Mr. Browne: It is not a question of us blaming the Minister but one of whether she will accept blame on behalf of the Government.

Ms Harney: The Senator need not worry.

Mr. Browne: In transport, it is frustrating that when one tables a parliamentary question on roads, one is told the issue has nothing to do with the Minister and is a matter for the NRA. We have created a new layer of bureaucracy in that area. Fine Gael worries the same will happen in health. We all know it is difficult under the current system to get replies to questions from the health boards with such a process often taking weeks. The danger is that the system will worsen under the provisions of the Bill.

I wonder if the provision which precludes Members of the Oireachtas from sitting on the executive would, if appealed, stand up in court. I believe it is discriminatory. I am not aware of any reason Members should be precluded from holding another job. Many Members of both Houses have experience in this area and should not be precluded from being a member of the executive. I would like to see the provision challenged in court. This is an issue on which Senator O'Toole also has strong views.

Mr. Wilson: The Senator should speak to Deputy Ring about that matter.

Mr. Browne: I will do so. This aspect needs further consideration. Section 29 sets out requirements on the drawing up of a corporate plan by the health executive. Section 32 provides for a service plan. However, these plans are nothing new; they existed under the old system but have not been effective. The Bill makes no mention of targets for improved service delivery and better value for money. The service plans must not become paper exercises. They must be dynamic and relevant showing proposals for clear reform with targets on service delivery and service evaluation for patients.

Under the old system, 263 members — 140 from local authorities, 90 from the medical professions and 24 ministerial appointments to the ERHA — represented the health interests of the population. The HSE will consist of 11 members to be appointed by the Minister. There is a clear democratic deficit in that regard. Like us or loathe us as politicians, we, at least, are accountable. We face the electorate every four or five years and they give their verdict on us. There will be no accountability under the new system.

Part 8 provides for public representation and user participation by way of a national health consultative forum, four regional health forums and the establishment of an advisory panel to consult with local communities or other groups on health and personal social services. Public representatives are to be allowed membership of these fora. However, the number of public representatives and from where they will come is not specified. There is grave concern that they will ultimately become talking shops. They will, as far as I am aware, have no executive role. That may look good on paper but it will not provide a better service.

Section 20 provides that the new chief executive officer of the HSE, not the Secretary General at the Department of Health and Children, shall be the Accounting Officer. We are concerned about the effect these new structures will have in terms of the lack of accountability by the Minister to the Dáil regarding service delivery to patients. The HSE could well become the NRA of the transport arena. The Minister stated that the HSE will be compelled to attend the Joint Oireachtas Committee on Health and Children. That sounds fine in theory but the Minister will be aware she

was due to attend that committee twice in recent weeks but was unable to do for genuine reasons. We will be lucky if they attend the committee once a year.

Ms Harney: No, there is a legislative requirement on them to attend.

Mr. Browne: I know they are compelled to attend but in reality we will be doing well if they attend once or twice a year. That fact will be borne out in years to come.

Fine Gael has particular concerns about section 55 which restricts a complaints officer from making a recommendation which would require an amendment of the executive service plan or of another body's arrangement with the executive for service provision on its behalf. Should such a recommendation be made, arrangements must be requested by the executive or other body to amend, reject or suspend implementation of the recommendation. This effectively ties the hands of the complaints officer and stymies any chance of improving the service to the patient. Fine Gael queries whether reform is taking place when a complaints officer, who has examined a complaint in detail, is prevented from making recommendations to the service plan. A problem never highlighted is, in our view, a problem that never existed.

The Bill also precludes the making of a complaint on a matter relating to the Social Welfare Acts. This preclusion could have dire consequences for complaints regarding the supplementary welfare allowance administered by the health services on behalf of the Department of Social, Community and Family Affairs. Also, the complaints officer is designated by either the HSE or by a service provider. It will be important to ensure that complaint officers can act with the necessary degree of independence. The members of staff of the existing structures are gravely concerned about the Bill. The pace of reform was slowed down last week when IMPACT, which represents 15,000 administrative staff in the health boards, voted for industrial action from Monday, 13 December. According to the unions the decision will block the introduction of administrative structures due to come into force on 1 January 2005 and results in concern among staff regarding work locations, job security and working conditions. This is a reflection of the lack of consultation on the part of the Government.

The ballot from unions came just one week after the proposed CEO of the new HSE pulled out at the last minute due to personal circumstances, an issue on which, regrettably, the Government party put a different spin. Perhaps the person to be appointed felt he would not be able, under current structures, to do his job properly.

Ms Harney: The Senator is putting his spin on it now. What he says is not true.

Mr. Minihan: The Senator is spinning it.

Mr. Browne: The person concerned may not have believed he was in a position to carry out his duties.

Ms Harney: The Senator does not know what he is talking about. The person concerned does not have such a responsibility in the UK.

Mr. Browne: I have qualified my remarks by saying that is my personal view.

Ms Harney: The Senator should get his facts right.

An Cathaoirleach: Please allow Senator Browne to conclude his contribution without interruption.

Mr. Browne: I have, perhaps, said enough at this stage. I may also have said too much.

Mr. Minihan: That is true.

Mr. Browne: Fine Gael has grave concerns about this legislation. I appealed to the Leader of the House this morning to ensure that when debating Committee Stage we are not afforded the same treatment as that given to the Dáil where many of the amendments tabled were not dealt with in detail. The issue of health is too serious to mess with. There is an onus on us as parliamentarians to ensure the legislation is debated in detail. I look forward to contributing on Committee Stage.

Ms Feeney: I wish to share time with Senator Daly.

An Cathaoirleach: Is that agreed? Agreed.

Ms Feeney: I, too, welcome the Minister to the House. I envied the Minister having half an hour to make her speech which she delivered so well. Anyone who had never read the Bill would have gained a clear understanding of it from her speech.

Since we commenced this debate under an hour ago, almost €1.5 million has been spent in the delivery of the health service. We spend €13 million per day on the service or almost €1.5 million per hour. We will have spent almost €2 million when we reach 3 p.m. That is incredible.

Ms O'Rourke: It is incredible.

Ms Feeney: I am pleased to have an opportunity to contribute on this important Bill. The Minister said there is an onus on us to obtain value for money on behalf of the taxpayer. I am sure all Members will refer to this legislation as important. It is possibly the most important Bill to come before the House this session. It was a long time in gestation and has been flagged for many months, possibly a year or 18 months. It

[Ms Feeney.]

follows from many reports on the health service over the past years, in particular, the Brennan, Prospectus and Hanly reports, all of which were debated in this House.

Senator Browne has little faith in the system. I have heard other members of his party, when debating those reports, suggest they would be left a shelf to gather dust. Far from gathering dust, we are now putting their recommendations through this House. The Bill will be the distillation of recommendations contained in those reports and I am pleased to be involved in the passing of it through the House. It will be the tool to drive forward the much-needed reform of the health service. Ireland is a small country and the administrative system of the health services, used over the last 30 years, is no longer suitable. The demands and challenges of the 21st century that must be met will be well served by the Bill. Until now, the health services have been managed on a local basis via the health boards. These grew out of the old administration set on the county basis. When the health boards were established 30 years ago they were met with great disdain. Senator Browne looks too young to have been around then.

Ms O'Rourke: That is nice.

Ms Feeney: That is a compliment to Senator Browne.

An Cathaoirleach: Compliments are not allowed on Second Stage.

Mr. Daly: A Chathaoirigh, it is the Christmas season.

Ms Feeney: Am I not even allowed a little flirtation at Christmas time?

At the time of the establishment of the health boards, people feared they would lose the old intimate relationship they had with their county health authorities. It is fear that makes people not want change. If fear can be overcome and we can move on, we will get a better system. Some 30 years after the establishment of the health boards, the Opposition wants to hold on to the old structures.

Mr. Browne: That is not true.

Ms Feeney: If the Opposition knocks it so much, why can it not come up with an alternative? I have yet to hear anything constructive come from that side of the House.

Mr. Browne: I make constructive comments but Senator Feeney does not listen.

Ms Feeney: Over time, the health board system proved itself. I grew up in the Midland Health Board area and have lived for the last 25 years in the North Western Health Board area. I take my hat off to pay tribute to those who have worked

in the North Western Health Board, particularly the chief executive officer, Mr. Pat Harvey and his predecessors. I pay tribute to the staff of the board and board members. I am delighted that the Bill allows public representatives to have an input.

The County Sligo town of Bellahy borders the County Mayo town of Charlestown. The two towns are virtually joined by one continuous street with the people of Bellahy living alongside the people of Charlestown. However, both towns fall under different health board areas. Patients from Charlestown are sent to Mayo General Hospital in Castlebar, while patients from Bellahy are sent to Sligo General Hospital. It makes no sense as Castlebar is the same distance from Bellahy-Charlestown as Sligo. For specialist treatment, patients from Charlestown must travel 90 miles to Galway when they could travel 20 miles to Sligo. I am glad such practices will be tidied up by the Bill.

The choice of 1 January for the implementation of these proposals is an excellent one. This date, along with the end of July, is when the biggest changes in the health service occur with the changeover of junior hospital doctor positions. I compliment the Tánaiste on her comprehensive speech which she put across in a lovely way in plain and simple English. The Bill will ensure a better outcome for patients. The Opposition will, depending on when it gets its head around it in six or 18 months, eventually wake up to see patients will be better served by the Bill.

Mr. Browne: How will this be benchmarked for us to know it is a better service? What targets have been established?

Ms Feeney: It will lead to better value for taxpayers. Opposition Members may be a little slow but we can give them a little shake to wake them up earlier. The Bill will result in a better working environment for health service employees, who have given us diligent service, which they deserve.

The level of information that will come about when the legislation is enacted will be excellent and better than we have ever had. I am, delighted that membership of the executive will see a continuation of experience, with some members serving for five years and others for three. It is not an arrangement we often see on State-appointed boards and one which should be examined for all as it is important to keep experience on board. I am pleased that funding will be made available for Meals On Wheels and other such organisations. The regional health fora and the advisory panel are other important developments.

The most important development is the complaints procedure, giving people a constructive process. I was confused about the provision whereby complaints cannot be touched when they are of the nature of legal proceedings or matters relating to clinical judgment. Does that mean where there has been a court case one cannot take a complaint if one does not agree

with the original clinical judgment and one had received a second opinion? I am delighted to assist the Bill in its passage through the House and look forward to debating the next Stages.

Mr. Daly: I thank Senator Feeny for sharing her time with me. I welcome the Tánaiste to the House and compliment her speech on this complex legislation. I wish her well as Minister for Health and Children. She has taken on a mammoth task but I know she has the energy, drive and enthusiasm to deal effectively with the issues in the health area. I wish her every success in dealing with these during her term of office.

This mammoth Bill will take over the operation of the health services. A new system of administration will be put in place and replace one that was established in the 1970s. At that time, the health boards took over from the local authorities in running the health services. It was often felt that some responsibilities should not have been transferred from the county councils to the health boards. In some jurisdictions, local authorities have responsibility for local issues, such as elderly care and physiotherapy patients, dealing with them in local health offices. In this regard, we are replacing a system which was very fragmented and heavily burdened with administration.

It is not advisable for the Tánaiste to put a further fragmented administration in place when we have an opportunity to deal effectively with the changeover. It is necessary to avoid overlapping and duplication as much as possible in the committees and fora which are established. We must avoid establishing bodies which people see as mere talking shops, do not have decision-making powers and further delay the investment of human and financial resources required in this area of the health service. We must speedily process the legislation.

I appeal to unions, some of which are apprehensive about what the changes in the legislation mean. There is no need for anyone to be apprehensive about changes which will be for the betterment of the service and the personnel who work in it. I appeal to the unions to discuss their apprehensions about how the legislation will work in practice with the Department of Health and Children and the interim executive. They must help to plan and construct a service which is capable of responding to their needs and wishes while also meeting those of the public. The unions have nothing to fear from the process and everything to gain.

I record my appreciation of the achievements of the Mid-Western Health Board in my local area and of the personnel and professionals who have worked in the health service generally. While there has been severe criticism of the system from time to time, we have been very lucky to have such a dedicated professional team delivering health services to the people of this country. The Health Bill will further strengthen the service and in the long term the new arrangements will lead to a more satisfactory and admin-

istratively effective system. I encourage the Minister to press ahead with change and appeal to those people who have expressed reservations and apprehensions to set them aside and enter negotiations in a spirit of co-operation. They must help to achieve the best legislative provisions it is possible to put in place to give effect to the decisions which need to be made in the health service. The legislation will in no way delay the development of Ennis General Hospital and other important health service investments.

Dr. Henry: I welcome the Minister to the House and very much welcome her Bill. I support Senator Browne's comments about the reports which have been issued by the Department of Health and Children over the past seven years. Approximately 130 reports have been produced at a cost of approximately €30 million but there has been very little action on any of them. While I welcome warmly the Minister's decision to take action, I remain concerned that the legislation will constitute a process of rebranding rather than of real reform.

Health boards have been in place for a long time and have had varying success over the years. Those involved in them have lost a certain amount of their enthusiasm. It is not wholly the fault of those who work within the health boards. I have seen brave initiatives by some boards receive very little support from the Department. The pilot scheme for cervical screening in the Mid-Western Health Board has been a recognised success for almost a decade but despite the efforts of the board has not been extended to the rest of the country. There have been disasters in some places where health board management appears to have completely lost control. In that context, I will be pleased to see the establishment of the executive.

I was a member of a the Eastern Health Board a long time ago when services were less complex and we could keep some sort of eye on them. I was a Member of the House when we agreed to split up the health board area, a process everyone must now recognise was not a success. While it was not intended thus, I found myself in scenarios in which I was dealing with a consultant psychiatrist in one area who was treating people from another on an inpatient basis in a third. It was completely out of hand and unsuccessful.

There are some interesting revivals provided for in the Bill. I was a member of the National Health Consultative Forum 30 years ago, which is approximately when Senator Browne was born. It is interesting to see it return. It was a pretty useful body and while I do not know if anyone took any notice of us, I was pleased to be on it. While the city and county council area local fora provided for in the legislation are a positive idea, discussion of the need also to recognise town councils in the context of the Garda Síochána Bill should be borne in mind. Perhaps we could consider the matter on Committee Stage. Comhairle na nOspidéal, another body on which I served, is

[Dr. Henry.]
being dissolved. It is correct to place it in a more mainstream position.

All Members must be aware that representatives of the voluntary and community sector are not best pleased that it has not been positioned more prominently in the Bill. They would like the sector to be recognised on a statutory basis. While an advisory role has been provided for in section 47, the failure to include the community and voluntary sector further has disappointed people in the context of the endorsement of the Minister for Finance in his budget speech of the role it plays in Irish life.

In establishing the executive, the Minister should be careful to ensure medical interests are not over-represented. While the Irish Nurses Organisation will want to ensure a nurse is appointed and I am quite sure the Minister will appoint one if not two doctors, running a health service requires the advice not just of those working in it, but also of people with a great deal of managerial experience. Given that this Bill is about the management of the service, it is not only its medical aspects which should be considered. We also need people with experience in personnel and information technology. This is the context of my concerns that the legislation may simply represent a process of rebranding. There do not appear to be enough provisions regarding management.

There have been examples of disastrous health service management over the years, some of which were interrelated. There have been continual complaints about the accident and emergency department at the Mater Hospital, which is in a dire state. It is always grossly overcrowded and people end up on trolleys for days. The same is true at all the other major hospitals in Dublin. What annoys me most is the fact that up the road in Ballymun the new health centre, which was completed two and a half years ago, has still not been equipped and opened. The old Ballymun health centre is completely incapable of dealing with the population in the area. It is unsafe at times due to the interference of water with its electricity supply and there is no heating. It must be shut down frequently.

If we tell people constantly not to attend accident and emergency units when they should more appropriately attend a general practitioner, we must ask who is responsible for the fact that one such unit which is significantly overcrowded is situated at most one mile from a new health centre which has not been opened. It is ridiculous carry-on and typical of the circumstances which obtain nationally. Staff have yet to be recruited to operate the surgical wards in South Tipperary General Hospital in Clonmel which have existed for approximately a year and have yet to be commissioned. Patients at the hospital who require surgical procedures are transported across country to Cashel. Who is responsible for this ridiculous carry-on? I do not know how long the wards at Mullingar General Hospital have remained

unopened. When I last raised the matter in the House, Senator Glynn said progress was being made, but one would like to see a great deal of it.

We must do something about information technology. The extension of medical cards to people over 70 was an unbelievable debacle with 30% more people than expected being found to be eligible for them. How can one plan a health service, if one does not have the statistics one needs? The Scandinavian countries and some others also have a personal identification number which people are given at birth. That number remains with that person for whatever service they are availing of. They have population registers as well which gives an idea of where people are at any time. Information like that is needed when trying to plan services.

I have been talking about an identification number since we brought forward the legislation regarding BreastCheck. The other day Senator Cox brought up the delay in extending the BreastCheck programmes to the west. One of the major problems is the difficulty in making up the lists of those who are eligible. When the lists were being made up initially we had to get them from the GMS and the VHI; we now have to get them from BUPA also. We then have to correlate those and tell anyone who had been left off them to get on to the service. We are moving towards some process with PRSI numbers but it is not the same as having a personal identification number. That is something the new board should examine immediately because we cannot plan if we do not know the number of people for whom we should plan.

There is a major problem with people attending accident and emergency departments who should be going to see their general practitioner. Apparently, 40% of people should be going to see their general practitioner. Rather than bringing general practitioners into the hospitals we should start training members of the general public to see general practitioners. Frequently in this House I am asked a question by people who are feeling sick and I tell them they should go to see their general practitioner. They reply that they have not got one. I tell them that if they go in one direction there is the Albany Clinic, in the other there is the Grafton Street Clinic in Anne Street or if they want to go a little further they should go to the Radcliffe Clinic on Fitzwilliam Square. Several GPs have their plates up, one on Merrion Square and others in Baggot Street. I walked from Dublin Castle the other day and passed a general practice. There is another general practice in Temple Bar. People will have to get the message that they should go to general practitioners when they are sick. They should only go to hospital if they have had an accident or some other emergency. We should try to get that message across to people and I hope the new boards will do it. I hope the college of general practitioners becomes involved in that too. Senator Feeney will be well aware of the problem about advertising but perhaps we should do more

advertising. People should be able to get lists of general practitioners not just in local health centres but in shops and so on. It is easy to understand the reason people end up in casualty when they become ill.

Terrible problems are caused in accident and emergency departments as a result of over-consumption of alcohol. This is one area where reports have been ignored. All we do is wring our hands about it. A report was published in 1996, another in 2001, one last year and another this year yet nothing has happened. Specific recommendations were made about identifying the mainly young people in accident and emergency departments and getting them involved in some sort of programme. Specialist nurses in particular were mentioned in the report.

I read a report to the effect that the Minister, Deputy Harney, is considering setting up special treatment units for minor injuries run by nurses. I would be more inclined to advise people to see their general practitioner in that case and get the nurses, if they can be found, involved in the programmes suggested by the four reports on alcohol, the last of which was sent to the joint committee on which many Members of the House sit. We must take notice of what is contained in those reports in terms of what we can do to improve the service.

We have a notion that once we produce a report we have done something but we have done nothing. We have just produced a report, although I suppose it is nice to have a sack of reports. I threw out a lot of them the other day because their recommendations will not be implemented in my time. We should have no more reports. We should implement the recommendations in some of the good reports already available.

I frequently raise the problem about the enormous amount of money spent on the health service for which there appears to be very little accountability. I welcome the fact that this board will try to deal with that problem. I realise a great deal of that money goes on wages but large amounts go on areas where I am sure more savings could be achieved.

The time spent on waiting lists is a major factor in the minds of the public but they are not the only important figures we need to consider. The United Kingdom recently reduced its waiting lists but the waiting time for diagnostic procedures has increased greatly and the waiting time to get on to a waiting list has gone up in some areas. We should not get too tied down with waiting time figures. It is important to remember that while the hospital treatment purchase fund is getting people off waiting lists, it is not doing anything for our health service.

I applaud the initiative which suggests that hospitals not offering accident and emergency services on a 24-hour basis should start doing elective work. I worked in the Adelaide Hospital when that hospital and the Meath Hospital had an *entente cordiale*, and agreed to work together.

We closed the accident and emergency department in the Adelaide Hospital — one had to travel only a short distance up the road to the Meath Hospital — and everyone in the Adelaide Hospital did elective work. The dreadful disappointment of operations and procedures being postponed is caused by major car accidents where six or eight people have to be admitted. That takes up the resources in the intensive care unit and other acute beds and the result is that other people's procedures have to be cancelled. In our case we were doing the elective work for both hospitals which meant that operations and procedures were not cancelled. That gave great satisfaction not just to patients but to staff as well because when everyone is geared up for a day's work and then the procedure is cancelled because of a serious incident, it is very disappointing.

Having read in the newspaper this morning that there would be a longer lead-in time to the Bill I had hoped we could put off taking Committee Stage next week and not rush it through the House. I have not had an opportunity to read everything that went through the House last night. I read the Bill as initiated and as amended in select committee but I have not had a chance to read it all as yet. I am sure that is the case with other Members. I had hoped we could put off Committee Stage to allow us do that. The Minister, Deputy Harney, provided a good deal of time for Committee Stage of the Environmental Protection Agency Bill and I had hoped this Health Bill would get just as much consideration by this House. Perhaps the Minister might think again about that.

Ms K. Walsh: I welcome the Minister of State, Deputy Power, to the House. It is an honour to speak in his presence. I am delighted to have an opportunity to speak on this important Bill.

The two key requirements of the health service are investment and reform. On the investment front, over the coming year the Government will invest €11 billion in the health service. That is by any standard a huge amount of money. It is an increase of €1 billion on the amount spent in 2004 and accounts for 25% of all expenditure on public services yet we still have people waiting on trolleys and overcrowding in accident and emergency departments. That is the reason the reform programme is as important as the amount of money spent.

The current health system has been in existence for over 30 years and is creaking under the strain. Its inability to cope is best demonstrated by the absence of an improvement in service or output, despite the significant increases in investment the service has received. Reform brings many challenges, and the Minister, Deputy Harney, is rising to them. Ten weeks after taking office she has introduced a Bill which will radically overhaul the way our health system is managed, and is determined it be passed by both Houses of the Oireachtas before Christmas. I and my party colleagues will do everything to support

[Ms K. Walsh.]

her endeavours. The Opposition claims this Bill is being rushed through too quickly. Ironically, the same Opposition has been demanding reform and action for the past 12 months. Confronted with ambitious and significant legislation, it now balks at the opportunity.

I congratulate the Minister and her Ministers of State for grasping the nettle of reform and embarking on this programme with courage, commitment and conviction. The Minister has a track record of confronting and succeeding in challenges, such as smoky coal in Dublin, ending the nightmare of emigration and dole queues and the insurance industry. She will also succeed in this challenge.

When the Estimates were announced on November 18, the Minister made it clear her tenure at the Department of Health and Children would not be more of the same. With regard to the issue of medical cards, she was faced with a stark choice to either simply extend the number of traditional medical cards by 45,000 or choose a more innovative approach. She chose the latter. The new GP cards will enable an additional 200,000 people to visit their GP free of charge. This will relieve pressure on accident and emergency units as many people go directly to A&E because of the cost associated with visiting GPs. These new GP cards will allow thousands of families visit their doctor and receive assurance at no cost. The 30,000 additional medical cards and 200,000 new GP cards constitute a great initiative and the Minister deserves congratulations.

This legislation will have a very significant effect on our health service and consolidate its fragmented structures. We are all too aware of the failings of the current system. It is a towering bureaucracy which successive Ministers of Health have tried in vain to contain. To an extent, the Bill represents the enactment of copious reports recently commissioned by the Department of Health and Children. It is time that such reports, commissioned at substantial cost, be implemented and this is what the Bill seeks to achieve.

The Health Service Executive will reform and restructure the way in which health services are delivered. In its role as a separate entity it will be able to call on the expertise of various people needed to achieve success. It can interact with the Department in a unitary way and demand the Department sets clearly identifiable goals and policies. There will no representation in the north west and or south east. It is time we got away from that so that we know what we are doing.

The case for reform of the health service is compelling. We need a service that is responsive and appropriate to the needs of the 21st century, that puts the patient first and is accessible to all. If the structures and functions of the current system are not organised or capable of delivering the ambitions of the health strategy, now is the time for change.

Ms O'Meara: I welcome the Minister of State to the House. It is important to have such a debate, although I am disappointed, not in the time allocated for Second Stage, but that we are up against the Christmas deadline in terms of passing this legislation. It is probably not the Minister of State's fault. The Bill also came late to the Dáil. This legislation has been talked about for approximately 18 months, since the interim Health Service Executive was established. We now have a massive piece of legislation, and not all amendments were debated in the Dáil. Many of them are significant and important. We are implementing a major administrative change in probably the most important area for which the Government has responsibility. We are doing so against a backdrop of a deadline. Regrettably we do not have enough time to fully debate the issue.

I have perused the recent Dáil and Committee Stage debates. The more one reads the legislation, the more concerned one becomes. Much is not included and much is not clear. If the Government is not clear about the issues, one wonders if we are going headlong into a major mistake. The legislation seems driven by an ideological imperative regarding centralisation. It seems the health boards must be abolished because they were somehow doing a disastrous job and costing a pile of money, that politicians should never have had a role in their function, and that we would never have a modern health service while the structure existed. Opinion on the structure of the health boards was that it was unmanageable, unwieldy and at fault for the health service which exists. That is not true.

From the Prospectus and Brennan reports we know reforms are needed. Nobody in either House could dispute this fact. One must update a structure as important as the health service to ensure it delivers. It clearly has not been delivering. One only needs visit an accident and emergency department in any of the major Dublin hospitals, in particular the Mater, to realise something is seriously amiss. One only needs to look at waiting lists and listen to the complaints of communities across the country about the use of hospitals and the health service to know something is extremely wrong.

In spite of more and more money being poured into the health service in the past number of years by the former Minister, Deputy Martin, it is still not meeting the mark. This legislation is about administrative reform, as if that alone is the solution. If only it was. Let us assume it is the solution, and that if the health service was better managed it would work more efficiently for everybody. What would be the best administrative structure? The Government has devised the most centralised and removed structure. There will be a board, but we do not know who will be on it or what their interests might be. A powerful chief executive officer will head the board, but he or she has yet to be appointed. The board will report to an Oireachtas committee under-resourced to the job. Consultative forums will

have no teeth. The workforce are, at this stage, unclear on certain issues and concerned about the future. Many communities around the country are also concerned.

In terms of administrative reform of the health board around the country, I noted on the map that north County Tipperary is now included in an area that stretches from north Tipperary to the top of County Donegal. Its central administrative function, or regional office, will be in Galway. The same outline is used by BreastCheck for administrative purposes. Its reason for using such a structure is that it needs a critical mass of population in order to operate correctly. I was astonished to see the same administrative boundaries applied to the health boards. The area is huge. North Tipperary, which is currently grouped with counties Limerick and Clare is disconnected from Limerick and creates a different dynamic for the staff in the north Tipperary area. Nobody has been able to tell me clearly what the future looks like. Here we are on 10 December being told that establishment day is 1 January. I note a report in *The Irish Times* today, which suggests that while establishment day is 1 January 2005, many of the old structures will remain in place for the moment. Perhaps the Minister of State will clarify that point. The Tánaiste made no reference to that issue in her speech earlier. We are looking at a centralised administration, a board whose complexion is unknown, a CEO whose name is not known and a future we cannot predict. That is an unsatisfactory situation. Despite the fact that it is very long, the legislation does not spell out how the health service will work in practice. There are a number of issues I want to raise.

The Minister says, quite rightly, that the main ethos of the new administrative structure is the care and welfare of the patient. It is interesting, given the Bill is so substantial, that the patient is mentioned only once.

3 o'clock This is an administrative structure, but it seems that while administration and accountability for public money are obviously important, this does not appear to be a structure designed to serve the patient. It looks like a structure designed to serve itself and the Minister. I note in particular the relationship between the board and the Minister and I begin to wonder if we are getting to the heart of the question as to why Professor Halligan did not take up the job. The Minister retains a large amount of power.

A budget is being given to the board with which to produce a world-class health service for the patient, allegedly. However, the Minister will issue directions to the board, which can be fired if it does not follow them. Therefore, the board is not independent and the power of the Minister is substantial. To a certain degree, that is probably necessary because the money is coming from the taxpayer and under our democratic system the Minister has accountability in that regard. By the same token the Minister is giving enormous power to the board, so there appears to be a recipe in place for serious conflict in the future

between it and the Minister. I wonder how this can work out in practice.

In terms of the board itself I am concerned over its membership. There are currently very powerful players within the health service who have ways of making their voices heard. One thinks, for example, of the consultants and the royal colleges in particular. The power of the royal colleges to grant or withdraw their approval is critical as regards how a teaching hospital, for example, might or might not be run. Will the royal colleges be represented on the new board? Will pharmacists, nurses or workers be represented on the board? We do not know.

I am also concerned about the role of the voluntary and community sector. One of the major features of this legislation, apart from the removal of elected representatives, is the absence of the voluntary and community sector from the health board structure. I hope the Minister of State appreciates by now that there is major concern in this sector over its representatives being excluded from the superstructure being passed in this legislation. I know the Tánaiste referred to the voluntary and community sector in her speech. Aspiration is one thing, but reality is different.

I am sure Members of the House will have received, as I have, representations or an analysis from the disability federation arising out of what has not happened with this legislation in the Dáil and what remains to be done. I will be tabling amendments next week, for which I hope enough time will be given, to reinstate the voice of the voluntary and community sector within this framework. It is completely excluded and there is much concern, particularly among groups such as the Disability Federation of Ireland, which is so dependent as a representative group on its good relations with health boards. However, now it does not know with whom it has a relationship and nobody is able to tell it because the situation is so unclear. That is not satisfactory.

The Minister paid lip-service in her speech to the role of the community and voluntary sector. However, it is notable that the community and voluntary sector is a pillar of the National Economic and Social Forum as well as being an important partner in all of the national agreements that have underpinned the success of the economy. On the one hand the Government recognises the important role played by the community and voluntary sector, while on the other, it has excluded it from this vitally important legislation. There are so many groups who have had long relationships with health boards as service providers, lobbyists or representative groups who do not know what the future has in store for them. This has to be clearly spelled out. It is important in this respect that the role of the voluntary and community sector be formally recognised within the body of the legislation. I will be tabling amendments as regards this next week and I hope the Minister will look favourably on them. I do not understand how a Government

[Ms O'Meara.]

which has given the voluntary and community sector a seat at a vitally important table, can exclude it from this legislation. That, at least, is my information which is set out clearly in documentation that I imagine the Minister of State will have received in the past day or two.

The regional health forums, in Part 8 of the Bill, for instance, only refer at present to members of local authorities. The proposed forums are no more than talking shops anyway and are a sop to members of local authorities who no longer have a role, given the abolition of health boards. This provision is designed to create an impression of a role. I am sure they will meet with great pomp and will be fully reported in the media, but at the end of the day they will have no comeback or input into the administrative structures being set up under the legislation. Those of us who have been around long enough, recognise on reading legislation, how it needs to look and what it needs to reflect in order to give bodies a statutory role and a seat at the table. The Minister of State is shaking his head at my assertion that the voluntary and community sector has no role. If he could show me that it has a satisfactory role, I should be obliged, because I have not seen this so far. That certainly is not the information given to me by the groups themselves who obviously have major concerns in this regard.

I would also like to comment on the admission early in the Minister's speech that the health information and quality authority is not now being provided for in the legislation but is being brought forward early in 2005. This would appear to be going forward in the manner of a cart without the horse. The process of having quality information has been a cornerstone, as identified by the reports referred to by the Minister. The fact is we do not have the information we need. We do not have the databases we need for a CEO or board to make the decisions expected from them by this legislation. An administrative structure is being set up, the Minister will appoint a board and eventually, we hope, a CEO, give them money and instruct them to provide a world class health service, but without the information they need. It is a sign of the chaos which is indicative not alone of the way the health service is being managed, but also its reform. This legislation is a mistake and has not been fully worked out. The fact the board will not have the information it needs to get started is something of a joke. It leaves us with a structure devoid of democracy, with limited accountability and if it goes wrong the chances of turning back the clock are minimal.

Ms Ormonde: I welcome the Minister of State, Deputy Seán Power, and wish the new Department team well with the important task ahead. Listening to the previous speaker one would wonder whether the Labour Party is the panacea for reform. She seems to have concluded that the

Labour Party is exclusively right and that everything it suggests should be done and that our thinking processes do not function in the manner in which we go about business. I could hardly believe she had such a list of negative comments. However, I will try to turn matters around and put something positive into this debate, rather than have the one way traffic I have listened to over the past five or ten minutes.

This legislation is overdue as the set up of the health boards has been talked about since I was a member of a local authority. In those days medical committees were part of the local authority and worked well. However, they were dismantled. Local democracy worked in that area and I would like to see us get back to that situation. I have always believed that if we start locally and work matters out on a local basis we will get things right.

This Bill is about setting up a new executive which will disband the health boards which are fragmented. The mind boggles at the number of people who work in the health boards. It boggles as to who to call when one has to make a phone call to get information. The health boards have sub-committees and sub sub-committees and nobody knows who is accountable in the process of how to solve a problem. It has been difficult to wait to get this sorted.

Nobody is saying that we will have all the answers overnight. However, we must start with a structure, which this new executive gives us. Let it be hierarchical rather than the fragmentation we have had over the past decade where nobody could say who was accountable for what; the fragmentation and duplication of roles meant colossal bureaucracy.

The reason we must have this overdue legislation is to achieve the aim of putting the patient first. Every family in the country would have that priority and would want to ensure that every patient gets immediate treatment —

Mr. Browne: Exactly, so why rush the Bill and not debate it properly?

Ms Ormonde: I was not here to interrupt the Senator. I hope he allows me the courtesy of having my say.

Acting Chairman (Mr. Cummins): Senator Ormonde, without interruption.

Ms Ormonde: It is all about the patient.

Mr. Browne: I do not think so.

Ms Ormonde: I come from a medical background and can tell the Senator that. I started there and will finish there.

On the issue of value for money, we all agree significant funding has been put into the health service, but we did not get great value for it. We do not know where the money went. It seems to have gone towards administrative costs and got lost in administration. It is important that the

patient and value for money are the focus of our thinking. The patient must come first and we must ensure we have a system that gives a good return for taxpayers' money.

Let us start there. Nobody will say that we will have reform overnight, but the Minister, with her team, will do everything in her power to ensure reform. The Minister is bright, as bright as any Member of this House or the other and I challenge anyone to deny that. The Minister will take on all objectors because she understands and has a good grasp of the issues.

I welcome Part 8 and the proposal to set up fora, but I am not sure how this will work. How many fora will there be in each local authority area and what people will be on them? When will they be up and running? When will the regulations be introduced? It is important they begin immediately. I am unsure about what the advisory panels will do. We are setting up a hierarchy with the health executive under which we will have the regional fora which will work with local representation. However, I worry that if we set about diluting or splintering the hierarchical structure we are setting up, we will return to more of the same. We need to keep the hierarchical structure tight rather than introduce the lateral approach we had in the previous system which did not work. I am anxious that the Minister bear this in mind.

Another issue is the consultants who must be brought on board. Some 90% of them are ready to come on board to discuss how best we can improve the service, bring health professionals and administrative staff on board and get them working together. The system will not work unless it is integrated, co-operative and co-ordinated to maximise returns and ensure the patient comes first.

Many speakers have mentioned the number of reports we have had on health reform. We had to start somewhere. I came here from the education system where there were reports up to my eyes over the years. However, at some stage the reports worked and some parts worked very well. Under what was covered in the Hanly report Nenagh hospital is getting a huge extension which will increase accident and emergency services. The same is true for Ennis hospital.

Mr. Browne: What is the status of the Hanly report?

Ms Ormonde: A start has been made. All will not be right overnight.

Mr. Browne: What is the status of the Hanly report?

Ms Ormonde: The Senator is permanently interrupting. He should know better.

Acting Chairman: Senator Ormonde has the floor. Senator Browne should allow her to speak without interruption.

Mr. Browne: I am confused. The public wants to know. Nobody knows the status of the Hanly report.

Ms Ormonde: The Senator is in bad taste. All I am saying is that we should start on a positive note. This is a new reform and much work remains to be done. We call on all the professionals, consultants, health professionals and staff to make the system better. We want priority given to patients so there will be no delays in accident and emergency units and beds will be available for the elderly and the ill whenever required. This is all people want.

We must consider how to structure accident and emergency admissions. Some people spoke about St. James's Hospital which I had reason to visit last year. I was astonished by how its accident and emergency system worked and the different divisions therein. Perhaps it could be used as a model all over the country for how to deal with those who drop in at 3 a.m. as against people with serious illness. We can only make such changes by sitting around a table and implementing a system we know will work.

This is a comprehensive Bill. It will work if all interested groups work together on reform. I wish the Minister, Deputy Harney, and her team well. I hope we will all support the Bill. The only way to go is forward. We have learned from the failure of the past and the failure of successive Governments. Let us be positive. The patient and value for the taxpayer must come first in the health service to ensure a quality of life for everybody who must attend hospital.

Mr. Glynn: Cuirim fáilte roimh an Aire Stáit. There is no tougher or more important challenge facing society than the reform of the health system. We want to transform it through investment and reform and to deliver lasting progress.

Improvement of the health service is a priority of this Government and over recent years funding has been increased significantly. The increased spending from €3 billion in 1997 to in excess of €10 billion in 2004 is a clear indication of the Government's investment in the health service. One thing that has been demonstrated quite clearly by the investment of more than €7 billion in the health service is that money itself is not the answer. Attempts to reform the service commenced under Deputy Cowen when he was Minister for Health and Children and continued under Deputy Martin. The Tánaiste and her team of Ministers of State — Deputy Seán Power, Deputy Brian Lenihan and Deputy Tim O'Malley — are endeavouring to complete the task.

When we look back at what happened in 1970, what is being said today is no different from what the Opposition said at that time. Nothing has changed but the date. There was a hue and cry when the health committees of county councils

[Mr. Glynn.]

were disbanded. I worked in the health service for many years. Counties Longford and Westmeath were administered by one county manager, including the health service in those counties. When the health boards were established in the 1970 Health Act by the late former Tánaiste and Minister for Health, Erskine Childers, people said they would not work. The same people are saying the same thing some years later.

Let us dwell for a moment on what the health boards have achieved. Anybody who knows anything at all about the health service will know that it was not possible for it to remain as it was pre-1970. There is no question that the health boards have their faults, but they have brought regional services to many parts of the country that otherwise would never have them. There is no doubt in my mind about that and we must be fair.

In recent years the investment in the health service has achieved significant results including record levels of activity in the acute hospital system. A range of additional services has also been provided across all care programmes. For the first time ever in 2003, over 1 million discharges and day cases were treated in our hospitals. This represents an increase of 46,000 discharges, almost a 5% increase, on 2002.

I come from rural Ireland and remember a time when there was weeping and gnashing of teeth if an ambulance arrived to bring somebody to hospital. It was considered a terrible event. Now people go to hospital for elective procedures. There has been a significant increase in day surgery, which in the main is governed by elective procedures, 190,000 cases or 76% since 1997, giving a total of 441,000 at the end of 2003. That speaks volumes.

Just as we are meeting the challenge of public health issues, we are also meeting the challenge of building a new health system. I would be the first to say that commissioning reports to gather dust on shelves is not the way to do business. However, the Government is taking on board the three reports that have been commissioned and is putting them into effect.

One of the many empty claims from people on the other side of the House is that nothing has changed, that things are as they were in 1997. Some people say we are not spending enough while others say we have spent too much and that the money has been spent with no return. One can legitimately ask where the money has gone. It is easy to find out. That is no big deal. It has gone into hiring 8,200 new nurses, 438 new consultants, 661 new occupational therapists, 456 extra physiotherapists and 200 extra speech and language therapists. I could go on.

Since the Government came to power, a college of nursing attached to the Athlone Institute of Technology has begun general nurse training in the region. Not alone that, but in recent years

there has been the first intake of student psychiatric nurses in 21 years. It is also interesting to note that the points required by the CAO for psychiatric nursing are only 15 less than for general nursing. This is a turnaround from a situation in which psychiatric nurse training places were not being filled in many health boards. That is a huge step forward and is another success for the Government.

Senator O'Meara criticised the establishment of the health services executive. It is not long since a Labour Party Minister, who totally turned his back on the association of health boards and would not acknowledge it or attend its conference, wanted to establish a *bord sláinte* and abolish all the health boards. That was Labour Party policy at that time. Some people suffer from a political malaise called convenient amnesia.

Mr. Browne: No more than members of Senator Glynn's party.

Mr. Glynn: Something must be done about the problems in accident and emergency services. The Midland Health Board recruited three new consultants, one of whom is based in Mullingar. If people go to Mullingar, Carlow, Portlaoise or wherever, get boozed up to the gills, get involved in a rumpus and require accident and emergency services in Portlaoise, Tullamore, Mullingar or wherever, cause disruption and in some cases assault staff, not alone should they be physically hit but they should be hit where it hurts most of all, in the pocket.

Ms White: Hear, hear.

Ms K. Walsh: Absolutely.

Mr. Glynn: Special provision should be made for this. We cannot have people disrupting accident and emergency departments. It is almost as bad in a different way in the psychiatric services. This is a crazy scene. We have the best trained people in Europe in all our hospitals yet we have gougers, and I do not apologise for the term, going in who are boozed up to the gills and create mayhem. This should not happen and should not be allowed to happen to sick people and those trying to care for them.

The money has been invested in improving cancer survival rates and exceeding ambitious targets three years ahead of schedule. It has also gone into specific improvements in every element of the health system. In 2003, almost 200 more cases were dealt with in our hospitals than were dealt with before we started our programme. That, in itself speaks volumes.

In 2003, more than 1 million people were treated in our health system. These are real people receiving real treatment for serious conditions. The additional staff recruited in recent

years have contributed to this treatment. It is an insult to those people to say there has been no improvement in service delivery. I question what planet the people saying this are on.

Funding for the largest hospital refurbishment programme in the State's history has been put in place. Additional services mean additional resources, which is why we have more than trebled funding for the health service. We are not talking about funding alone; we are talking about human resources. People need to be trained.

In the past we all heard about difficulties in the area of orthodontics. When I first began to hold political clinics over 20 years ago if anybody mentioned orthodontics I slunk down under the table because there was nothing I could do for them. It is a totally different ball game now; through the efforts of an excellent consultant orthodontist, Dr. David Hegarty, we have turned the corner. We have eliminated waiting lists altogether in a number of counties in the old Midland Health Board region.

I do not agree with what is proposed regarding the consultative forum. It is absolutely imperative that the role of representatives from county councils and borough councils remain. I was chairman of the health board at the time when we were first consulted and I said there had to be an input from local representatives. These consultative forums will have a bearing. They will be an important conduit to convey grievances from members of the public to where it counts, Government. At the end of the day, responsibility must rest with Government, which has been given a mandate by the public that it must discharge.

Mr. Bradford: I welcome the opportunity afforded to the House to discuss the health service. The maxim, "if it's not broken, don't fix it", is often used in politics which unfortunately does not apply to the health services or their structuring down the years. I very much welcome the fact that we are moving away from the former structures because they did not provide the necessary quantity or quality of service to patients, which is what this debate should be about. It is a little like the Government in that respect. It is not a question of a bigger or smaller Government or health service; rather it is a question of whether it will be a better health service. It is on that question that we should judge this Bill.

In almost every debate held in the House in the past two years, no matter what policy area is being discussed, Government Members have used the phrase "since 1997" as if some great age of enlightenment started in that year. We hear that since 1997 a certain figure has increased by a certain percentage and so on. When we refer to the health services, we should not use the term "since 1997"; we should begin our remarks using the term "since 1987". Senator Leyden, who was very much a player in the field of politics in 1987,

will recall the slogan which Fianna Fáil used in that year to gain power, namely, "health cuts hurt the old, the sick and the poor".

Mr. Leyden: What about "a lot done, more to do"?

Mr. Bradford: Former Taoiseach, Charles Haughey, used the phrase when he led Fianna Fáil to election success in 1987 but, within months, he embarked on the most extensive slashing of health expenditure, hospital beds and health services in the history of the State. It is fair to state that we have not yet recovered from the cuts made in 1987 and the amazing policy of removing hospital beds and increasing waiting lists. We must ask ourselves whether this Health Bill will, at least, return the services and beds which existed in 1987 or increase them beyond that level. I have doubts that it will do so.

I was happy when the Tánaiste was appointed as Minister for Health and Children because she genuinely views the job as a challenge and genuinely believes progress can be achieved. However, we must be careful about where the starting point is. We spend a great deal of money on health in Ireland but, by European standards, we are very much mid-division. We cannot claim to spend the highest proportion *per capita* on health services in Europe. However, we spend billions of euro on health and we must ask ourselves if we are obtaining value for money which, I suspect, we are not.

Senator Glynn referred to orthodontics and indicated that, in his region of the country, tremendous progress has been made, which I am glad to hear. However, I recall a number of discussions on the Joint Committee on Health and Children in which orthodontics was the subject of serious debate. It appears to me that orthodontic services throughout the country are in crisis, certainly in the Southern Health Board region. As the Minister of State will know from parliamentary questions, there is an almost endless waiting list. When the parent of a nine, ten or 11 year old child comes to a clinic to inform one that he or she must wait three, four or five years to have his or her child seen treated by an orthodontist, one must ask if that is the type of modern health service of which we proclaim to be so proud.

We are duty bound on this side of the House to recognise achievements where they are made and acknowledge their results. To that end, I acknowledge that the national treatment purchase fund has been very successful. In that context, will the Minister of State discuss with the Tánaiste the possibility of extending the treatment purchase fund to the orthodontic sector? It is not good enough to tell a young teenager that the importance of his or her need for orthodontic treatment is recognised but that it will not be undertaken for three or four years. The extension

[Mr. Bradford.]

of the treatment purchase fund to clear the waiting list for orthodontic treatment would allow us to start anew and I ask the Minister of State to consider the suggestion.

This Bill is wide-ranging because it deals with the reform of the structures, with which I have no difficulty as I believe they need to be radically reformed. However, although the Bill has not been introduced without being well-flagged in advance, the almost mad rush to process the Bill in a short space of time might not be the wisest way to go about our business. The Bill contains significant changes in how we do our business on the health front. However, much more dialogue and debate is required.

As the Minister of State knows well, we do not need more reports. The previous Minister for Health and Children must have been the champion of reports because, for every problem in the health service, he commissioned a report and for every report which was published, there was another report on it. There was a great deal of talk, paper and consultation with consultants but we did not see results. I want to see results from this process. I want to see the Bill resulting in the citizens receiving the quality and quantity of health care they deserve. That this Bill is our starting point demonstrates how badly we have managed the health service. It should be possible for the money we spend to give people a quality health service. I advocate an increase in the expenditure but we should not have waiting lists of many years for elective and other surgery given the billion of euro we spend each year. This issue must form the starting point for the debate as far as patients are concerned.

From the point of view of the patients and consumers for whom this Bill is intended, it is not a question of ideology or philosophy. The outgoing Chinese premier made the point that it did not matter if a cat was black or white as long as it caught the mouse. Irish patients are not worried about the philosophy or ideology of the health care service or whether the provider is public or private or a combination of both; they want a service delivered. That is the debate we need to have but I wonder if we are considering it. The Minister referred to structural reform in her speech but the Bill appears cumbersome and I wonder how quickly it can be implemented and how truly radical it will be.

A member of the Progressive Democrats once referred to a need to be "radical or redundant". In that context, we need to be radical about the health service. We need to work more closely with the people working in the service and not rush the Bill as much. In her speech, the Minister outlined the details of the national health consultative forum, the regional health forums, the advisory panels and the statutory complaints framework, all of which are valid. However, what

we have not heard from the Minister with great certainty or definition is that, when enacted, this legislation will mean a better, more accessible service for the patient. We all face that challenge when debating health legislation in this House and that is what we want to see emerge. I am disappointed that we are rushing this legislation through on a Friday evening as if the world will change on 1 January 2005. I do not think it will but I wish the Minister well in her endeavours. If she takes on board what the Opposition is saying, we could all work together to improve the service. Patients want action rather than words.

Mr. Leyden: I welcome the Minister of State, Deputy Seán Power, to the House and wish him well in his first and well-deserved Ministry. I had the pleasure of serving in Government with his father Paddy Power, who was a tremendous Minister for Defence and an excellent constituency worker. It is great to see the continuity and I wish the Minister of State every success in the Department of Health and Children.

The Minister outlined in detail the Health Bill 2004, a very complex and detailed Bill which will take some time to get through before the recess. The Minister clearly stated that the Bill is based on the recommendations of two reports, the Commission on Financial Management and Control Systems in the Health Service, known as the Brennan report, and the Audit of Structures and Functions in the Health System, known as the Prospectus report. Both reports were commissioned by the Department of Health and Children and published in June 2003.

It is important to put the origins of the Bill in context. The Bill proposes the most radical and dramatic changes from 1 January 2005. In the programme for Government published by the Progressive Democrats and Fianna Fáil, there is a very detailed assessment of the proposals which we outlined. They are based on the national health strategy in which many of us were involved. As a former chairman of the Western Health Board, I and others were involved in those discussions. It is important to put in context from where the Minister is coming.

It is the first time, possibly since the days of the former Deputy Brendan Corish, that the Tánaiste is also the Minister for Health and Children. Deputy Harney brings to her portfolio a tremendous strength as leader of the only other party in Government with Fianna Fáil. She has great experience and was an effective Minister in the Department of Enterprise, Trade and Employment. I know from the present discussions that she has already succeeded in obtaining major additional funding from the Department of Finance and she will ensure that the health strategy works. I wish her well. Deputies Martin and Cowen were also very effective in both those Departments.

We should take a very positive approach to the health area. It is undermining to see in *The Roscommon Champion* this week the same sort of propaganda being issued by Fine Gael as was issued during the local elections on 19 June 2004 in the Roscommon area and on 11 June in the rest of Ireland. The article is headed, "Naughten in new warning over Roscommon A & E", and it states:

The Health Bill which is going through the Dáil this week will lead to downgrading of Roscommon Hospital, according to Deputy Denis Naughten. He told *The Roscommon Champion* that the hospital may lose its accident and emergency unit as a result, in a statement dealing with the Health Bill which is going through the Report and Final Stages in Dáil Éireann and now being passed by Dáil Éireann.

This is the type of propaganda which was spread throughout the local elections of 2004 by leaflets which asked people to "save our local hospital services" by signing a petition. I remind Deputy Naughten, the Fine Gael Party and its spokesman for health in this House that we can look at the overall position regarding the reform of the health services and also look at the local scene. The latter reflects what is happening nationally.

On 15 May 2002, as chairman of the Western Health Board, I signed a contract for a new accident and emergency department at Roscommon County Hospital. That unit has now been provided with additional funding of €2.5 million for the appointment of more staff to be recruited early in 2005. That is a clear indication of the commitment of this Government to the development of the accident and emergency unit at the hospital. The Minister, Deputy Harney, has stated clearly that she will develop services at local level and ensure that they are maintained. I believe she will do so.

Mr. Browne: What about the Hanly report?

Mr. Leyden: It is evident from the €2.5 million allocation made by the former Minister for Health and Children, Deputy Martin, that we will have 40 extra jobs in the Roscommon hospital accident and emergency unit. The nine observation beds in that unit will open and St. Colman's ward is currently being refurbished. That is a clear commitment to the retention and development of the accident and emergency unit at that hospital and that also applies to many other hospitals.

I invite the Minister to visit Roscommon early in 2005 to officially declare open the new accident and emergency unit of the hospital and view the excellent facilities. We have four consultant sessions weekly in the accident and emergency unit and are seeking a second consultant for four

further sessions. That proposal has been forwarded to Comhairle na nOspidéal. I ask the Minister of State and his officials to take note of the application and to approve it as quickly as possible. Roscommon County Hospital has on call radiologists approved by the Department. It deals with 13,000 accident and emergency visits annually in a very busy unit. It has two excellent physicians.

An Cathaoirleach: We are debating the Health Bill rather than the health services.

Mr. Leyden: I will put this in the context of the Bill. This Bill supports the development of local hospitals. I am pointing out what has happened in our local hospitals to date.

Mr. Browne: Where is the Hanly report?

Mr. Leyden: The hospital has two surgeons, new theatres and new screening rooms.

Mr. Feighan: It is called an "arts centre" on the Roscommon Road.

Mr. Leyden: There was a group from Portiuncula Hospital in Ballinasloe outside Leinster house on Wednesday. On behalf of the Western Health Board and the Department of Health and Children I had the pleasure of signing the contract for the purchase of the hospital there.

Mr. Feighan: They got rid of it.

Mr. Leyden: We bought it to ensure that the maternity services there were maintained and developed. I will go into no further detail on Roscommon hospital but I am trying to highlight the scaremongering tactics of the Opposition parties, which are of no help.

Mr. Browne: Has the Senator got a firm commitment that the hospital will not be downgraded?

Mr. Leyden: The Opposition parties are undermining the future development of Roscommon County Hospital instead of campaigning as I am for an additional physician, anaesthetist and support staff. That is what we will get early next year.

I will consider the Bill and its details but it is important to get that off my chest because I find it disturbing to read the propaganda in this regard.

Mr. Feighan: It is his own party rather than the Opposition that the Senator needs to worry about.

Mr. Leyden: As far as the regional health forums are concerned, I suggest to the Minister and his officials—

An Cathaoirleach: The Senator must finish.

Mr. Leyden: I am sorry I have not got more time.

An Cathaoirleach: The Senator would have had more time if he had not strayed from the subject. He could also have found another way of raising the matter.

Mr. Leyden: Perhaps I might have an opportunity on the Adjournment. The Cathaoirleach might encourage me to put down a notice on the Adjournment for further elaboration on the health developments and services.

It is very important that public representatives from each county and region have an opportunity to serve on the regional health forums and bring the views of the people to the new executive. I support that and I thank the Minister for putting it in the Bill, along with the reference to advisory panels. Last night RTE broadcast a very good "Prime Time" programme about the MRSA super bug. The situation is very serious and I ask the Department to carry out a detailed assessment of this dangerous bug. The danger of visiting hospitals and spreading and catching infection must be emphasised. I hope to have the opportunity of discussing Roscommon County Hospital in more detail perhaps as a matter on the Adjournment.

Mr. Feighan: I welcome the Minister of State to the House. This is the first occasion I have had the opportunity of addressing him and I wish him well in his Department.

In my opinion this Bill will cause the break-up of the health boards. They have been the backbone of the health service which has not always been the best service but there should be political representation on health boards and the proposed political representation may not be sufficient. As chairperson of the Western Health Board, Senator Leyden fought extremely hard for the survival of Roscommon hospital. All politics is local and he ensured that the new accident and emergency department would be built and funded. I thank Senator Leyden for those gestures.

Ms White: Hear, hear.

Mr. Feighan: I worry about the manner in which this Government treats people who stand up to challenges.

(Interruptions).

An Cathaoirleach: Allow the Senator without interruption.

Mr. Feighan: The Minister repaid Senator Leyden who was then a councillor and chairper-

son of the health board by not reappointing him. This is not the way that any Government should behave.

Mr. Leyden: I have come to a better place.

Mr. Feighan: It certainly helped the Senator to be elected to this House.

An Cathaoirleach: The reappointment of Senator Leyden is not relevant to the Health Bill.

Mr. Leyden: It is very relevant to me.

Mr. Feighan: I think he was very aggrieved as would I be if I were in his position. He worked very hard as chairperson of the health board, fought for the right cause and yet was dropped. It worries me that the local knowledge of politicians will not be as influential as it was in the past. Politicians are often accused of not making decisions for the common good, but on most occasions they make the right decision.

The health service is certainly in need of reform but I do not believe this is the right reform. I am quite upset when people accuse the Opposition of megaphone politics and of carrying out campaigns of misinformation. Every day I have people coming in to my office who have been on trolleys and people wondering what is wrong with the health service. They want real change just as I want real change. Unfortunately the health service is in a shambles. I do not think enough is being done and I think this Government is making the wrong decisions. It is up to me as a Senator and as an Opposition politician to highlight the deficiencies of this Health Bill. I will not accept anybody shouting across the Chamber at me or anybody else, saying that I am shouting for the sake of shouting. There are problems within the health boards and it is my right to raise these issues. One need only travel around the country to meet the kind of people who are on the radio talk shows and listen to those coming into constituency offices. This Bill gives too much power to the current Minister and we saw what the previous Minister did with his power. I wish the Minister of State well in his new appointment.

Mr. Leyden: I compliment Senator Feighan on being so fair in his deliberations.

An Cathaoirleach: Senator Feighan has concluded. The Minister of State to reply, please.

Minister of State at the Department of Health and Children (Mr. S. Power): I thank the Senators for their contributions on this important piece of legislation and for their good wishes. As the Tánaiste said in her contribution, this legislation provides for the complete reform of the organisation and management structures of the health services, the first in over 30 years. The

Health Act 1970 provided for the introduction of the regional health board system. Prior to the establishment of the boards, the health services in Ireland were administered by the local county councils except in Dublin, Cork, Limerick and Waterford, where the service was managed by the joint health authorities.

The health strategy contained a commitment that an audit of functions and structures in the health system would be undertaken which would help clarify roles and co-ordinate the work of different organisations in the system. The aim of the Government's reform programme, based on the findings of the Brennan and Prospectus reports, is to provide a co-ordinated and integrated health service with a consistent, national approach to the delivery of health services, based on clear and agreed national objectives, within a strong accountability framework. It provides for organisational and structural reform based on the principle of placing the patient at the centre of the health service.

The reform programme was announced by the Government 18 months ago and the need for this legislation has been well signalled in the intervening period. This Bill is the second of two pieces of legislation to be brought before the Oireachtas in the current year in respect of the Government's health reform plans. The first legislation was the Health (Amendment) Act 2004. This Bill will replace that Act; the part of the 1970 Health Act establishing the health boards; most of the Health (Amendment)(No. 3) Act 1996; and the Health (Eastern Regional Health Authority) Act 1999.

It is recognised that the implementation of this reform programme is a major challenge. The Bill will mean the establishment of a unified management structure for the health services. Much work has already been carried out to establish and ensure a smooth transition to the new system on establishment day which will be 1 January 2005. However I reiterate that the transition is being undertaken on a phased basis. The provisions of this Bill are also designed to assist in the transition to these new structures.

As well as providing for the establishment of the health service executive and the abolition of the health boards and the ERHA, the legislation makes provision for improved governance and greater accountability in the health system as well as planning, monitoring and evaluation.

A key objective of reform in the health system, as identified in both the Prospectus and Brennan reports, involves the separation of policy and operational responsibilities. The result will be greater clarity, transparency and accountability about lines of responsibility in the health system and this Bill clarifies the lines of responsibility and accountability. The legislation sets up the health service executive which will have responsibility for the delivery of health and personal

social services. The statutory functions and responsibilities being taken on by the executive are set out in section 7 and Schedule 3 of the Bill. A review of this Schedule will give Senators an idea of the breadth of the functions currently being carried on by the health boards and other agencies being dissolved by this legislation.

The establishment of the health service executive as a single entity with statutory responsibility for the management and delivery of health and personal social services, represents the central plank in reforming what are, as the Tánaiste described in her speech, the patchwork of amendments made to health legislation over the years which has led to the growth of 58 separate health agencies.

In carrying out its objectives and functions the executive is obliged to ensure that the services are delivered in an integrated and co-ordinated manner to ensure a proper continuum of care from hospital services through to primary and community care services. In delivering or arranging for the delivery of health and personal social services, the executive is required to have regard to the services being provided by voluntary and other bodies and the need for co-operation with other public authorities as necessary where their functions have an impact on the health or welfare of the public. Examples of this include co-operation with the Food Safety Authority of Ireland on food safety matters, the Department of Education and Science in providing services for children with disabilities or local authorities on public health matters. The executive is also being required to have regard to the need to co-operate and co-ordinate its activities with those of other public authorities if the performance of their functions could affect the health of the public. This is important for the executive in its role of protecting and promoting the health of the public.

I will now address some of the points made by Senators during the debate. I do not accept the argument that the legislation is being rushed through the Houses without consultation. The reform programme was announced by the Government 18

4 o'clock

months ago and the need for the legislation has been well signalled in the intervening period. Communication and consultation have been at the core of the health reform process dating back to the national health strategy, Quality and Fairness, in November 2001. Immediately after the Government decision on health service reform in June 2003, the Secretary General of the Department briefed political parties on the proposals.

From the beginning, the process has involved an open discussion. The Prospectus and Brennan reports were published in June 2003 and laid before the Houses. At the time, 100,000 copies of an explanatory booklet outlining the reforms, The Health Service Reform Programme, were issued, particularly to those working in the health

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system. The previous Minister for Health and Children, Deputy Martin, and the Secretary General of the Department visited each health board area to meet and discuss the reforms with staff. Simultaneously, an extensive consultation and communication process was under way.

Following this initial process, the Department commissioned the Office for Health Management to conduct an information and consultation exercise reaching as many people and agencies in the system as possible. More than 20,000 staff were directly engaged over the summer months and into September 2003. They included staff and representatives of the Eastern Regional Health Authority, the health boards, the voluntary, hospital and disability sectors, the community and voluntary pillar, the trade unions and the Department of Health and Children. The Office for Health Management produced a detailed report of this process, which was published earlier this year.

This legislation is the second of two Bills brought before the House this year on the Government's plans for structural and organisational reform of the public health services. As I stated, these plans were widely notified and relayed on a fully inclusive basis. As recently as April and May last, the House discussed the Health (Amendment) Bill 2004, as part of the legislative arrangements necessary to underpin the reforms. In that context, my colleague, the Minister of State at the Department of Health and Children, Deputy Brian Lenihan, discussed in detail the reform process and the arrangements to be put in place to implement it. He specifically informed the House of plans for further legislation, such as that before us today, which would establish the health service executive, make provision for improved governance, accountability, planning, monitoring and evaluation, introduce a statutory framework for the handling of complaints and provide for democratic input at regional and local levels under the new structures. No surprises are being sprung on the House under the Health Bill 2004, as the changes involved have been well explained and communicated publicly and specifically previewed in the House.

The Government is strongly of the view that the executive should be as widely and directly accountable as possible for its decisions, plans and actions related to the discharge of its statutory functions. Such an approach is central to ensuring that the highest standards of service are achieved and maintained. It is, therefore, the Government's intention that this should be reflected in the quality of service the executive will provide to Members of the Oireachtas in responding to queries and providing information about the management and delivery of health and personal social services, whether at national, regional or local level.

The interim Health Service Executive is aware of and making plans for the proper and effective discharge of its serious responsibilities in this area. Earlier this month, it announced that the overall structure of the executive would include an office of the chief executive officer and a corporate affairs directorate. In addition, responsibility for the important function of managing parliamentary affairs would be assigned by the chief executive officer to one of the central governance areas. As we move forward, the operation of any new arrangements will be monitored closely and review as necessary.

The provisions of section 10, which provides that the Minister may give directions to the executive and that the executive shall provide any information and statistics required by the Minister, and the provisions relating to the production of service plans by the executive are strong accountability provisions. The Minister is politically responsible for the health service to the Oireachtas. In line with the recommendations of the Brennan and Prospectus reports, the executive will be responsible to the Minister for the management and operation of the health service. The Department will be responsible for supporting the Minister and the Government in all policy matters. The lines of accountability are clear and transparent and do not leave room for non-accountability at any level.

I thank Senators for their contributions. The Bill represents the first major reform of the delivery of the health service in 30 years. It is historic legislation which will lead to a more efficient, effective and patient centred service. I commend it to the House.

Question put.

The Seanad divided: Tá, 25; Níl, 9.

Tá

Brady, Cyprian.
Brennan, Michael.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Henry, Mary.
Leyden, Terry.

Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Morrissey, Tom.
Moylan, Pat.
O'Brien, Francis.
O'Rourke, Mary.
Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.

Tá—*continued*

Walsh, Kate.
White, Mary M.

Wilson, Diarmuid.

Níl

Bradford, Paul.
Browne, Fergal.
Burke, Ulick.
Cummins, Maurice.
Feighan, Frank.

Finucane, Michael.
Hayes, Brian.
Phelan, John.
Terry, Sheila.

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

Question declared carried.

Committee Stage ordered for Tuesday, 14 December 2004.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: Next Tuesday at 11.30 a.m.

Adjournment Matters.

Services for People with Disabilities

Ms White: I thank the Minister of State for coming to the House to deal with this matter. In 2001 the Department of Health and Children, in conjunction with the Disability Federation of Ireland, provided funding known as the Harmon fund for six disability organisations in the physical and sensory section for the resourcing of voluntary sector service providers. The six disability organisations involved are Brainwave, Headway Ireland, the Irish Association for Spina Bifida and Hydrocephalus, the Irish Motor Neurone Disease Association, Multiple Sclerosis Society of Ireland and Muscular Dystrophy Ireland. These organisations formed and grew with the effort of spirited and passionate volunteers. These organisations have not taken liberties with banks or statutory bodies, but have grown and survived on their ingenuity and superhuman efforts to raise voluntarily funds. They immediately need their funding to be brought to today's level of requirement to continue providing the essential services developed over the past two years.

The Irish Association for Spina Bifida and Hydrocephalus is seeking a modest increase of €128,000 for a high priority disability service. This would reap great benefit to its 1,400 members with spina bifida, 500 of whom are in Dublin. The moneys set aside for disabilities by the Minister for Finance in the recent budget are extraordinary. Everyone now realises the Government is serious about funding for disabilities and those with disabilities are as entitled to equal treatment as full-bodied people. The Minister for Finance has allocated €2.8 billion for services for people with disabilities. From that allocation, 1.2 million extra hours of home support and personal assist-

ance provided for persons with physical or sensory disabilities will be provided. Those born with spina bifida need intimate personal support and back-up to help them with their disability. Bowel and bladder incontinence are intimate and delicate matters. These people urgently require a one-to-one service.

A good friend of mine has a daughter with spina bifida but due to her efforts, her daughter has a tremendous job in Fingal County Council. When I entered the Seanad I was asked to speak on behalf of the spina bifida organisations. Last year I asked for extra resources but did not succeed. However, now with the €2.8 billion allocation for services for people with disabilities, it must be possible for a grant of €128,000 to be made to the Irish Association for Spina Bifida and Hydrocephalus to provide people with home help.

Minister of State at the Department of Health and Children (Mr. S. Power): I am pleased to take this opportunity to clarify the provision of funding for the Irish Association for Spina Bifida and Hydrocephalus.

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. Since 1997, the Department of Health and Children has allocated significant levels of funding across the disability sector, resulting in substantial advances in the quality and quantity of health-related services provided to people with disabilities. Funding of non-statutory organisations providing services for people with disabilities, is primarily a matter for the Eastern Regional Health Authority and health boards. Priorities for the allocation of funding available for the development of health-related services are decided by the health boards in consultation with the regional co-ordinating committees for physical and sensory disabilities. Voluntary sector service providers, including the Irish Association for Spina Bifida and Hydrocephalus, and advocates for people with disabilities are represented on these committees.

The national disability strategy provides an opportunity to identify priorities in the services for people with disabilities. It is a framework of positive action measures to support participation by people with disabilities in Irish society. Four

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elements of the strategy are the Disability Bill 2004, the Comhairle (Amendment) Bill 2004, the six outline sectoral plans and a commitment to a multiannual investment programme for disability support services. The Department recently published an outline sectoral plan for the specific health and personal social services provided for people with disabilities. This interim plan is designed to encompass a programme of work to be undertaken over the next 12 to 18 months. The main aspects of the programme are related to the provisions contained in the Disability Bill 2004, together with a strategic review of overall services. The review will examine the significant level of service provision already in place, focusing on specific issues of concern to people with disabilities, their families and carers, together with statutory and voluntary bodies in this area, with an opportunity to input into the planning and delivery of services over the coming years.

Services to people with intellectual, physical or sensory disabilities and those with autism, is one of the limited number of areas in which additional revenue funding has been provided by the Government in all Departments over 2003 and 2004. It is recognised that the health-funded services in this sector have advanced greatly over the

last several years. However, it is acknowledged that further work is required in the coming years.

To that end I am pleased that the Government was in a position to announce on budget day a special disability multiannual funding package with a total value of close to €900 million over the years 2006 to 2009. This funding is being dedicated now for the period until 2009, so as to ensure the delivery of these high priority disability services. This 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 an 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. The above measures will assist the Irish Association for Spina Bifida and Hydrocephalus in maintaining its existing level of services.

The Seanad adjourned at 4.30 p.m. until 11.30 a.m. on Tuesday, 14 December 2004.