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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Thursday, 16 December 2004.

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SEANAD ÉIREANN

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Déardaoin, 16 Nollaig 2004.
Thursday, 16 December 2004.
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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
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Order of Business.

Ms O'Rourke: The Order of Business today is Nos. 1, 2, 3, 4, 5, 6 and 7. No. 1 is a motion which was referred to the Joint Committee on Agriculture and Food for consideration and it has completed its discussions. These regulations concern a reduction in the disease levies applied to milk deliveries for processing and cattle slaughtered or exported to facilitate the eradication of TB and brucellosis in cattle. The rates have been reviewed in light of the improving disease situation and, as a consequence, a reduction in the cost of scheme. This item is to be taken without debate; No. 2, Health Bill 2004 — Report and Final Stages, to be taken on the conclusion of the Order of Business and to conclude no later than 1 p.m.; No. 3, motion for earlier signature of the Health Bill 2004, if passed by this House, to be taken immediately without debate on the conclusion of No. 2; No. 4, Social Welfare Bill 2004 — Committee and Remaining Stages, to be taken at 2 p.m. and to conclude at 4.30 p.m.; No. 5, motion for earlier signature of the Social Welfare Bill 2004, if passed by this House, to be taken immediately without debate on the conclusion of No. 4; and No. 6, Appropriation Bill 2004 — all Stages, to be taken at 4.30 p.m. and to conclude no later than 4.45 p.m. I will explain the procedure for the latter item as it may seem alarming to Members. The Bill is only being presented and the debate on all Stages will take place when we return. This has happened previously in this House on several occasions.

Mr. Coghlan: On next Tuesday?

An Cathaoirleach: The Leader to continue without interruption.

Ms O'Rourke: I am talking about today's business. No. 7 is a motion for earlier signature of the Appropriation Bill 2004, if passed by this House, to be taken immediately without debate on the conclusion of No. 6. There will be a sos from 1 p.m. to 2 p.m.

With the Cathaoirleach's permission, may I read the message on a card from Frank Lane to the Seanad? It reads:

Dear Mary,

Many thanks for all the kind words spoken about me in the Chamber. Please thank all the Senators and staff for me. I have been given a copy of the tape. It was an honour and a privilege to have worked in the Houses of the Oireachtas for so long. I loved every moment of it. Best wishes to you all and a happy Christmas.

Mr. Finucane: "We want the elderly to be able to live out their retirement in dignity and security without having to worry about the State confiscating their savings." Those words were spoken by the Tánaiste, Deputy Harney, in 1996. She was in Opposition then but now she is Tánaiste.

I want to refer to the health charges and the €2,000 refund to be made to patients. I am appalled that the entire amount charged is not being refunded. We would be appalled in this House if this was a question of the banking institutions and the recent controversies concerning excessive charges applied to customers.

An Cathaoirleach: That is a matter for tomorrow's business.

Mr. Finucane: It may well be so.

An Cathaoirleach: The Senator will have an opportunity tomorrow to air his concerns about this matter.

Mr. Finucane: We would be adamant that such money should be appropriately refunded. In this context, the people concerned are entitled to a full refund.

An Cathaoirleach: That is a subject for tomorrow's business at which time the Senator will have an opportunity to make that case.

Mr. Finucane: We had a debate in this House on Aer Lingus some time ago. During that debate we were promised that a decision would be made prior to Christmas when the sub-committee had concluded its deliberations and made a decision on the future of the company. We now understand this decision has been deferred, possibly to the end of the January. If procrastination means anything, what is happening is certainly not good for Aer Lingus. The Minister has a most responsible position. I am sure the type of publicity surrounding this issue is not helpful to him in making decisions. I welcome the Taoiseach's decision at long last to ask a senior retired public servant to investigate this issue, in respect of which information is being drip-fed on an ongoing basis. That is damaging to politics.

I ask Members to contrast this situation with that in the UK reported in this morning's news-

[Mr. Finucane.]
papers where a Cabinet Minister has resigned because he fast-tracked a visa application for a nanny. I want Members to contrast that situation with what is emerging here, given that the proposed €2,000 refund is equivalent to three days pay for a private adviser.

An Cathaoirleach: That is a matter for tomorrow's debate.

Mr. Finucane: We want ethics in this debate.

(Interruptions).

Mr. Dooley: That claim is way off the mark.

An Cathaoirleach: I cannot allow that. It is for tomorrow's debate.

Mr. Finucane: I welcome the fact that the Taoiseach has decided to bring this issue to finality.

Mr. O'Toole: I draw the attention of the House to a recently published report on the treatment of immigrant workers, in particular immigrant domestic workers. If it portrays the image of post-Celtic tiger Ireland, it is an image which reflects badly on all of us because it would mean we have produced a greedy society, and that vulnerable foreign workers with poor English are being exploited and bonded in terms of labour to unscrupulous employers who treat them badly. A significant debate must take place on this issue.

Most other forms of work involve agreements between organisations such as IBEC and ICTU, management, unions, workers, Government and otherwise, in regard to the nature of the job, and general definitions are agreed on what would be normal working hours, etc. We have never had such agreements for domestic work because work practice was decided within the household and arrangements were in place that suited many people in many different ways. However, we cannot allow a situation to continue in which, to our shame, workers are being made to work slave hours in a manner which reflects badly on all. It is not a criticism of any individual but of all that we have allowed this situation to evolve, and it is not a trade union matter any more than it is a community matter. We should discuss the issue and I ask that the Minister of State responsible for labour matters, Deputy Killeen, be invited to debate it next month or on Tuesday next, if the House sits.

In an age of political correctness, matters often go over the top. I have stated many times in the House in debating matters such as ethics, standards and similar issues that we must be careful not to run with every media demand for more demanding standards for politicians. Part of the nature of our job as public representatives is to make representations. Perhaps I am in a minority of one, but I think it appalling that the former British Home Secretary, Mr. David Blunkett,

found it necessary to retire because he made representations and fast-tracked a matter. I hope we would never allow a situation develop in Ireland where we would become so politically correct that such a minor involvement in a successful representation becomes a cause for somebody to resign.

Mr. U. Burke: We are a long way from that.

Mr. O'Toole: We must be careful when passing legislation which makes increased demands on public representatives because it could become ridiculous.

Mr. Ryan: While Senator O'Toole has a point, a fundamental of effective democracy is that people take responsibility for what is done in their names. The former British Home Secretary, Mr. Blunkett, stated: "[Any] perception of this application being speeded up requires me to take responsibility." Whether that responsibility should have extended to resignation is a separate issue.

While I do not wish to raise tomorrow's business but the manner of Government, an important memo in the Department of Health and Children apparently never got as far as the then Minister for Health and Children, Deputy Martin. He was responsible for a failure to manage the Department so that important issues came to the attention of the person responsible. This is a failure of management for which the person in charge of the Department was responsible. While the outcome is perhaps a separate issue, if one does not run a Department so that important matters which have significant implications are drawn to one's immediate attention, it is because one is incompetent or one has a policy of avoiding being told so one can avoid responsibility. Neither approach is a way to run a Department. I contrast the sensitivity and acceptance of responsibility of David Blunkett with the determination of various people to pretend they have no responsibility for the situation in our nursing homes. Who is responsible——

An Cathaoirleach: Nursing homes are a matter for tomorrow's debate.

Mr. Ryan: I am not speaking on the issue but on the way the Government does business, which is by postponing and avoiding responsibility. That is not the way to run Government.

The European Union will today decide — I gather the decision will be positive — whether to open negotiations with Turkey to join the EU. It is an extremely significant day. One of the ideas that has always floated is that the Seanad ought to be the House where European issues are debated. If negotiations with Turkey are to open, it would be useful for the House to have a sensible, intelligent debate on the issue in the new year. It is a major new step for the EU, and one of which I am in favour, provided I am satisfied

Turkey is a modern, liberal democracy, operating to the same standard of human rights as other member states. I have no interest in the religious persuasion of the EU member states. However, this move has serious implications. In the spirit of having the Seanad as the House in which European affairs are debated, I ask that we debate this matter in the new year.

Mr. Dardis: Picking up on the last point made by Senator Ryan, it would be useful if the House were to debate the issue of opening negotiations between the EU and Turkey. Yesterday the Joint Committee on European Affairs yesterday adopted a report which recommended that the negotiations would open and the decision on this is being made by the EU on 17 December.

Senators McDowell and Ormonde and I recently visited Turkey to consider matters there. We were all very impressed by what we saw and the advances being made at official level to bring the law in Turkey into line with European norms and to improve human rights. We all agree there is a long way to go and that negotiations will be long and difficult. However, it is appropriate that the Joint Committee on European Affairs found that negotiations should begin and its report might form the basis of a debate in the House in the new year, which I recommend to the Leader.

I agree with Senator O'Toole's remarks in regard to the report on the treatment of migrant workers which was presented to the Joint Committee on European Affairs yesterday. The case studies in the report make very depressing reading. It is like returning to rural Ireland in the 1940s and 1950s when some workers were almost in bondage. Some of the workers who came to Ireland more recently paid significant sums to come. When they arrived, they thought they would get reasonable wages but were deducted for everything and asked to be involved in practices in which they never expected to be involved. It is a matter that needs to be discussed. Allied to that, we should debate an issue which has arisen on several occasions, that of whether work permits should be held by the employer or the employee. Perhaps we could deal with this after the Christmas break.

Mr. O'Toole: I support that.

Mr. Dardis: Finally, it is spurious to make a comparison between the money owed by banks and subvention to nursing homes. However, as you stated, a Chathaoirleach, that matter will be discussed in more detail when the Bill comes before us.

Mr. Coghlan: This morning we received a report from the commission on electronic voting. As I understand it, the commission restated its criticism of the system and is unable to recommend its usage because of ongoing concerns with its reliability and trustworthiness, and due to the need for the people to have confidence in the

system. Will the Leader arrange for an early debate in the House and will she make a statement on the matter? Perhaps it could be taken next Tuesday, although I have no doubt the Leader will comment on the remaining sitting days in her response.

Mr. Leyden: Will the Leader in the new year arrange for the Minister for Justice, Equality and Law Reform to come to the House to debate the question of missing persons? From 1977 to 2004 over 50 Irish people went missing and have not been traced. The members of the Garda Síochána have been very active and are doing a tremendous job in tracing missing persons. However, many are feared dead and their graves have not been traced. At this time of year, a debate might jog memories for many who know the missing people. We know the names such as Philip Cairns, Mary Boyle, Rory Aherne and Annie McCarrick.

An Cathaoirleach: I do not think the Senator should mention the names. He should just refer to missing persons.

Mr. Leyden: Such a debate in the new year would provide an opportunity of highlighting those families who have been affected by the disappearance of over 50 people. Many of them were murdered and their graves have not been traced. At this time of year it is hard on the families involved. There are people out there who know what happened. They should come forward and co-operate with the Garda Síochána to bring those responsible to justice as quickly as possible.

Mr. Norris: I support my colleagues who raised the issue of migrant workers. It is a matter I have raised previously on the Order of Business. During the debate on the Immigration and Naturalisation Bill, I brought the question of work permits to the attention of the Minister for Justice, Equality and Law Reform. As a result of the fact that work permits are in the possession of employers, they are frequently withheld and employees are told the permits may be cancelled. It is a form of blackmail and the working conditions of migrant workers are close to slavery.

I heard a woman on the radio this morning who had to sleep on a mattress in a passageway. She worked 12 hours a day looking after children and fulfilling domestic tasks, before being taken out to do contract cleaning to earn money for her employers. It is an appalling situation. The work permit issue should be examined.

I am also seeking a debate in the new year on the issue of licensing laws and practice. I got into trouble for saying this before but I have to say that in the area in which I live it is a serious matter. Yet again in today's newspapers there is a report of a licence being granted over the objections of local people and the Garda Síochána. It may be that it was mandatory to grant the licence but I do not know.

[Mr. Norris.]

In the past, such licences have been granted over the objections of the Garda Síochána, local authorities and local residents. The reports are horrifying. They refer to elderly stall-holders being attacked and abused. When stall-holders arrive in the morning they find excrement and urine under their stalls. This is dangerous and unhealthy. Why should people have to put up with it? The whole of Parnell Street is littered with off-licences.

I ask the Leader to request the Minister for Foreign Affairs to make inquiries about five people known as the "Miami Five". I have always deprecated the use of geographical locations and numerals to suggest that people are innocent but this is what these people have been called. They are detectives and, as such, agents of the Cuban state, who have acted in light of the fact that Cuba has been subjected to severe bombing attacks by people from Florida, with American assistance. One of the people involved in the orchestration of these operations, a man named Orlando Bosch, admitted to being implicated in the bombing of an aeroplane in which 72 civilians were killed. He was pardoned by the former US President, George Bush senior.

Finding this offensive, the Cuban Government sent people to locate information in Miami about possible further bombing attacks on the scale of Omagh. The information was then passed to the American authorities who did nothing about the people who were planning the bombing, but arrested the detectives who have been sentenced to life imprisonment. The case is ongoing. I ask the Leader to request the Minister for Foreign Affairs to examine the possibility of sending observers to this case. It is time the world knew about the kind of double standards America has with regard to terrorism. This was a case of a state protecting itself against terrorism.

An Cathaoirleach: I think the Senator had made his case adequately.

Mr. Norris: Those people have been jailed for protecting their own civilian population.

Mr. Kitt: I wish to raise with the Leader the story in today's newspapers concerning the report by the Environmental Protection Agency about harmful chemicals, including e.coli, in many local authority water supplies. The EPA has stated that up to 50,000 households could be affected. The newspapers state that many local authorities are turning a blind eye to this water pollution.

We have had a number of radio and television programmes on the situation concerning the many Irish emigrants in Great Britain. RTE's "Prime Time" did a special report on the matter recently. We have been informed today that €7 million is being allocated next year to Irish emigrant welfare groups in Britain. I welcome that development which represents a 60% increase on

the funding provided hitherto. I hope the money will be put to good use.

Mr. U. Burke: I endorse what Senator Kitt has said concerning the EPA report on the quality of our drinking water. It is particularly noticeable that the worst problems are in the BMW region, including counties Sligo, Cavan, Leitrim and Mayo. That clearly indicates that the infrastructural funding that was promised for the west to upgrade group and public water schemes has failed to materialise. I ask the Leader to request the Minister for the Environment, Heritage and Local Government to attend the House for a debate on the drinking water problem. Some 60% of local authorities have failed to monitor their water plants. It is an alarming figure. The discharge of aluminium nitrates and e.coli into the drinking water supply is causing serious health problems. If one Department is causing difficulties for another, it is time for us to take immediate action. I am calling for the Minister to attend the House at the first opportunity to explain why the BMW region is not getting its fair share of funding to upgrade water supply facilities.

Dr. Mansergh: I pay tribute to the emergency services, including mountain rescue teams and lifeboats, which operate mostly on a voluntary basis. They work at some considerable risk to their own safety, often endangering their own lives in order to rescue people in difficulty.

I would welcome a debate on Turkish accession to the European Union. I find it hard to understand that in the vigorously secular French Republic, prominent politicians — although, to be fair, not the President — are against Turkey becoming an EU member state on the grounds that it does not share our Christian values. It is even more incomprehensible and appalling that the German Christian Democrat Party has declared its total opposition to Turkish accession. One would think that, with all the work Turkish guest workers have done in building up the country over the past 50 years, Germany, above all states, would be more sympathetically disposed to Turkish EU membership.

Our own system of managing immigrant labour from outside the EU does not do us much credit. We need to debate the matter. We should refine the system so that we do not have a form of indenture or quasi-slavery.

Dr. Henry: I support Senator Kitt and Senator Ulick Burke in asking for an early debate on the EPA report on water supplies. Every year the public supplies come out very well, yet, despite a large amount of money being spent on private supplies, 25% of them are still contaminated by human faeces, which is disgusting. We should add to that debate the influence of the non-enforcement of regulations governing the cleaning of septic tanks in some areas. An additional factor is the influence of the increased building of one-

off houses, all of which have septic tanks, despite the fact that engineers state that the soil in certain areas is unsuitable for such tanks.

Ms Cox: I ask the Leader to arrange for a debate in the new year on education. I compliment the Minister for Education and Science on her new initiative under which she is providing funding for all schools to invest in CD players. Music, and culture generally, are important to the education system.

Many Departments have lo-call numbers whereby people outside the Pale can phone up for the same rate as a local call. The Department of Education and Science is the only one that does not have a lo-call number. When I contacted the Department of Defence, it did not even know it had a lo-call number. As a matter of priority, all Departments should be made aware that people living outside Dublin would appreciate being able to phone them without having to pay national call rates.

Mr. Feighan: The date for the changeover to metric speed limit signs is 20 January and this will cause much confusion.

Mr. Dardis: Where was the Senator when the Road Traffic Bill was discussed?

Mr. Feighan: Much work has gone into this and many agencies have worked together on it. On non-national roads the speed limit will be decreased by 10 km/h.

An Cathaoirleach: The time to raise that was when the House debated the Road Traffic Bill. We cannot waste time going back over that issue.

Mr. Feighan: I want to ask the Minister to be lenient—

An Cathaoirleach: That should have been dealt with when the Road Traffic Bill was discussed here.

Mr. Feighan: I accept that.

Mr. Moylan: There have been many requests to the Leader for debates in the new year, so we will be very busy. I wish to ask the Leader for a debate on waste management and particularly litter control, the problems that occur when people dispose of refuse in good faith to unregistered collectors and dumping on roadsides. There is a recent and more worrying trend of dumping illegally on both sides of the Border by what were understood to be registered collectors of refuse.

I also support the comments of Senators Henry, Ulick Burke and Kitt on drinking water quality. Substantial funding has been made available by the Government to improve water quality but local authorities have failed to spend it. A message must go out to local authorities that

when money is made available they should spend it and spend it well.

Ms O'Meara: Will the Leader of the House arrange for the Minister for Justice, Equality and Law Reform to come to this House in the new year to discuss the very important issue of press freedom? He has on a number of occasions, including in this House, given his views on the press, but there is a very important and current issue of freedom of the press and sources, on which I do not intend to comment, that raises major issues for us as Members of the Oireachtas but also in particular for the media as it operates in Ireland. It would, therefore, be useful for us to hear from the Minister.

The same Minister has spoken regarding proposals to introduce a green card system for skilled workers. My concern, shared by Members of the House, is that there would be no protection for unskilled workers in that context in light of reports of how foreign domestic workers are treated here. I ask the Leader of the House, therefore, to ask the Minister for Justice, Equality and Law Reform to come to the House in the new year, whenever he is available, to speak on that issue.

Mr. Browne: By 2036 we will have more than 1 million people over the age of 65. Given the Government's incompetence lately, it is vital to have a debate early in the new year to discuss policies for caring for the elderly and predicting in advance the impending difficulties that will arise from having such a huge ageing population.

The Government's recent behaviour would not inspire confidence. Until yesterday it was going to force people who were wrongly charged to apply in writing for money which was theirs in the first place. It has seen sense and rowed back on that ridiculous idea. However, we are still very uncertain as to what exactly it is doing—

An Cathaoirleach: That is not appropriate now, as the Senator is well aware.

Mr. Browne: The Leader might indicate when it is planned to take the Bill to correct that mistake by the Government and what steps will be taken over a period of time.

An Cathaoirleach: I do not know what the Senator is talking about, but I believe a Bill is being introduced here tomorrow.

Mr. Browne: I would be willing to sit next week because I would not trust the Government at this stage, and the more time we have the better.

Mr. Quinn: I do not want to be accused of scaremongering. However, two reports were issued recently, one from the World Health Organisation and the other from the Harvard School of Public Health. While quite frightening, they are also a reminder that we can do something about the issues outlined. One relates to the

[Mr. Quinn.]
 danger of an outbreak of H5N1 avian flu and the possibility of a pandemic. The Harvard School of Public Health and the World Health Organisation suggest that such a pandemic could cause 7 million deaths, but we can do something about it. Yesterday the Harvard School of Public Health issued a report that it had done an investigation and discovered that very few countries had stockpiled the anti-viral drugs that are necessary. Japan and Australia do not have sufficient drugs. The dangers of this disease have not been publicised. We are not aware of the huge dangers of a pandemic such as that which occurred in 1918 when between 20 and 50 million people died as a result of flu. I would like the matter to be drawn to the attention of the Minister for Health and Children.

Mr. McHugh: I wish to be associated with the remarks of Senator Mansergh regarding voluntarism in the context of the coast and cliff rescue and emergency services. As an island nation we rely heavily on voluntarism.

Senator Lydon and I raised the issue of roaming charges last week. I am delighted that after our strong representations O2 has decided to refund roaming fees charged over the past six months. Perhaps this will be the start of a more competitive operation between Vodafone and O2.

An Cathaoirleach: What is the Senator seeking?

Mr. Finucane: A refund.

An Cathaoirleach: The matter should be appropriate to the Order of Business.

Mr. McHugh: I congratulate Senator Lydon and, without being too smug, I congratulate myself as well.

Ms O'Rourke: I am sure the Chair will agree that everybody is in great form today. I cannot understand it, given some of those who found their voices this morning. I am talking about the Government side, not the Opposition Members, lest they throw a hissy fit.

Mr. U. Burke: We might yet.

Ms O'Rourke: Senator Finucane, the Acting Leader of the Opposition spoke on care for the elderly and drew some comparisons. He also raised the issue of Aer Lingus and suggested there should be a decision before Christmas. He welcomed the appointment of a person, not from this House, to carry out public scrutiny of a particular matter.

Senator O'Toole asked for a debate on the recently published report on the treatment of immigrant workers, particularly those in domestic employment. I agree with the Senator. I launched that report yesterday evening at 6.30 p.m. at the

SIPTU headquarters. I received a copy of the report two days ago and have not been so angry for a long time. Its contents reveal wicked practices. Bonded labour is a mild term for what is happening. People pay €1,000 to a recruitment agency to come into domestic employment. There is nothing wrong with domestic employment. We all do it. We clean floors in kitchens, wipe babies' bottoms, wash curtains and everything else all the time. However, these women are brought in with no firm areas of employment, hours or wages laid down. Some of them were there yesterday. I commend the marvellous work the migrant centres are doing. They in turn commended the debate in this House on the amendment to the equality Act this year. For the first time, migrant workers in domestic employment have the right to go to the Equality Authority to have a claim investigated. I agree with Senator O'Toole that it would be a good idea for a joint committee to investigate what could be done. We talk about what happened in Boston, New York and Chicago in the 1890s and 1900s where the women of Ireland went and became nannies and nursemaids. While the men dug railways, roads, viaducts and drains, the women reared the citizens of the United States, and we complain that they were not paid proper wages. The same is happening in our midst. There is no point in people claiming that, because they do not employ such people, the issue is not their concern. It is society's business.

Mr. Norris: Hear, hear.

Ms O'Rourke: I urge all Members to read this report. It is scarifying and awful that women and men with whom we are acquainted are employing people in that awful way. As a result of what such employers would discern as their employees' lower status, the latter are treated inhumanely. I heard recently of a woman who arrived at 10.30 p.m. on her first night in a job and was presented with a list of 27 items that her employer required to be completed by the following midday. The first item was an instruction to clean the dog, after which the employee was to mow the neighbour's lawn.

I cannot believe this type of situation is happening. We hear people blithely talking about their Filipino au pairs and one wonders if they are involved in this type of behaviour. The report is obligatory reading and we should have a debate on this issue in the House.

Mr. Ryan: Hear, hear.

Ms O'Rourke: As has been suggested, it would be a good idea to ask the Minister of State, Deputy Killeen, to come to the House for the debate.

Senator Ryan spoke about an important memo that never came to the attention of the former Minister for Health and Children, Deputy Martin. Senator Ryan suggested that the Minister should run the Department so that those items do

come to his or her attention. He also asked for a debate in the new year on the question of Turkey's accession to the EU. Such a debate would be appropriate. I see Senator McCarthy is laughing and thinking that the turkey will be finished by that time. I immediately knew what he was thinking. Does he remember former Deputy Alice Glenn?

Senator Dardis pointed out that the Joint Committee on European Affairs has voted to approve Turkish accession to the EU. He also spoke about the report on migrant labour and work permits. There is a good article on this issue in one of today's newspapers.

Senator Coghlan asked for a debate on the report by the Commission on Electronic Voting. The Clerk of the Seanad is a member of the commission and we have received the report. Senator Coghlan also asked about the arrangements for the debate on the Health (Amendment) (No. 2) Bill 2004. I will speak about that later.

Senator Leyden asked for a debate on missing persons and has kindly supplied me with material on this issue. Such a debate would be useful. It must be a very emotive issue for the families affected, particularly coming up to Christmas when the unoccupied chair is especially noticeable.

Senator Norris asked for a debate on the issue of work permits. He also raised the issue of arrangements for off-licences and the fact that so many such licences are now available. He also spoke about the campaign to free the so-called "Miami Five" and said that the House should ask the Minister for Foreign Affairs to send somebody to scrutinise the situation.

I admire Senator Kitt's stamina. He was in great form last night.

An Cathaoirleach: That observation is not relevant the Order of Business.

Mr. Dardis: What goes on tour should stay on tour.

Mr. Coghlan: There is no harm in putting it on the record.

Ms O'Rourke: He is a great musician.

An Cathaoirleach: We do not play music in the Seanad.

Ms O'Rourke: I take that back. Senator Kitt is always in good form.

He raised the issue of water supplies and the report of the EPA in this regard. He also spoke about Irish emigrants in the UK. There was a good article in *The Irish Times* recently by Ms Róisín Ingle which was heart-wrenching to read. She wrote about elderly Irish people who have been in the UK for decades and for whom a return to Ireland remains an impossible dream. Their perception is that people in this country no longer understand them.

Senator Ulick Burke spoke on the water supply issue and observed that the greatest problems in this regard exist in the BMW region. He asked that the Minister for the Environment, Heritage and Local Government come to the House to address this issue.

Senator Mansergh spoke about the emergency rescue services. All Members will join in his sentiments. We only think about such services when they provide vital assistance in an emergency rescue situation. In regard to the question of Turkey's accession to the EU, Senator Mansergh wonders about the attitude of France and Germany. He also spoke about our system of semi-slavery or bonded labour.

Senator Henry spoke about the water supply and the condition of septic tanks. She observed that the incidence of one-off housing has given rise to problems in this area. Septic tanks have been installed for such housing in cases where soil analysis has indicated that the soil is unsuitable. New methods of percolation are available, however, such as that involving the installation of a raft.

Senator Cox raised the issue that there is no lo-call telephone number in the Department of Education of Science. Senator Feighan spoke about metrication. The debate on this issue took place in the House during our consideration of the Road Traffic Bill 2004, as the Cathaoirleach observed. Senator Moylan asked for a debate on waste management and illegal dumping and also commented on the problems with the supply of drinking water.

Senator O'Meara asked that the Minister for Justice, Equality and Law Reform come to the House for a debate about press freedom. She also asked about the fate of unskilled workers in the context of the Minister's proposal for a green card system for skilled workers. This matter is worthy of a debate in this House, to include a consideration of all the attendant issues.

Ms White: Hear, hear.

Ms O'Rourke: Senator Browne asked when the legislation relating to the case of elderly patients who were charged for long-stay residential care will come before the House. Senator Browne observed that the number affected, at 2,026, is significant. I suggest that leaders of the other parties meet me immediately after the Order of Business to decide what time is needed for discussion of the Health (Amendment) (No. 2) Bill 2004. We need to move away from shadow-boxing and ascertain the plan for tomorrow and possibly next week.

Senator Quinn spoke about the two recent health reports and observed that few countries have stocks of the anti-viral drugs necessary in the case of an epidemic. The Senator is correct and it is an important issue. Senator McHugh

[Ms O'Rourke.]
spoke about volunteerism and administered a small pat to his own back.

Order of Business agreed to.

**Bovine Diseases (Levies) Regulations 2004:
Motion.**

Ms O'Rourke: I move:

“That Seanad Éireann approves the following regulations in draft:—

Bovines Diseases (Levies) Regulations 2004, copies of which were laid in draft before the House on 8 December 2004.”

Question put and agreed to.

Health Bill 2004: Report and Final Stages.

An Cathaoirleach: 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 O'Meara: I move amendment No. 1:

In page 12, between lines 19 and 20, to insert the following:

7.—Subject to the provisions of this Act and the resources available to the Executive, the primary function of the Executive is to take such steps as are open to it to ensure that each person in the State is facilitated in availing of an individual entitlement to such health services and personal social services as are appropriate to meet the needs of that person.”.

I welcome the Minister of State, Deputy Brian Lenihan, back to the House for the continuing saga. What we are at here is effectively a talking exercise because nothing we say can effect any change in the legislation. While it is worthwhile to have the debate in the context of the amendments put forward and to articulate our views for the record, we can have no impact in terms of amending the legislation. This is a pity. The legislation is rushed and the Minister is determined to have it on the Statute Book by 1 January, even though she has admitted that it will not be possible to implement the new structure on that date and that existing senior personnel will remain in place for a time. This is not the way to run a health service.

During debate on Committee Stage last Tuesday I quoted from an article by Fintan O'Toole in *The Irish Times* which rightly stated this was no way to start a health revolution and that the Bill represents the most radical overhaul of the governance of our health service since the foundation of the State. In that regard the legislation requires much more time for consideration than we have allowed. It also requires the Tánaiste and

her Department to be far more open to the views expressed by the Opposition. We speak on behalf of many groups of service users and providers who have had a seat at the table in the past but who now do not have the same access to the system. These groups play a vital partnership role in the monolith that is the Irish health service. In that regard we are not doing this legislation much service and we are not giving it the consideration it needs. As Senator Henry and others have said, I believe we will need to amend the legislation in the future, which should not be our purpose.

Amendment No. 1 is the same as an amendment I moved on Committee Stage. I resubmitted it as it addresses a fundamental cornerstone of the legislation and encapsulates one of the most serious shortcomings of the Bill, which is the failure to set out a mission statement outlining the direction the new health service executive should take. We probably all have a view on how the executive should run the health service, which is fine. However, there is no mechanism whereby we can make such an input. This means, for example, that we will be unable to do anything if we as legislators consider the executive is taking a point of view we believe not to be in the public interest. While the legislation makes provision for the executive to appear before the Oireachtas Joint Committee on Health and Children, no framework is specified to require it to operate in a particular way, which is the sole prerogative of the Minister. The Minister will direct the executive and it is clear that if it does not do as it is told, it will be gone. The legislation gives the Minister that power for a particular reason.

The health service executive is based on a centralised structure which runs contrary to the ethic of partnership that has underpinned the vision of successive governments in recent years and has allowed the voluntary and community sector, service users and providers, not just in the health area but in a very wide context, to play a role. We have seen how well this works for the country in the context of the National Economic and Social Forum, the partnership agreements, etc. Excluding the notion of partnership from this structure marks a departure from a policy that works and it is a pity for it to be absent. Partnership enhances the work of those framework organisations and has helped ensure things get done well. Its absence is more than a pity and will mean the health service executive will lack something that would enhance its work.

The remarks of the Minister of State on Tuesday on other Committee Stage amendments have made it clear that the kind of board we can expect to see will be very much along the lines of the interim board. It will have a very strong management and, as others have said, banking element. It is not clear whether representative organisations will have a presence; it is totally at the whim of the Minister. It will be interesting to see how it turns out, although as the Minister of State has said, we have a fair idea already.

I hope the Minister of State will not come back to me with the same sterile argument about entitlement and eligibility. My amendment is clear and would set out in the legislation the kind of vision the health service executive should have. We have framed the amendment in a broad and flexible way because we are not in the business of tying the hands of the executive. We want to ensure the individual entitlement to such health services and personal social services as are appropriate to meet individual needs would be enshrined in the legislation, which we consider very important. While we do not suggest the executive will not achieve this, we have no guarantee it will happen in the absence of it being specified in the legislation. In the same way, we have no guarantee that other considerations, such as value for money, will not take priority. While value for money is very important we believe the individual entitlement to health services and personal social services to meet individual needs are of paramount importance.

For more than ten years we have had a debate about rights-based legislation for the disability sector. The debate on how legislation should enshrine a rights-based approach started when Mervyn Taylor was Minister for Equality and Law Reform. Without such legislation, it will not happen. We know that unless we enshrine a rights-based approach in legislation all the pious waffle in the world and the aspirations of Ministers will get us nowhere. The system as established is not rights-based. Although in some contexts it has developed a partnership approach with service users and providers it could easily slip back into the old way of doing things, which is one of my biggest concerns.

Without this kind of mission statement and having this entitlement stated in the legislation, whole sectors, which have struggled for years and have finally begun to be treated as partners, would find that their entitlement to be treated as partners simply does not exist. Without it being specified in the legislation, they cannot ensure it will happen. As I said on Committee Stage, the health service executive will regard them in a semi-commercial sense as being service providers and not being partners in a broader sense in terms of their input and ideas for initiatives, etc. We know the resistance that exists in the system to having a rights-based approach. However, without it we are banging our heads against a brick wall. It would be a move backwards.

Dr. Henry: I second the amendment. Like Senator O'Meara I am alarmed at the way the Bill is being rushed through the House. Ultimately, it will be of no help to the Government. If mistakes are found after a Bill is taken properly with every section considered, we can all be blamed for not spotting mistakes. In this case less than a quarter of the Bill has been considered.

I am very disappointed with many parts of the Bill that we have been unable to address because of the lack of time. Representatives of the medi-

cal profession have made representations to me regarding, for example, the lack of clarity over the functions of the medical officer of health. The Bill does not take cognisance of the fact that this will not be a 24-hours-a-day job, which is very basic.

Considerable concern has been expressed over the complaints system regarding matters that are not solely for the exercise of clinical judgment. It is felt that it would be better to exclude anything that involved clinical judgment from the general complaints system. The systems proposed in the Bill could conflict with the way the Medical Council deals with complaints against the profession. They could also conflict with the advice given by Comhairle in its recently published guide regarding where to complain. It suggests complaints regarding mental health should be made to the mental health commission and complaints about health services should be made to the health boards, which of course, will be transferred to the health service executive. So many of the matters about which people are told to complain will be covered under the Health Bill that it causes me to wonder if they were given any consideration.

The complaints procedure will give rise to a great deal of confusion. It has been suggested that the fact that carers will be able to complain may cause problems. Carers may change or they may not be looking after someone for a long period and may make a complaint. Cohabitees may also make complaints. I have no difficulty with this but how will it tie in with the fact that cohabitees cannot be considered as next of kin by hospitals? Dreadful confusion could arise. This is a common and serious problem. We could have dealt with the confusion that might arise if we had given the Bill proper consideration.

I understand the basis on which the amendment was put forward because eligibility criteria can be changed at any time. For example, the eligibility criteria for medical cards were changed recently. That is fine, except that no one knows how many additional people this change will involve. When eligibility was extended to those over 70 years of age it was estimated that this would affect between 30,000 to 35,000 people. As it turned out, almost 70,000 people were affected.

We are increasing the number of people eligible for medical cards, for visits to their doctors only, in the Bill but we do not know how many this will involve. We do not know, therefore, if adequate primary care facilities will be available for these individuals. They will not have a right to treatment so I presume they will have to join the queue and wait. That is entirely unsatisfactory.

That we did not consider the Bill properly to ensure that we knew what we were talking about in terms of each section and schedule will come back to haunt us. I have great pleasure in seconding the amendment.

Minister of State at the Department of Health and Children (Mr. B. Lenihan): I thank Senators O'Meara and Browne for tabling a number of amendments which will enable Seanad Éireann to perform a role in the critical evaluation of this legislation. I appreciate that they did not resort to the common device of resubmitting their entire selection of Committee Stage amendments. We will, therefore, at least be able to examine, perhaps in a somewhat cursory way, the fundamental features of the Bill in detail.

As regards the amendment, I wish to reiterate what I said on Committee Stage regarding eligibility. It is important that Senators should be under no illusions about the fact that we have a rights-based approach in the administration of our health service. Statutory rights have been codified and developed in health legislation over the decades. That legislation confers on patients rights in respect of the general medical service and also with regard to hospital treatment. It is not the case that we do not have a rights-based approach in respect of our health service. We may argue as to the detail and whether a sufficient number of rights exist. In light of the fact that we have a service which encompasses so much provision in financial terms and also in basic terms in respect of the care and treatment of individuals, it is clear that the delineation with precision of rights is important. The latter is covered in the health legislation.

Article 36 of the health strategy recommends that legislation should be introduced to simplify and clarify the eligibility system within the health service. In accordance with this, the Department is reviewing the legislation to update and rationalise the framework for entitlement to health and personal and social services. The type of amendment the Senator is seeking to introduce here would be far more appropriate in terms of amending the legislation to which I refer. That is all I have to say about the merits of the amendment.

As regards the more general issues Senator O'Meara raised, the consultation process on the reform programme has been under way for 18 months. Time does not stand still. The Houses have a responsibility to take action in an area in respect of which there has been a focused public debate. Participation in that debate has been extensive throughout the sector. This is as it should be, particularly in light of the large number of employees in that sector. The Government has taken the view that we must expedite the process.

The Senator referred to the subject of a mission statement. Mission statements are matters for corporate plans, they are not really matters for legislation. This Bill is practical in nature and if it has a mission statement, it is that it seeks to ensure a more efficient and rational management of our health and personal social services. That is a matter which commands substantial public support.

Senator Henry also raised a number of matters and there is one matter on which I wish to provide her with some reassurance. The Senator expressed concern about the position of medical officers on the enactment of the legislation. I draw her attention to Schedule 5.4(3) which makes express provision for the continuation of authority to perform functions of medical officers. It states:

Any function under the Health Acts 1947 to 1953 of a medical officer of health may be performed on and after the establishment day by an appropriately qualified medical practitioner who is an employee of the Executive and is designated in writing by it to perform such function.

Continuity of the work done by medical officers is, therefore, expressly provided for in the legislation.

The Senator is correct that the complaints procedure is new. However, it builds on existing practices and is separate from the professional regulation for which the Medical Council is responsible and which is catered for under the legislation relating to medical practitioners. The complaints procedures included in the Bill are entirely distinct from that statutory procedure with which I am sure — I do not mean this in any derogatory sense — the Senator is familiar. What is being established in the Bill is a codification of practices developed over time by the health boards in respect of the handling of complaints. In my view it is a positive development that we are providing that right, on a statutory basis, to individuals who might be dissatisfied with some element of the——

Dr. Henry: It seems to be a doubling up of complaints against doctors.

Mr. B. Lenihan: When we come to deal with the relevant part of the Bill we may have time to consider the matter in further detail. All professional persons are aware that they can be subject to complaints at any time. However, it is for the protection of doctors and individuals making complaints that what is dealt with as a matter of practice at present will be placed on a proper statutory footing. This complaints mechanism is entirely distinct from the issue of professional regulation by the Medical Council. Issues of clinical judgment are expressly excluded under the complaints procedure.

Dr. Henry: On a point of clarification, I am familiar with Schedule 5.4 but the provision therein is not very clear. The Bill states that complaints, if they solely relate to clinical judgment, will be excluded. However, there is a feeling abroad that matters relating in any way to the exercise of clinical judgment should be excluded.

Ms O'Meara: We have probably exhausted the debate on this matter and we know where we stand in respect of it. The Minister of State indi-

cated that issuing a mission statement will be the responsibility of the board. He will be aware, however, that if something is not set down in legislation, there is no guarantee it will happen. He stated that people's rights have been codified in existing health legislation. However, this has not prevented situations arising where individuals have not been able to access the services they require. As a result, groups such as the Disability Federation of Ireland have been obliged to develop a major lobby in order to ensure that the concerns of those they represent are heard.

A great deal of lip service is paid to the work done by the community and voluntary sector. In that context, the Minister of State referred to the Government's position as outlined in the health strategy, etc. In a submission I received, which I am sure the Minister of State has seen, entitled Critique of, and Proposed Amendments to the Health Bill (2004), a joint position paper by The Wheel, the organisation of the voluntary and community sector, and the Disability Federation of Ireland, it is noted that the Government recognised in the White Paper Supporting Voluntary Activity published in 2000 that the community and voluntary sector is an essential and enhancing partner in economic and social development. This legislation, however, does not recognise that partnership. It will be difficult, therefore, for the sector to become involved. The executive would have to be proactive in the area and if it is not in the legislation, why would it bother? The Minister said the executive will be management-driven rather than representational.

We have not reached the point where an individual has an entitlement to the service he or she

needs, although we have come far and €11 billion is being spent on the health service. A major problem, however, is the continuing struggle people face to get what they need, particularly families who have a member with a disability. They face an ongoing struggle to secure the services and the assistance they need for a child with a disability, be it physical or intellectual. It cannot be said, therefore, that individual entitlement, as it is set down now, is the same as getting it and I am seriously concerned about this. This should be a cornerstone of the legislation but is missing.

Mr. B. Lenihan: Senator O'Meara dwelled primarily on the mission statement. The mission statement is clear if we look at the Long Title of the Bill — it is to rationalise the management of the legislation. We may err in thinking this Bill is doing more than it can. Fundamentally, we are establishing a single authority known as the health service executive to manage health and personal social services. That is the core issue. Of course, the provision of health and personal social services in Ireland can be the subject of many different views and perspectives but the core issue in this legislation is the establishment of that single authority and the dissolution of a number of bodies which hitherto have managed our health services and their replacement with this single body. That is the great enterprise in the Bill. I appreciate Senators' concern about how this will work out in practice but that is the fundamental decision that has been made by the Government and the legislation seeks to implement that decision.

Amendment put.

The Seanad divided: Tá, 17; Níl, 31.

Tá

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

Hayes, Brian.
Henry, Mary.
McHugh, Joe.
Norris, David.
O'Meara, Kathleen.
O'Toole, Joe.
Quinn, Feargal.
Ryan, Brendan.

Níl

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

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

Tellers: Tá, Senators Henry and O'Meara; Níl, Senators Minihan and Moylan.

Amendment declared lost.

Mr. Browne: I move amendment No. 2:

In page 22, between lines 14 and 15, to insert the following:

“22.—(1) Whenever required by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, the chief executive officer of the Executive shall give evidence to that Committee on—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the director general is required by this Act to prepare,

(b) the economy and efficiency of the Executive in the use of its resources,

(c) the systems, procedures and practices employed by the Executive for evaluating the effectiveness of its operations, and

(d) any matter affecting the Executive referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act, 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in paragraph (a), (b) or (c)) that is laid before Dáil Éireann.

(2) When performing duties under this section, the chief executive officer referred to in subsection (1) shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.”.

How many times can I speak on Report Stage?

An Leas-Chathaoirleach: The Senator can speak when proposing his amendment and he can reply at a later stage.

Mr. Browne: I thought I was allowed to speak just once. The amendment seeks to clarify further the function and role of a person appearing before the Joint Committee on Health and Children. The Bill, as it stands, is quite vague in this regard. The amendment, which clearly states the matters that can be examined by the committee, has been proposed in the interests of full accountability, which should be one of the cornerstones of the Bill. That is one of the difficulties we have. The amendment seeks to ensure that proper questions can be asked and proper answers will be received when representatives of the health service executive attend a meeting of the joint committee. The people in question should be aware of the matters on which they can be ques-

tioned and the committee should know what matters it can cover.

Ms O'Meara: I second the amendment. As Senator Browne said, this matter is one of the cornerstones of the legislation. While the amendment's list of issues which will be allowed to be discussed is not full and comprehensive, many important issues, such as accountability, are mentioned therein. The amendment clarifies that the executive will be accountable to the committee and mentions the structures that will be put in place to ensure it is accountable. The Tánaiste spoke about the role of the Joint Committee on Health and Children on Second Stage last week in the Seanad. As Senator Browne said, the legislation is quite vague in this regard, which is not good enough. The issue of accountability is of such importance that it should be dealt with in the Bill more specifically. When one examines previous attempts to ensure accountability over the past ten or 15 years — I refer to tribunals, etc. — one would think we should bend over backwards to get it right.

We should ensure that the legislation is framed in a way that does not place a question mark over the ability of any committee to make a body of this nature accountable. When one considers the size of the health service executive's budget and the level of control it will have over the health service, one understands the importance of accountability. Like Senator Henry, I will not be surprised if we have to revisit this matter because it is one of the fundamental weaknesses of the legislation. That we are not considering the legislation as fully as we should represents, in itself, a major failure in our legislative process. Will the Minister of State consider accepting this amendment, which concerns one of the cornerstones of the legislation?

Dr. Henry: I support the amendment. The executive will have a staggering budget of €11 billion. Although Senators know there are many developments taking place in the health sector, they constantly ask where the money is going. When I looked at the details we received to date on the mental health services, for example, I could not fully work out where the money allocated to that sector was going. It seems that some of it will be allocated to the national hospitals office and more to the primary, community and continuing care section. There seem to be very few references in the legislation to the person who will be in charge of all the moneys. Some is to be spent here and more is to be spent there. The more accountability we have, the better, because management in some systems is very fragmented. In the mental health services, in which I have been involved for years, nobody seems to be identifying who will be in charge of the various parts of the system.

Mr. B. Lenihan: Under this section, accountability relates to accountability to the Committee

of Public Accounts, established for the purpose of examining public accounts. Section 20 states: "The chief executive officer is the accounting officer in relation to the appropriation accounts of the Executive for the purposes of the Comptroller and Auditor General Acts 1866 to 1998." The decision of the Government to so provide is the most fundamental feature of the Bill. Senator Henry rightly pointed to the expenditure on the health and social services, which represents a very substantial portion of the gross domestic product of the State.

The chief executive officer will attend meetings of the Committee of Public Accounts and hold himself or herself responsible for expenditure in this entire area. That represents a very fundamental change in this legislation. The Accounting Officer, rather than the Secretary General of the Department, will be the chief executive officer of the executive. This imposes discipline on the chief executive, which discipline is codified and set out in the Comptroller and Auditor General Acts 1866 to 1998. The Oireachtas, in enacting section 20, will include the chief executive officer into that well-established framework.

While I understand the motivation of Senator Browne, who moved this amendment, and of the other Senators who spoke thereon, my advice from the Attorney General is that it is not legally necessary. Once we include in section 20 the basic provision that the chief executive officer is the Accounting Officer, this will invoke the relevant sections of the Comptroller and Auditor General Acts. The advice we received from the Attorney General is that by designating the chief executive officer as an Accounting Officer, he or she will be obliged to attend a meeting of the Committee of Public Accounts. Given that the discipline of an Accounting Officer is so well established in our administrative practice and that the legal responsibilities are spelt out with great clarity, it is unnecessary and would be confusing to insert a further section in the Bill spelling out his or her duties. The functions of the Accounting Officer of the executive are no different from those of any other Accounting Officer in the public service, therefore, I am not prepared to accept the amendment even though I understand the spirit in which it was moved. I assure Senator Browne that his proposal is accounted for in the other Acts to which I referred.

Amendment put and declared lost.

Mr. Browne: I move amendment No. 3:

In page 23, between lines 37 and 38, to insert the following:

"(3) On or before 31 January each year, the Executive shall lay before each House of the Oireachtas details of the advisers engaged or consulted during the preceding year along with details of the amount payable to such advisers."

This amendment arises from a recent announcement by the Minister for Health and Children that her predecessor spent €30 million on 120 reports. This figure is set to rise as the full figures are not yet available. A considerable amount of taxpayers' money was wasted under the previous Minister, as is evident from the fact that many of the reports he commissioned were never seen again after their being issued. It is even the case that reports were produced on reports, which would be comical if it were not so serious.

My amendment seeks that, "On or before 31 January each year, the executive shall lay before each House of the Oireachtas details of the advisers engaged or consulted during the preceding year along with details of the amount payable to such advisers." This is justifiable because the money payable is public money. We recently heard that an adviser to a different Department was being paid €1,200 per day, which is even more than the Taoiseach earns. One cannot blame the public for being uneasy and concerned about this. It is regrettable that the former Minister for Health and Children did not release information on the amounts payable to advisers — it took the new Minister to do so. This amendment is to prevent this from happening in the future.

Ms O'Meara: I second the amendment. The appointment of advisers and money spent on writing or publicising reports are issues that have exercised the media. This in itself is not a sufficient reason for us to get too worked up about them but we should note that the public is naturally concerned about them because the money being spent is taxpayers' money. I have no difficulty with Ministers commissioning reports — this is an important function — but they sometimes do so to excess. Reports are fine as initial components of specific action plans, which in turn result in decisions being made. One would expect that a Minister would consider a matter by way of commissioning a report before drawing up an action plan.

The former Minister seems to have been a past master at producing reports and setting up sub-committees to produce them. While the public is in favour of consultation and notes that it is very important to avail of existing and newly emerging expertise, it must be asked how much is being spent on this process. Amendment No. 3 is useful in this regard. It may be possible to obtain the required information through parliamentary questions and freedom of information requests but, considering the size of the executive's budget and the restrictions on freedom of information imposed by legislation, it is all the more important to accept the amendment.

Dr. Henry: The amendment is very important. It would be advisable to provide that the Minister must state why advisers are engaged. Frequently, one considers the advice given by external advisers and wonders whether an official in the

[Dr. Henry.]
Department could not have done the job just as well.

Mr. B. Lenihan: As I understand it, Opposition Senators are critical that too many reports were commissioned by the former Minister. It is not so much that he is being found culpable of the engagement of advisers but that he is being found culpable of commissioning reports.

Senator Henry referred to the famous sum of €11 billion, which is to be the expenditure of the Department of Health and Children next year. When that amount of money is being invested it is natural and proper that there should be evaluation, reporting and outside assessment covering different programmes and issues. That constitutes much of the expenditure under the previous Minister in commissioning reports.

Ms O'Meara: That is a different issue.

Mr. B. Lenihan: Senators are not suggesting that there was any impropriety in his engagement of advisers or that those engaged to do this work were other than persons with specific competences in different fields.

Mr. Browne: How many reports have been acted upon?

Mr. B. Lenihan: This legislation is the result of the Prospectus report which the Minister commissioned. The Department of Health and Children is in a province of its own given the very large amount of expenditure under its control. It is incumbent on the Minister of the day to engage outside research and analysis when he or she is administering programmes of that level of expenditure.

The Minister is politically accountable for the executive and she has indicated her intention to attend meetings of the Oireachtas Joint Committee on Health and Children once a session. Members can question her at these meetings. As the Minister and I have pointed out, the executive will have to make the necessary arrangements to answer the queries of Deputies and Senators under section 79. This information could also be provided in the annual report of the executive. All this information, as Senator O'Meara fairly conceded, can be elicited.

The issue is whether a legal requirement should be imposed on the executive to lay the necessary materials before the Houses of the Oireachtas. That would lead to a cumbersome and bureaucratic system where the executive cannot carry out its functions without first informing the Minister about every detail and obliging the Minister to inform the House. That is the effect of this amendment, therefore, I am not disposed to accept it.

Amendment put and declared lost.

Mr. Browne: I move amendment No. 4

In page 25, between lines 8 and 9, to insert the following:

“(c) the disclosure is made in the interests of public health.”.

This is an interesting amendment because it deals with a person not contravening section 26(1) by disclosing confidential information in the interests of the public. This would happen only in rare or exceptional circumstances but a person should not be afraid to say something if it is for the common good. That is why we regard it as important to insert this provision in the Bill.

Ms O'Meara: I second this important amendment and thank Senator Browne for moving it. It addresses a serious part of this legislation dealing with the unauthorised disclosure of confidential information. While one can understand and appreciate that the board should be able to discuss its business in a confidential manner and conduct it knowing that it does so with the cloak of confidentiality, there is the issue of the disclosure of information in the context of public health.

This raises the wider issue of whistleblowing, which has been raised several times but which this Administration has never satisfactorily approached. I do not expect that it will do so. When one looks at the size of the job given to the board and the range of issues it would be obliged to handle, the question of the unauthorised disclosure of confidential information is very important. I am also concerned about the broad nature of the meaning of the term “confidential information”. Section 26(3)(a) defines it as, “information that is expressed by the Executive to be confidential either as regards particular information or as regards information of a particular class or description,” and section 26(3)(b) adds, “proposals of a commercial nature or tenders submitted to the Executive by any person.” That is fine because it is well covered by the Freedom of Information Act.

However, the definition of the term “confidential information” seems to be so broad as to mean anything. Once the executive marks a document confidential nobody will ever see it. That is not good for accountability or for the underpinning of the whole notion of transparency and accountability for which we have provided in much legislation and which only yesterday we considered in the context of the Garda Síochána Bill. I am concerned about the broad definition of the term “confidential information” in this section and I have a major concern that it will happen that information that needs to be in the public domain will never be there as a result. In this regard the amendment is useful and important.

Dr. Henry: If an employee of the executive is a member of the medical profession and is not in a position to disclose confidential information if it is to the benefit of patient care he or she is in a very serious position regarding medical ethics. I am pleased that Senator Feeney, who is a dis-

tinguished former member of the Medical Council, is present. The Minister of State will recall that the clinical autonomy of consultants is recognised within the common contract and that the Medical Council's guide to ethical conduct and behaviour in the sixth edition, 2004, recognises in paragraph 4.12 that, "Doctors have an obligation to point out deficiencies to the appropriate authorities and should not yield to pressures for cost savings if it means acting against the interests of patients." The guide also states in paragraph 1.3 that, "Medical care must not be used as a tool of the State, to be granted or withheld or altered in character under political pressure. Doctors require independence from such pressures in order to carry out their duties." Doctors would be duty bound to disclose any deficiencies or problems that existed even if they had come across them in their capacity as employees of the executive. This has been mentioned to me as a very serious problem. I hope that Senator Browne's modest amendment could be accepted.

Mr. B. Lenihan: A balance must be struck in this area. I agree that this is not an easy subject. The provision in the Bill is the same as the provision which applies to other State organisations when they are established. There is nothing unusual in the provision. It is standard and applies to the boards of semi-State organisations. Given that the object of the executive is to promote and protect the health and welfare of the public, the executive, in defining what constitutes confidential information, has an obligation to ensure that the operation of the section does not conflict with the health and welfare of the public.

Ms O'Meara: It does not say that.

Mr. B. Lenihan: That is clear from the legislation. The fundamental objective of the elusive mission statement that Senator O'Meara sought is to promote and protect the health and welfare of the public. That is a fundamental requirement for the executive. There is a balance to be achieved here because the executive must have the capacity to protect confidential information. That is only confidential if the executive so classifies it and it can only do so within the overall framework established by the legislation. It would correctly be a matter for the executive to decide when it was and was not in the public interest to disclose information. To dilute the section in the way that Senator Browne suggests would erode the capacity of the executive to discharge its functions. The executive is surely entitled to the same protection on confidential information as any other State organisation.

Senator Henry raised the consultants' contract. That governs the consultants' relationship with their employers. The advocacy role of the consultant as described in the contract on behalf of patients is exercised in the first instance in the context of discussions with the employer on

resources and activity levels. That is an internal process within the health service executive. The section does not preclude representative organisations and health professionals as members of those organisations from raising relevant patient care issues in public. Nor does it raise any objection or obstacle on that.

The provisions of section 26 apply only to information which is expressed by the executive to be confidential. The executive will operate in an open and transparent manner, and the provisions of the freedom of information legislation will continue to apply to it. The Tánaiste has noted the concerns expressed about the possible operation of this section and she intends, given those concerns, to discuss the operation of section 26 with the executive to ensure it is not applied in a manner that affects doctors and other health professionals discharging their ethical obligations. The Tánaiste accepts that the section must be worked in that context.

On the one hand, we must strike a balance. The executive, like any other, given authority, must have the capacity to protect itself and make a judgment on confidential information that must be protected. Senators must realise that, on occasion, confidentiality of information is essential in the public interest and for the protection of public health. On the other hand, the Tánaiste has noted concerns expressed about this section and will raise with the executive the issue of how the ethical requirements and obligations of doctors and other health professionals might be safeguarded.

Amendment put and declared lost.

An Leas-Chathaoirleach: Amendments Nos. 5 and 8 are related and may be taken together by agreement. Is that agreed? Agreed.

Ms O'Meara: I move amendment No. 5:

In page 25, between lines 19 and 20, to insert the following:

"(4) The Freedom of Information Act 1997 shall apply to the Board with effect from the establishment day."

We have come very neatly to this section on freedom of information. The Minister of State has already referred to freedom of information in the context of the previous amendment. Amendments Nos. 5 and 8 are essentially designed to ensure that the Freedom of Information Act 1997 applies to the greatest possible extent to the workings of the board of the health service executive rather than what is contained in the legislation. We do not know when the Freedom of Information Act 1997 will be applied to the operations of the board of the health service executive. It is not stated anywhere, and perhaps the Minister might clarify that matter.

Regarding amendment No. 8, I draw the attention of the House to section 30, which appears in the first 10 lines of page 28; the amendment is to

[Ms O'Meara.]

delete lines 1 to 10. Essentially, the section creates such an exemption from the Freedom of Information Act 1997 applying to a substantial body of work of the board that it simply goes too far. It creates a situation whereby the Freedom of Information Act 1997 will not apply to records containing the corporate plan, an amendment to the plan not approved by the Minister, a preliminary or other draft of all or part of the contents of a corporate plan, and an amendment to one or any unamended version approved after being amended in accordance with the direction of the Minister.

Under those ten lines, that entire area will not be covered by the Freedom of Information Act 1997. The specified period is five years, beginning on the date of the creation of the record. We have seen how the Freedom of Information Act 1997 has been emasculated. To a large extent we should not be surprised to see that kind of provision in the legislation, since the Government is absolutely determined that "freedom of information" should mean nothing in the context of the workings of public bodies such as this. No one will be able to get at one of the cornerstones of information regarding the board, namely, the corporate plan.

I do not support the wide dissemination or availability of early versions of corporate plans so that they might be read in *The Sunday Tribune* or appear in any other media outlet. That serves no one. However, what damage would it do to have a public discussion about early drafts of such a plan? What would be so wrong with that? I remember the debate on the original Freedom of Information Act 1997 because I worked with the then Minister of State, Eithne Fitzgerald, at the time on protecting the process of consultation and preparing plans. In that case legislation and Cabinet memoranda were specifically protected, even under the original legislation.

However, here one is talking about the corporate plan of the health service executive, a body with a budget of €11 billion. What would be the harm of early versions being available for discussion? What would be so bad about that? What would be wrong with having public debate on the plan? There would be nothing wrong with that. In many cases, people would not be particularly interested. Why is it necessary to shroud it in secrecy? That creates exclusivity around the board's work rather than openness and transparency. It undermines the concepts of openness and transparency which do not seem to be part of the ethic of the Department regarding the work of the board. It will certainly not be part of the ethic of the board itself.

Dr. Henry: I second the amendment.

It is a good idea that the Minister accepts these amendments, since it is always better to rely on the facts rather than rumours, which are always far worse. I accept the reasoning behind Senator O'Meara's amendment. It is not necessary to go

through all the stages of each plan, but generally it is preferable to have people discussing the facts rather than rumours.

Mr. Browne: Everyone in the House knows that if this measure goes ahead, we will still see reports in the newspapers. Unfortunately, they will be based on leaks that we will not be able to verify. This Government knows a great deal about leaks — perhaps more than some others. It is common sense to make drafts subject to the Freedom of Information Act 1997 so that they are public knowledge. Otherwise, one will see the information in the newspaper, and no one will be able to comment on it, since we will not know whether it is true. To save everyone time and effort, and to save the Minister having his spin doctors put a different spin on leaks, it might be in everyone's interest for him to accept this amendment.

Mr. B. Lenihan: I will deal with the two amendments in turn. The first seeks to apply the Freedom of Information Act 1997 to the board with effect from the establishment date. On the advice of the Attorney General, the amendment should not be accepted, since it applies to the board rather than to the executive and would create substantial legal difficulties. However, I am glad that the amendment has been tabled, since it gives me the opportunity to clarify the position regarding the Act.

Section 65(4) provides that all records of the bodies dissolved under this legislation should be transferred to the executive. Paragraph (10) of Schedule 5 provides that the Freedom of Information Act 1997 applies to records held by the executive that were created by any of the bodies incorporated into the executive before its establishment. The amendment to the Freedom of Information Act 1997 is in Part 7 of Schedule 7 to this Bill. It ensures that the Act will apply to the executive unequivocally.

Ms O'Meara: From day one?

Mr. B. Lenihan: The Senator has anticipated me. The Minister's intention is to commence those provisions from the date of establishment.

Regarding the other amendment, which is perhaps more interesting, I must disappoint Senators by confessing that I do not share their unbridled enthusiasm for the Freedom of Information Act 1997. In my view, the preparation and analysis of written material is very important to good decision making. If we insist on extending freedom of information legislation to the preparatory discussions of decision-making bodies, we will damage their decision-making capacity. The rumour, reporting and spin that Senators so deplore will become more important in decision making. If one cannot have candid written analysis of decisions beforehand and if every note is written with a view to future publication, inevitably things will be said rather than written down.

That is not a good way of arriving at decisions, which is why we have inserted section 30, which is modelled on section 5(3) of the Public Service Management Act 1997. It is designed to protect the deliberative process under which a corporate plan will be drafted to enable the executive to fully explore all the issues involved. This is a necessary protection because it allows the executive to fully explore all the issues and weigh up the different priorities in terms of health service delivery before it finalises its corporate plan. I agree with Senators that the corporate plan is a fundamental document relating to a large sum of money. The executive should be allowed to have a protected internal discussion on and written record of those issues. Were we to accept the amendment, those preparing the various memoranda for the executive would be aware of the fact that their arguments would be subject to public scrutiny, analysis and debate soon after their publication. As night follows day, that would inevitably colour the candour and openness with which opinions were expressed in such memoranda.

I am a great admirer of the freedom of information legislation and do not want to be taken as part of a nefarious conspiracy by the Government to undermine it because I am not. It is useful information and in general our Administration has suffered down the years from an obsessive culture of secrecy. In regard to making decisions, we have to give the public service space to formulate its arguments in a candid way and put them before the persons responsible for making decisions. That is why I am not accepting the amendment.

Ms O'Meara: I thank the Minister of State for his response to amendments Nos. 5 and 8. I will withdraw amendment No. 5 based on his clarification of that issue. However, the Minister of State's response to amendment No. 8 is hilarious. I accept it is his personal view that what is proposed would damage the process and that every written document cannot be floating in the public domain. However, the Minister of State might take this issue up with some of his Government colleagues because some Ministers are past masters at releasing early drafts of proposals. We know that happens. All we need do is read the *Irish Independent* on a Monday morning to note that Ministers float proposals. There is one rule for the board but there will be another one for the Minister.

If what the Minister of State said is his personal view, I accept that, but it is not my view. I do not take the view that it would damage the process in any way to publicly discuss early drafts of proposals. How could it? How could it colour decision making? Is the Minister not capable of making a decision based on the merits of an argument put by the public service? What would be wrong with having a view from another body on the draft of a corporate plan, the views of members of the public in that regard or letters in the letters page of newspapers responding to it?

How in heaven's name would that damage the process?

I have a very high opinion of public servants and civil servants. I have worked in a Department and have seen decision making at senior level. I have never seen anybody being influenced by a headline in a newspaper. We can reply on our Civil Service and public service in that regard. However, by inserting what is almost a gagging subsection in this section — we talked about other paragraphs on Tuesday evening which will also have a gagging effect on the CEO — we create a culture of secrecy of which the Minister of State said he is not in favour. We have had an overweening culture of secrecy here. We are not over it yet, in fact, we seem to be desperate to cling to it.

I do not accept for one second that a situation whereby one could have access to early drafts of a corporate plan will make a difference. However, the Minister of State will be aware that by creating a shroud of secrecy around this issue, journalists will wonder — I know this from having been a journalist — why the Government wants to keep it secret, what was in the early draft and if there is any way they can get their hands on it. If the draft is in the public domain, it will not be of any consequence. That is how many journalists would think. If they have access to such a draft, it is of no great consequence. However, if they do not, that is when they want to get access to it.

Failure to make such information available leaves matters open to manipulation. If one learns about part of such a draft and does not get the full context, to which Senator Henry referred, that can be damaging because one can give the impression that a decision was made on a particular basis when it was not. Then the board does not have the option of putting such information into the public domain. The board does not have the option of saying that is not what its members were thinking, if somebody leaks information into the public domain in a twisted, misinterpreted or misunderstood way. These things happen, but there is no way back. There is nothing to be gained from that subsection and leaving it in the legislation could potentially cause damage.

Acting Chairman (Mr. J. Walsh): Is the amendment being pressed?

Ms O'Meara: I will not press amendment No. 5 but I will press amendment No. 8.

Amendment, by leave, withdrawn.

Acting Chairman: Amendment No. 6 is consequential on amendment No. 7 and they may be taken together by agreement.

Mr. Browne: I move amendment No. 6:

In page 27, line 40, to delete "and".

Amendment, by leave, withdrawn.

Mr. Browne: I move amendment No. 7:

In page 27, between lines 40 and 41, to insert the following:

“(b) in a form which details the activities which are occurring and any proposed changes which are likely to arise in each local agency and each local hospital, and ”.

This amendment relates to progress reports on the implementation of the approved corporate plan. We want to include another subsection which will cover any proposed changes likely to arise in each local agency and local hospital. This is where such a plan would have a real impact on local areas. It is vital such a provision be included and a progress report issued on those areas so that we would know exactly what is happening on the local scene.

Ms O'Meara: I second the amendment.

Mr. B. Lenihan: Under section 37 the annual report will set out how the corporate plan is being

implemented and how the service will be implemented. The form of the report will be determined by the Minister. The level of detail proposed is not necessary in this section. The Minister is given power under the legislation to prescribe what information should be inserted in the annual report. Clearly, the corporate plan will contain the key objectives of the executive for a three year period and the reports on its implementation will be based around the progress on achieving those objectives. The information proposed to be included in this amendment would not therefore be relevant. The level of information required by this proposal is far too detailed for a progress report. It is a matter best left with the executive and the Minister.

Amendment put and declared lost.

Ms O'Meara: I move amendment No. 8:

In page 28, to delete lines 1 to 10.

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

The Seanad divided: Tá, 29; Níl, 17.

Tá

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

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

Níl

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

Hayes, Brian.
Henry, Mary.
McHugh, Joe.
Norris, David.
O'Meara, Kathleen.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Henry and O'Meara.

Question declared carried.

Amendment declared lost.

Mr. Browne: I move amendment No. 9:

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

“(c) contain an accurate assessment of the assets held by the Executive, details of the number of employees, and shall be laid

before each House of the Oireachtas within 90 days of its establishment.”.

This amendment deals with the preparation of a service plan which will be submitted to the Minister. It concerns the number of employees in the health service executive, which has proven to be a matter of grave concern in the past. We have seen a significant increase in the number of staff employed in the health services. However, the rate of increase of administrative staff as against that of consultants, doctors and nurses, is varied.

Rightly or wrongly, the perception is that there are too many bureaucratic systems in place which are resulting in a poor service. It may be a simplistic perception but the public would prefer to see more medical than administrative staff. I am sure that many administrative staff are doing a fantastic job and I have heard that there are administrative shortages in some areas. However, I have also heard from people within the health service who say there is overstaffing in the administrative area. The key is not only to have staff in place but also to appoint and deploy them properly. Ultimately, it is all about providing a service to the public.

In recent years, the Government has failed to ensure a proper staffing system within the health service. That is why we are in the current mess. Almost 100,000 people are working in the health service and I acknowledge the positive role they play but the Government also has a role in allocating the necessary staff numbers. We can all recount stories about shortages of occupational therapists or speech and language therapists, while other appointments may have been surplus to requirements. That is what this amendment is about. It would provide a clearer idea of the numbers of employees and assets, which we do not currently have.

The previous Minister for Health and Children was asked about the number of employees in the health service and he could not provide an answer, which was incredible. I presume they were all being paid. There was some problem with giving a specific answer to that question.

Mr. P. Burke: I second the amendment. As I am conscious of the lack of time, I will not go over the ground covered by Senator Browne. I am worried about Part 5 of the Bill. According to section 22(3), the Public Service Management (Recruitment and Appointments) Act 2004 does not apply to staff recruited in the first three months following the establishment of the health service executive. Therefore, the chief executive, who is a Government appointee, can appoint any number of staff and anyone he or she likes in the first three months.

Ms O'Meara: This amendment concerns one of the deficiencies caused by the fact that we are rushing this legislation through the House. It is happening without the establishment of the health information and quality authority. So much information remains unknown and so much data is lacking, particularly for the board of the health service executive with regard to drawing up the corporate plan and planning for the future, which is the big job we have given it to do. As I said on Second Stage, it is a case of putting the cart before the horse. This amendment goes a small but important way towards meeting some of the information deficiencies. I ask the Minister of State to accept it.

Mr. B. Lenihan: I am glad to say that section 31 deals with this issue. The service plan must be prepared in the formal manner as directed by the Minister. It must contain estimates of the number of employees of the executive for the period and the services to which the plan relates. Therefore, this information about employees will be provided in the service plan, which is the appropriate place for it. Those plans are laid before the Houses of the Oireachtas.

The amendment seeks to go further in establishing an obligation on the executive to furnish this information to the Houses of the Oireachtas within 90 days of its establishment. However, the general requirement in section 31 meets the broad thrust of what Senator Browne's amendment requires.

Senator Paddy Burke raised the issue of the three-month period, which is a transitional matter. For the first three months of next year the executive will be free to recruit, as the Senator stated. We would not have non-consultant hospital doctors or nurses recruited at all if we did not have the proviso that for the first three months of next year, the Public Service Management (Recruitment and Appointments) Act 2004 will not apply to the executive. That is a purely finite arrangement, however. As and from March 2005, the Act to which the Senator referred will apply to the health service executive. It would not be possible to recruit nurses and non-consultant hospital doctors in the first three months of next year under that legislation.

Mr. P. Burke: It will be open to abuse.

Acting Chairman (Mr. J. Walsh): The Minister of State, without interruption.

Mr. B. Lenihan: I can assure Senators that it is not the intention to do that.

Mr. P. Burke: Of course not.

Mr. B. Lenihan: I have just given Senators the reason for this transitional measure.

The matter of numbers in the health service was canvassed more widely by Senator Browne, although I do not think he was referring to an utterance of mine. It may have been that of another Minister.

Mr. Browne: I think it was two years ago.

Mr. B. Lenihan: There is a record number of people working in the health services, which reflects the fact that a record level of activity is taking place. For example, the number of day procedures in hospitals is at an all-time high. As we draw the debate on this Bill to a conclusion, it is worth placing on the record of the House the fact that the country's health services do a fabulous job. There are some very good and highly-motivated people in the health sector. Substantial

[Mr. B. Lenihan.]

public resources have been invested in the health service and, although there will always be problems because it is a difficult area, the legislation has provided a good framework for the future.

Amendment put and declared lost.

Acting Chairman: Amendments Nos. 10 and 11 are related and may be discussed together by agreement.

Mr. Browne: I move amendment No. 10:

In page 30, line 41, after “Finance” to insert “, such figure having been laid before each House of the Oireachtas”.

This amendment relates to obtaining the Minister’s permission for major capital expenditure. It also concerns overspending when a capital project may exceed its original budget. The amendment seeks not alone to lay that decision before the Houses of the Oireachtas but also to specify the actual sum of money involved because that is not included under the terms of the legislation.

Mr. P. Burke: I second the amendment.

Mr. B. Lenihan: The amendment seeks to have laid before the Houses of the Oireachtas the figure above which capital projects must specifically be sanctioned by the Minister. It is more practicable and appropriate that this information should be included in the annual report and the

financial statements of the executive. I do not regard this as something that should be a confidential matter. I see no difficulty with the Department or the executive providing information on the figure specified by the Minister whenever requested to do so.

Amendment No. 11 seeks to have laid before the Houses of the Oireachtas details of each capital project where the spending on it exceeds the level above which capital projects must specifically be sanctioned by the Minister. Such information is more appropriate to be included in the annual report and the financial statements of the executive. If the executive did breach the figure set by the Minister, it would then become a matter for the Comptroller and Auditor General to highlight in his report on the income and expenditure accounts and the appropriation accounts, to the Committee of Public Accounts which would deal with the matter.

Acting Chairman: Is the amendment being pressed?

Mr. Browne: Yes.

Acting Chairman: As it is 1 p.m., I am required to put the following question: “That amendment No. 10 is hereby negated, that the Bill is hereby received for final consideration, and that the Bill is hereby passed.”

Question put.

The Seanad divided: Tá, 29; Níl, 18.

Tá

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

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

Níl

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

Hayes, Brian.
Henry, Mary.
McCarthy, Michael.
McHugh, Joe.
Norris, David.
O’Meara, Kathleen.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Cummins and O’Meara.

Question declared carried.

Health Bill 2004: Motion for Earlier Signature.

Ms O'Rourke: I move:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Health Bill 2004, on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her.

Ms O'Meara: I wish to say a few words on the Bill and thank the Minister of State and his officials, as is traditional. Is that in order?

An Cathaoirleach: Senator O'Meara is in order.

Ms O'Meara: I thank the Minister of State for his sterling work on the Bill. The extensive time we wished to devote to its discussion has not been allocated. However, I commend the Minister of State on his commitment to the legislation. The more issues one raises with the Bill, the more evident is its scope. It creates a radical new departure and a new framework for the management of the health service and represents fundamental and sweeping reform.

In principle, none of us has a difficulty with that. However, we have rehearsed our concerns about some of the Bill's provisions. I emphasise one issue about which I am especially concerned. The Bill presents a recipe for major strife between the Minister and the board of the HSE.

An Cathaoirleach: Senator O'Meara is moving into an area not appropriate for discussion.

Ms O'Meara: The Minister has the power of direction and the board will have to legislate. I wonder how this will work out in practice.

Dr. Henry: I congratulate the Minister of State and his officials on the manner in which they have brought the Bill through the House. I wish there had been more time to debate all aspects of the legislation. However, all Members wish for its successful implementation. It is incredibly important that the significant amount of money devoted to the health service should be spent properly for the benefit of patients. We are all patients of the health service at some time. The Bill is also extremely important for all those employed in the health service. I wish it well.

Mr. Glynn: I thank the Minister of State for the great knowledge he has displayed of his brief in his work on this Bill. It was a pleasure for Senator Phelan and I, as Government spokespersons, to hear the Minister of State reply to the points made by Members on all sides of the House. I thank him and his officials.

Mr. Browne: I thank the Minister of State, his officials and all those involved in the preparation of the Bill. We have had difficulty with some aspects of it but, as Senator O'Meara observed, the principle of the Bill is quite sound. I thank the Leader for allowing a good deal of time to debate the legislation,—

Ms O'Rourke: It was not enough, however.

Mr. Browne: —especially in comparison to the other House. Perhaps if some Member of that House were as capable as the Leader, more time would have been allocated there.

An Cathaoirleach: Senator Browne should not discuss the other House.

Ms O'Rourke: Perhaps I should go back there.

Ms O'Meara: We do not wish for that.

Mr. Browne: Perhaps Deputy Cassidy will do a straight swap with the Leader.

Mr. B. Lenihan: I thank Members for their kind comments and their recognition that this is important and fundamental legislation. I am encouraged by the tenor of the debate in this House. The criticisms tendered from the Opposition benches were offered in a constructive spirit.

The earlier signature motion is necessary because certain preliminary matters must be put in place to ensure the Act will commence on 1 January 2005. This is a new experiment which will have significant implications, not only for the health service and my Department, but also for the Houses of the Oireachtas, which will be in a far more pivotal position in the assessment of the health service in the future. I thank Senators for their contributions and interest in this measure.

Question put and agreed to.

Sitting suspended at 1.20 p.m. and resumed at 2 p.m.

Social Welfare Bill 2004: Committee and Remaining Stages.

An Cathaoirleach: The Order Paper contains an error. No. 4 should read "Committee and Remaining Stages" instead of "Report Stage". I am sure Senators understand.

NEW SECTIONS.

Mr. McCarthy: I move amendment No. 1:

In page 3, before section 1, to insert the following new section:

"1.—The Minister shall as soon as may be after the passing of this Act prepare and lay before both Houses of the Oireachtas a report

[Mr. McCarthy.]

on the implications of abolishing the means test for carer's allowance.”.

I welcome the Minister to the House. This amendment reflects the points I made about carers on Second Stage last night. Along with many people, I firmly believe that the service provided by carers is second to none. Carers go above and beyond the call of duty. Unfortunately there are circumstances which do not allow people the opportunity to look after themselves to the fullest extent. In many cases neighbours, relatives and others are providing that care. While I accept it would be expensive to abolish the means test, we should contrast this with the ten millionaires who did not pay income tax. Potential exists to raise revenue to fund this initiative.

If what the Minister said on the television programme “The Political Party” is true, he should be willing to take a chance with this critical area. I believe his ministerial record will be judged on this issue. Eliminating the means test and allowing proper latitude in financial assistance from the State would be a powerful decision to take. Not only do carers do the State a service, they also save the State considerable expense. If these people were not looking after those who need care, it would be very difficult for the State to do so. All our community hospitals are full to capacity and have lengthy waiting lists. Thankfully not everybody needs to be hospitalised as they are receiving care from people who by their very nature are selfless. Subjecting them to a means test is unfair when we consider their work behind the scenes.

This is the third Social Welfare Bill to be taken in this Seanad. On the previous occasions when the former Minister for Social and Family Affairs, Deputy Coughlan, was here I tabled similar amendments. I will continue to do so to highlight the issue until we get a satisfactory conclusion and the means test is abolished. I hope the Minister will look positively on my amendment and I will be interested to hear his reply.

Ms Terry: I support the amendment. There is nothing like a personal story to bring home how these rules impact on people's lives. I know a widow whose husband has been dead for 12 years. She has been caring for her daughter who is in her 30s and suffers from Down's syndrome. As a result of the fact that she is in receipt of a widow's pension she does not qualify for carer's allowance, which seems unfair. Such personal implications remind us how mean the means test is. Does the Minister know how many people are excluded from the carer's allowance because of the means test? How much would it cost to abolish the means test?

Minister for Social and Family Affairs (Mr. S. Brennan): I thank the Senator for tabling this amendment, whose purpose is primarily to allow debate on the matter. It would not be normal to insert into legislation a requirement to issue a

report. I have no difficulty in adhering to the spirit of the amendment requiring me to report to the Houses on the means test for carer's allowance, which I am happy to do. While it does not require an amendment in the legislation as such, I know it has been tabled more for technical purposes.

Some 23,700 carers are in receipt of carer's allowance and carer's benefit, which represents an increase of 157% since June 1997. Total expenditure has increased by 310% from €46 million to €190 million. Substantial resources have been given to carers and I am committed to this area. This budget produced more than €40 million for carers. Recipients of carer's allowance and carer's benefit are entitled to the rate increase of €14 per week announced in the budget. I also made provision in the budget for an increase in the income disregard for the carer's allowance from €250 to €270 for a single person and from €500 to €540 for a couple. We estimate this will allow a further 1,000 carers to qualify for the carer's allowance. Some 2,400 carers will receive an increased payment.

This increase will ensure that a couple with two children with a joint income of approximately €30,700 will qualify for the maximum rate of carer's allowance. A couple with two children with a joint income of approximately €49,200 will qualify for the minimum rate.

Both Senators asked me for the cost of abolishing the means test. It would cost an estimated €160 million each year to abolish the means test and pay the maximum rate of allowance, including the respite care grant and the free schemes, to the 9,170 who are estimated to be providing full-time care and are not currently receiving the carer's allowance or carer's benefit.

Members may be aware of a recent CSO study which provides a breakdown of the number of carers by the number of hours during which they provide care. The statistics provided are interesting and if my officials can supply them, I will place them on the record of the House.

I expressed the view on Second Stage that I am committed to the cause of carers and that I have produced a strong package this year which makes eight separate improvements for carers in terms of thresholds, allowances and the capital assessment. The level of capital disregarded before the means test comes into play has been increased from approximately €12,000 to €20,000. I would argue that we have made substantial efforts in respect of carers, particularly in terms of the new respite care grant of €1,000. The latter has been extended for the first time to people who are not in receipt of carer's allowance. Those who will qualify for the €1,000 are recipients of carer's allowance and carer's benefit, those who are in receipt of other social welfare payments and, most importantly, carers who are not currently in receipt of any payment.

Senator Terry referred to the example of a particular person. As I understand it, the individual in question will qualify for the €1,000 respite

grant. I accept that this is not the same as the full carer's allowance. However, the allowance was meant for those not in receipt of other payments in order to enable them to provide care. We are considering how it might be possible to top-up the payments received by those on a widow's pension. I decided to deal with the matter this year by extending the €1,000 respite grant to people such as the individual to whom the Senator referred.

The Joint Committee on Social and Family Affairs informed me that the greatest need identified by family carers is the need for a break from caring in home respite and respite for the independent person. I took the committee at its word and decided to focus this year on the issue of respite. I have, therefore, chosen to give the respite grant to people in receipt of widow's or widower's pension and those who are not in receipt of social welfare benefits. As already stated, this will not be as good as their receiving the full carer's allowance. To extend the latter to them would prove extraordinarily expensive.

This matter needs to be studied carefully, particularly in light of the fact that almost 1 million people receive some form of weekly benefit from the Department of Social and Family Affairs. We must be careful in terms of moving towards a position where people would be permitted to claim multiple benefits. I am not stating that this cannot be done. I keep an open mind on these matters because I want to help the people we are discussing. However, we could not rush into paying multiple benefits because of the enormous implications it would have across the board. I accept that people play roles. One of the reasons for extending the respite care grant was to try to help them in this regard.

I wish to place on record a set of figures to which I referred in the Dáil. It has been variously stated that there are 150,000 or 50,000 carers in this country. The Central Statistics Office produced recent data which indicates that there are 84,000 carers providing up to two hours unpaid help per day, 15,000 carers providing care for over two hours but less than four hours per day, 8,000 are providing care for over four hours but less than six hours per day and 40,000 are providing care for over six hours per day. If one takes six hours as representing a good day's caring, the figure for carers is 40,000. There are currently over 22,000 people in receipt of allowances from the Department. The extension of the respite care grant will be paid to over 33,000 people which shows that we are almost there.

If one takes the figures for people who provide care for two or four hours per day, one will arrive at the figure of 150,000 carers which is so often quoted in the media. However, if one takes a sensible figure of six hours per day in respect of the provision of care, then there are 40,000 people who are providing care. If one includes the figure for those providing care four hours per day, it rises to 49,000. We are currently dealing

with approximately 33,000 of these people so the gap is not as wide as is sometimes stated.

I do not have a major difficulty in keeping an open mind on the means test. I am of the view that I should keep an open mind on all these matters. I am not in favour of abolishing the means test this year. If one had €160 million, one could increase rates for people across the board, focus it on existing carers and provide these people with larger allowances or increase the thresholds to include additional carers. Does the Senator not agree that this is far more sensible than extending the allowance to people who clearly do not need the money, whose incomes far exceed the means test criteria or who are in receipt of salaries similar to mine and his? If I had €160 million to spend, I would prefer to focus it on people who clearly require it. The €1,000 respite grant, which will also be paid to people who are well off, is a recognition by the State of the work of carers.

In addition to other aspects, the means test issue involves an element of philosophical debate. Some people believe that everything should be means tested because the money will go where it is needed as a result. There are others who believe in universality. Child benefit, for example, is a universal payment and every child in the country is eligible for it, regardless of whether his or her parents are millionaires, members of the boards of the major banks, etc. There are still others, of whom I am one, who believe it should be focused. I will remain in that category until such time as I have adequate funds at my disposal to allow me to change my position. At that stage, I will certainly revisit this issue.

Mr. McCarthy: I thank the Minister for his reply. Keeping an open mind on something is certainly better than saying an outright "No". Since he became Minister for Social and Family Affairs, Deputy Brennan has stated on a number of occasions that he has the largest budget of any Department. I accept that €160 million is a great deal of money. In a budgetary context, however, it is not that great, particularly in terms of the amount of money available to the Department.

The Joint Committee on Social and Family Affairs published a report — on which there was all-party consensus — which recommended the abolition of the means test. The joint committee has done a great deal of work in respect of this area and it put forward a good case for abolition. After much debate and research, an all-party consensus was reached on the matter and that is a welcome development. In my view, the latter is a necessary step on the road to taking the ultimate step and abolishing the means test.

I welcome the increase in the income disregard. The increase is not adequate, however, particularly in terms of what I am seeking to achieve in the amendment. We need to go a step further and take matters to their logical conclusion.

There are a number of Members who have deep-rooted connections with left-wing parties in

[Mr. McCarthy.]
 this country. The Minister probably falls into the category of social democrat. As his work in the Department progresses and he looks at and deals with various issues, I hope he will give strong consideration to abolishing the means test. This is an extremely worthy cause. When one witnesses what people who provide care endure, one realises that these individuals do not have access to organised industrial structures and conditions or enjoy the same protection as those in employment. They are driven by the spirit of generosity and feel they have a moral duty to provide care. Some of the cases with which one becomes familiar are extremely moving, particularly when one considers the sacrifices people make. We owe it to these individuals to achieve the objective of abolishing the means test, once and for all.

Amendment, by leave, withdrawn.

Mr. McCarthy: I move amendment No. 2:

“1.—The Minister shall as soon as may be after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the implications of extending the social welfare free schemes to widows and widowers who do not currently qualify in that regard.”.

This amendment is self-explanatory. How many widows and widowers do not currently qualify for the free schemes or, alternatively, how many of these people are on such schemes?

What is proposed in the amendment would be a progressive step because many people are just outside the threshold. When decisions are made, two weeks later it is discovered that someone has been caught out. Those affected ran an organised campaign against the savage 16 cuts and a small group of widows did a great deal of lobbying. It was done to a much greater extent than normal because there is no one in the State who is not connected to someone who has been widowed or was affected by this. The amendment takes a common sense approach to this issue.

Ms Terry: Is a widow or widower living with members of his or her family entitled to any of the free schemes?

Mr. S. Brennan: I appreciate the intent of the amendment. The household benefits package, which is made up of electricity, gas, telephone and free television licence allowances, is available to people living in the State who are over 66 years of age and who are in receipt of social welfare type-payments or who otherwise pass a means test. The package is also available to carers and people with disabilities who are under 66 years who are in receipt of certain welfare-type payments. People aged over 70 years can qualify regardless of income or household composition.

Ms Terry: Without a means test?

Mr. S. Brennan: Yes. The free travel scheme is available to people living in the State who are over 66 years irrespective of needs. Widows and widowers aged from 60 to 65 years whose late spouses were in receipt of the household benefits package or free travel retain that entitlement to ensure householders do not suffer loss of entitlement. The allowances outlive the spouse.

The schemes exist to support people with a range of disabilities and elderly people living alone. The estimated cost of extending the overall package to those widows or widowers who were in receipt of a widow's or widower's pension or one parent family payments, and who are not currently receiving the household benefit package, is approximately €35 million annually. This cost, however, only applies to the widows and widowers who are in receipt of a widow's or widower's pension from the Department. It does not take account of widows and widowers who may be in receipt of other social welfare payments. I do not have precise figures for the number of people involved but I can get them for the Senator.

Amendment, by leave, withdrawn.

Mr. McCarthy: I move amendment No. 3:

In page 3, before section 1, to insert the following new section:

“1.—The Minister shall as soon as may be after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the implications of increasing the fuel allowance and living alone allowance to take into account the increase in the cost of living since those allowances were last increased.”.

The rate of inflation and the rise in the cost of living have affected us all but they have not been reflected in some payments, particularly in the fuel and living alone allowances. Consumer reports and surveys continually tell us that the cost of living is rising at a rapid rate. We can see the difference between goods purchased in Newry and Drogheda, an indication of the high prices we pay. The increase in the cost of living most affects those on the margins because the increases in their entitlements are immediately eroded. The Minister should look at this amendment and take into consideration that while these payments might seem small in an overall context, they are very important to those receiving them. It is important that increases reflect the increase in the cost of living.

Ms Terry: Nothing is more important for the elderly than staying warm but, regrettably, we regularly go into homes that are cold. Unfortunately, many of the elderly mind their money and take care with how much heat they use. This is, therefore, an important allowance and one that the Minister should examine.

I accept that the pension has increased and the Minister feels this is a better way to provide pen-

sioners with additional money which they can spend however they want but many elderly people like things to be categorised, they like them to be in boxes. If they have a fuel allowance, they know how much they can spend. By increasing the fuel allowance, we would ensure our elderly are kept warm during the winter.

Mr. S. Brennan: My mother is 80 years old and I know exactly how she likes things to be kept in boxes. I looked at the fuel and living alone allowances. I cannot do everything in a first budget but I will keep things under review. With hundreds of millions of euro allocated to child benefit and increases in pensions and unemployment assistance rates it became a choice whether to put the extra funding into the basic rates or these allowances. The more choice we can give to the elderly, notwithstanding the point made by Senator Terry, the better it is. I shall try to devote future funding to increasing the basic rate so that additional funds will be delivered every week which the elderly can then spend as they choose. I will, however, keep the situation under review.

At present, there are 270,000 recipients of fuel allowances, of whom 118,400 receive the additional smokeless fuel allowance. That costs €84 million. There is also support for home improvements, such as installing insulation, from the Department of the Environment, Heritage and Local Government and local authorities.

Currently, 140,000 receive a living alone allowance every week, costing €55 million annually. That has not been changed for some years and we should examine if that is the right way to approach the situation. I have no plans to do anything other than leave the allowance in place and increase it if I can but I wonder about a society that pays people to live alone. It sends out a signal that if a person chooses not to live alone, he or she will lose a particularly important allowance.

In many parts of the social welfare system, one can lose important benefits if one chooses to do something that is totally natural, such as going to work, living with the father of one's child or allowing a companion to live in one's house. I do not want to put social pressure on those who receive a particular allowance to comply with rules and regulations which are not natural, sensible or reasonable. Perhaps we should examine the living alone allowance to see whether we can improve the message we are sending to elderly people, for example. Many people who have to live alone do not want to lose the allowance. In light of that debate, which has continued for a while, I decided to invest the money in the rate, so that people can deal with it themselves. Having said that, I should stress that I decided, when I was allocated this portfolio, to keep an open mind and to listen to what is said. I am determined to channel the substantial funds at my disposal to those who need them most. If that means that I have to change rules or make U-turns, so be it,

provided that we channel the funds to where they are needed.

Amendment, by leave, withdrawn.

Section 1 agreed to.

NEW SECTIONS.

Ms Terry: I move amendment No. 4:

In page 3, before section 2, to insert the following new section:

“2. The Minister shall, as soon as may be after the passing of this Act prepare and lay before both houses of the Oireachtas a report on the rate of relative income poverty in the State.”.

This amendment has been proposed to help Members of the Oireachtas to keep tabs on the problems of the poor people of this country. What is the best way of measuring the number of people who are at risk? I accept that people other than those who are unemployed can be at risk of poverty. We know that people with low-paid jobs can also be at risk. How can we measure poverty accurately? We need to focus on those who most deserve our attention. I would like to hear what the Minister has to say on this matter.

Mr. S. Brennan: I will launch the first major annual report of the Office for Social Inclusion tomorrow morning. The office, which is based in the Department of Social and Family Affairs, was established in 2002. It has overall responsibility for developing, co-ordinating and driving the national anti-poverty strategy, which is the national action plan for combating poverty and social inclusion. The office is responsible for monitoring, evaluating and reporting on the progress that is being made in meeting the objectives of the plan across the various policy areas. Although the office is led by the Department of Social and Family Affairs, which is required to ensure that everything the Government does is “poverty-proofed”, it cuts across all Departments because they are required to have a social inclusion focus. The Office for Social Inclusion will have a great deal to say about that tomorrow.

It is almost a cliché to say it, but it needs to be emphasised every time we discuss this matter that employment is the main instrument in the fight against poverty. The best tactic to use in that fight is to ensure that everybody who is able to work — I refer to those who want to work and are in a position to do so — can find paid employment. We need to focus on anti-poverty measures to assist people, and more importantly their children, who cannot get employment for various reasons, for none of which they can be blamed. A number of reports have indicated that poverty is prevalent in the households of those who are in employment but are low-paid.

The Office for Social Inclusion commissioned the recent ESRI report on relative income pov-

[Mr. S. Brennan.]
 erty, which emphasised that not all those below relative income thresholds are poor. Senator Terry is aware that the EU, which is working on fresh measurements of poverty, has described such people as being at risk of poverty. That is another measure. I urge caution when comparing different countries because the EU does not take account of other resources which people may have when it calculates income thresholds. Such resources are particularly relevant in Ireland because its level of home ownership — it is approximately 86% — is high, particularly among the elderly. Most other countries do not have anything like such a high percentage of home ownership. The EU's system of measurement does not take account of benefits in kind, such as electricity, fuel, television licences and travel allowances, which are received under various schemes which are almost unique to Ireland. I am proud that the Department of Social and Family Affairs holds the chairmanship of the EU's social protection committee. It will use that role to further its anti-poverty agenda.

The Government is committed to increasing the basic old age pension to €200 by 2007. The basic rate of social welfare will be increased to €150 per week, in 2002 terms, by 2007. Such measures are weapons that can be used in the fight against poverty.

Ms Terry: I thank the Minister for his response. I agree that the current method of measuring poverty is not as good as it should be. I would welcome any improvements in that regard. I look forward to future discussions on the issue. I do not doubt that the families of people who are employed are still poor. I do not know whether that is caused by inadequate financial management, although I suspect that it is in many cases because some people do not know how to manage their weekly incomes. They cannot spend their money appropriately to get the best value for their families when they are shopping. I am aware that training in such matters is available, but we may need more of it. I thank the Minister for his reply.

Mr. McCarthy: I support Senator Terry's amendment. Economists of differing persuasions have had a long-running debate about the various types of poverty, an issue which deserves more than a cursory glance. The arguments made by both sides are particularly intriguing. I agree with the Minister that employment is a useful weapon in the fight against poverty, but education is also critical. The back to education allowance allowed people to attain education and to join the workforce. The Exchequer benefits from the taxes paid by such people when they enter employment. Many statistics have been revealed during the long-running debate on this subject. While I agree that we need to focus on investing in employment, it is more important to invest in education. Both areas are central in the fight

against poverty. We need to be aware of the various types of poverty, such as consistent poverty and relative poverty, and the scales that are used to measure them. There are inconsistencies in some of the scales used by economists to distinguish the various levels of poverty. It is obvious that any level of poverty is unacceptable. This issue should be the focus of a number of Departments and, critically, the Minister.

Amendment, by leave, withdrawn.

Ms Terry: I move amendment No. 5:

In page 3, before section 2, to insert the following new section:

“2. The Minister shall, as soon as may be after the passing of this Act prepare and lay before both houses of the Oireachtas a report on the impact of increasing, under the Act of 2003, the period where claims for Unemployment Benefit and Disability Benefit are linked with a previous claim from 13 weeks to 26 weeks.”.

I want to hear what the Minister has to say on this amendment. What impact have the changes made to the recipients of these benefits? I do not want to delay the Minister further.

Mr. S. Brennan: Senator Terry knows that two claims are linked if a claim is considered to be a continuation of a previous claim. If a person makes an unemployment benefit or disability claim within 26 weeks of the end of a previous claim, both claims can be linked. The recipient can enjoy certain benefits when claims are linked. The claimant can retain some or all of the entitlements established during the course of the first claim. The retention of previous entitlements may result in the payment of unemployment benefit at a higher rate than would have applied to a new claim. That the recipient made an earlier claim helps him or her in that case.

It was considered appropriate to adapt the short-term social welfare schemes to take account of the changing labour market and the consequent changes in work patterns. Many people are now employed in short-term temporary employment, for example. It is difficult to assess the impact of this change. While the number of linked claims increased by almost 16,000, to 35,000, by the end of August such an increase may be due to a variety of factors, including seasonal factors. There is no convincing evidence of particular hardship at present but I have stated that I will keep this under review. The measure in question is one on which I have yet to make a final decision. Claimants who exhaust their benefits earlier than they exhausted them previously can, depending on their means, qualify for a supplementary welfare allowance or unemployment assistance. I hope this information is helpful to the Senator.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendments Nos. 6 and 7 may be discussed together.

Ms Terry: I move amendment No. 6:

In page 3, before section 2, to insert the following new section:

“2. The Minister shall, as soon as may be after the passing of this Act prepare and lay before both houses of the Oireachtas a report on the increase, under the Act of 2003, in the underlying number of paid contributions required from 39 since first entering insurance to 52 for entitlement to Disability, Unemployment and Health and Safety Benefit.”.

Amendments Nos. 6 and 7 are similar to amendment No. 5 in that they provide that the Minister will prepare a report on changes that were made regarding entitlement to disability, unemployment and health and safety benefits. Perhaps the Minister will give his assessment of these amendments.

Mr. S. Brennan: On amendment No. 6, to qualify for a social insurance payment a person must fulfil all the relevant conditions, including the social insurance contribution conditions relating to the particular benefit being claimed. These contributions rules exist to preserve a fair balance between the contributions paid and benefits received.

Certain principles are required when setting equitable contribution conditions, the first of which is that the claimant's record of contributions should be sufficient in terms of his or her initial establishment in the scheme and in terms of consistency. Another principle is that there should be a difference in the rules that apply depending on whether the candidate is claiming a short-term or long-term benefit. In the case of the latter, where a person is drawing heavily on the social insurance fund, it has been considered appropriate that the test be more stringent. At a time of very low employment and higher participation rates, it is not unreasonable to increase the minimum lifetime contribution record by 13 weeks. The measure strengthens the contributory principle in the social insurance system.

Short-term benefits such as disability benefit, unemployment benefit and health and safety benefit require the claimant to have paid a minimum number of contributions since first starting work and to demonstrate a recent attachment to the workforce by having a minimum number of contributions in a recent tax year.

We have not identified any obvious hardship but will address it if we do. In this regard, we are keeping all the measures under constant review. Claimants who now fail to qualify for a certain benefit can, depending on their means, qualify for a supplementary welfare allowance or unemployment assistance. It is also worth noting that employees can amass 52 contributions from a very limited attachment to the workforce. A contribution is awarded where earnings are as low as

€38 per week, which would be earned in just over five hours if one were earning the national minimum wage. The employee does not pay a contribution and the total contribution by the employer is €3.23 at that level of earnings. Therefore, attracting a contribution is not very onerous.

On amendment No. 7, before the Social Welfare Act 2003, unemployment benefit was payable at the full rate for a maximum of 390 days, or 15 months. Effectively, the unemployment benefit scheme provided the same cover for periods of short-term unemployment, regardless of the number of paid contributions, subject to the minimum contribution conditions. For example, the same rate and duration of payment applied where a claimant had been in the workforce for either one year or 20 years. This was not the case in respect of disability benefit, regarding which the maximum duration of payment for persons with less than 260 contributions was one year.

The measure introduced last year brought the treatment of unemployment benefit more into line with the treatment of disability benefit in this respect. It was an equalisation measure, it supported the contributory principle of the social insurance fund and acknowledged that those with a longer employment record should be afforded more favourable treatment by way of extended entitlements. The measure was estimated to affect approximately 700 recipients per week in 2004, and is estimated to affect 2,500 in both 2005 and 2006. The estimated net saving amounted to approximately €5 million in 2004 and will amount of €14.8 million in both 2005 and 2006.

Ms Terry: I thank the Minister for his response. How much is in the social insurance fund at present? The fund is obviously in a much healthier state today than it was in some years ago.

Mr. S. Brennan: I believe there is about €1.5 billion in the fund but I am open to correction. Although €1.5 billion seems like a lot, it amounts to only four months of payments. The Senator will appreciate that while the fund is solid, it has not been built up such that it will last for three or four years.

Ms Terry: Does the Minister mean it includes the payments for four months?

Mr. S. Brennan: If no more money was put into the fund, one could draw on it for four months.

Ms Terry: Is the fund healthier than it was in other years? Can it be compared to that of five or ten years ago?

Mr. S. Brennan: The good news is that it was never so healthy.

Amendment, by leave, withdrawn.

Amendment No. 7 not moved.

Ms Terry: I move amendment No. 8:

In page 3, before section 2, to insert the following new section:

“2. The Minister shall, as soon as may be after the passing of this Act, prepare and lay before both Houses of the Oireachtas a report on the impact of the discontinuation of the crèche supplement.”.

This amendment seeks information on the impact of the discontinuation of the crèche supplement last year. How many children or households did it affect? I believe it impacted on both the child and the family but I am not sure how this is measured. I thank the Minister for reinstating the supplement this year.

That certain communities have become very dependent on their community crèches, which provide a great service, demonstrates how much they are required in certain areas. We had a lengthy discussion on the cost of crèches yesterday and I will not revisit the issue. What changes will the Minister make through the reinstatement of the crèche supplement?

Mr. S. Brennan: It is hard to estimate the number of children affected by the discontinuation of the crèche supplement last year because we continued to pay the supplement to existing recipients. We stopped accepting new applications and do not know how many people would have applied had they had the opportunity. There is no way to estimate this number accurately.

I provided €2.3 million for the provision of increased crèche supports in 2005. This provision will cover the continued support in 2005 of existing recipients and new cases referred by health sector personnel and social service professionals.

When I complete my discussions with the Ministers for Health and Children and Justice, Equality and Law Reform who play an important role in this area those funds will help to support community crèches as well. My objective is to help vulnerable families continue to have access to crèche supports where, for example, a social worker or public health nurse deems it necessary.

I said in the other House, and perhaps here, this crèche supplement was intended as a short-term assistance arising from social or medical reasons to provide interaction for disadvantaged children and to allow a parent, for example, avail of counselling services. It was never intended as the start of a national crèche network.

The Department of Justice, Equality and Law Reform has a leading role in child care and the Department of Health and Children also has an important role in this area as do health boards. It was intended as a short-term income support for people who needed crèche backup and I have restored it on that basis, focusing on the original intention. Anybody who needs crèche support for particular reasons will have access to it under this provision. The funds we put back in 2005 are ahead of the 2004 figure so additional funding has

gone into the scheme. It is refocused on where it was intended to be.

If the country wants a national network of crèches as another social service it must be part of joined-up government. It would require a series of decisions. It is inextricably linked with the question of child care for which the Department of Justice, Equality and Law Reform has substantial funds and takes a lead role. I will work with that Department and the Department of Health and Children on a child care policy. Senator Cox spoke very well yesterday on the need for a child care policy that the country can afford and that it deserves. Part of that discussion will include the issue of crèches. My Department is determined to help anybody who requires crèche backup to avail of appointments and so on. We are progressing in that area.

At the end of 2003 a total of 1,738 crèche supplements were being paid and that grew by 150% in less than three years. One can imagine how that would grow if it took off as a national scheme under this Department. We have put extra funds into the scheme and opened it up but we have also refocused it on its original intention.

Ms Terry: I will not press the amendment but I wish to comment on the Minister's response for which I thank him. I am surprised that he does not know how many children were excluded because of the cutbacks last year. People must take certain avenues to apply for this allowance so I am surprised the Minister does not have any figures or know the impact of this cutback.

While the Minister accepts that child care is the responsibility of three different Ministers, that is unacceptable and is very unwieldy. Maybe he could bring this up with his colleagues. It would be better if one Minister had responsibility for children and child care. This is a major issue and is frequently raised in this House. It is difficult to deal with when it straddles three Departments.

Mr. S. Brennan: It straddles four Departments if one includes the Department of Finance.

Ms Terry: That is even worse.

Mr. S. Brennan: There are possible taxation supports which come within the remit of the Department of Education and Science too so it could involve five Departments.

Ms Terry: That is very unsatisfactory.

An Cathaoirleach: I am sure the Minister will note the Senator's points.

Ms Terry: Does the Minister have any idea how many applications were excluded because of the cutbacks last year?

Mr. S. Brennan: Is this on amendment No. 8?

Ms Terry: Yes.

Mr. S. Brennan: No. I am informed that the service continued in any case, funded by the Department of Health and Children. Those crèches received funding from the Department through the health boards and the Department of Justice, Equality and Law Reform. We paid 1,738 people by the end of 2003 but we do not have a figure for those who might have applied to us had the rule not been changed. We have no way of measuring that figure. The Senator could probably estimate how many might have applied had the rule not been changed. We do not have a way of getting that figure.

Amendment, by leave, withdrawn.

Ms Terry: I move amendment No. 9:

In page 3, before section 2, to insert the following new section:

“2. The Minister shall, as soon as may be, after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the impact of the discontinuation of the entitlement to half rate child dependent allowance in respect of Unemployment Benefit and Disability Benefit where the claimants spouse/partner has gross weekly income in excess of €300.”.

I would like to hear the Minister's response to this amendment which refers to the impact of this cutback, how many people it affected and how much money was saved last year as a result.

Mr. S. Brennan: Child dependant allowance is an additional payment made to social welfare recipients in respect of each qualified child dependant. From January, full child dependant allowance is payable where a person's spouse or partner's gross weekly income does not exceed €220. From January the half-rate allowance will be payable where incomes in excess of that figure do not exceed €350. In the context of the 2005 budget I have decided to raise the threshold on spouse's or partner's earnings to €350 per week.

I have gone some way towards addressing the concerns about this measure, which was changed last year, by increasing the earnings threshold. That will help because persons may retain entitlement to half-rate child dependant allowance with family incomes of almost €26,000 when earnings and social welfare personal rates of €148 are combined. Where there is a non-earning or lower earning spouse or partner, on €350 per week or less, full or half-rate child dependant allowance as appropriate continues to be paid and approximately 4,600 families will benefit from this measure. I also estimate that most claimants affected by the threshold will be those with partners in full-time employment with earnings considerably in excess of the €350 threshold.

While I have not changed this completely by increasing the threshold fairly substantially, given the other demands on our resources, I have gone

some way towards addressing the situation. I can keep these figures under review in the future.

Ms Terry: I welcome the fact that the Minister has made improvements. He did not go as far as people would have liked and this allowance deals with the most vulnerable people in our society. I ask the Minister to keep this under review and improve it for next year because it is an area that needs our attention and on which we should focus.

Amendment, by leave, withdrawn.

Ms Terry: I move amendment No. 10:

In page 3, before section 2, to insert the following new section:

“2. The Minister shall, as soon as may be after the passing of this Act, prepare and lay before both Houses of the Oireachtas a report on pro-rata contributory pensions for those with less than 10 years contributions.”.

I am asking for a report on *pro rata* contributory pensions for those with fewer than ten years contributions. I would like to hear what the Minister has to say about people who do not have ten years contributions and are disappointed when they reach pensionable age. Could this be improved or has the Minister any knowledge he could impart to us on how we can deal with this issue?

Mr. S. Brennan: The qualifying conditions for pensions require that a person should have paid a minimum number of contributions at an appropriate rate and that he or she should enter insurance ten years before pension age and achieve a yearly average of between ten and 48 contributions over his or her working life. A yearly average of 48 contributions is required for a full-rate pension. Reduced pensions are payable for those with yearly averages of between ten and 47 contributions. In the case of retirement, a yearly average of 24 contributions is required for a minimum pension.

Provision is also made for the payment of *pro rata* pensions in cases where people have a mix of contributions from different classes on their record or insurance from other EU states or countries with which Ireland has a bilateral agreement. The conditions are designed to ensure that those qualifying have, as I said in my previous reply, demonstrated a fairly strong attachment to our social insurance system and that the payment they receive reflects their overall contribution. It is a contributory scheme, after all. A range of *pro rata* and special pensions is available to cater for cases where people have the insurance at different rates.

As the Senator will be aware, special pensions have been introduced to deal with perceived anomalies in the case of pre-1953 insurance and certain self-employed people. The pre-1953 and special self-employed pensions represent fairly

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good value for the level of contributions made when compared with the insurance records and payments received by other contributors. The range of standard, *pro rata* and special pensions is in most cases there to deal with mixed or reduced records. I am satisfied that the range of standard, *pro rata* and special pensions now available affords a considerable degree of recognition for the level of contributions individuals have paid into the social insurance fund.

Having said that, further developments in qualifying conditions will be considered in the light of the phase 2 report on qualifying conditions due in the new year. Among other things, that report will examine the possibility of replacing the system of averages with one based on total contributions paid or credited. Under the heading of that report, the system is evolving.

Ms Terry: I thank the Minister for his response.

Amendment, by leave, withdrawn.

NEW SECTION.

Ms Terry: I move amendment No. 11:

In page 3, before section 2, to insert the following new section:

“2. The Minister shall, as soon as may be after the passing of this Act, prepare and lay before both Houses of the Oireachtas a report on the impact of the discontinuation of the diet supplement.”.

When will the new scheme come into effect? In the meantime, while obviously continuing with those on the existing scheme, will we be unable to accept any new applicants? How long will it be until the Minister receives the report he has commissioned and, in the meantime, will people be excluded?

Mr. S. Brennan: I provided an additional allocation in the 2005 budget of €2 million to enable us to press ahead with the new diet supplement. I have received the report to which the Senator referred. It is with the Department, and we have been considering it; we will continue to study it. We are pressing ahead with the diet supplement issue. The best assessment I can give the Senator of the timescale is that it will happen early in the new year. Diet supplements are subject to a means test, and the amount payable varies according to the several categories of diet prescribed by the applicant's medical adviser and the individual's income. The basis of calculation dates to 1996.

The report to which the Senator referred is from the Irish Nutrition and Dietetic Institute, which is doing some very good work seeking to establish what constitutes a standard, healthy, nutritional diet and how the cost of such a diet relates to the current rate of social welfare payments. The study examined the special diets cur-

rently prescribed in legislation that attract assistance in the form of a diet supplement and the appropriate level of assistance required to allow individuals to cater for any additional cost involved in providing for a special diet. It is intended to introduce the improvements to the diet supplement scheme at the earliest opportunity. It will certainly happen as early as possible in the new year.

Ms Terry: Did the Minister ask the group writing the report to examine cost? I am wondering if it will be a little like the fuel allowance. By accepting the increases in the old age pension, the Minister left it up to the individual to decide whether to spend his or her old age pension on fuel needs. Will there be changes? I gather from what the Minister has said that he may be considering different ways of doing things, examining people's diet and how they should fund it. I suspect this will be a little like the fuel allowance and that the Minister will keep the supplement down in the light of increases in the rate of the basic pension. If that is how the Minister is thinking, I disapprove. I spoke earlier of how important the fuel allowance is to the elderly to ensure they keep themselves warm. In the same way, the diet supplement is also very important to those who need it. The risk is that the elderly will not go out and buy the essential foods they are now getting by way of the diet supplement.

Mr. S. Brennan: When the Department initiated additional inquiries regarding the diet supplement, it commissioned the Irish Nutrition and Dietetic Institute to examine several factors, including the average cost of a proper, nutritionally balanced, healthy diet and how it corresponded to the current measure of cost relating to social welfare.

Diet supplements are paid to 12,700 people. It is worth reminding ourselves of what they are. They are paid to people who have been prescribed a specific diet and cannot afford the additional associated costs. That targeted supplement can be up to approximately €18 a week, depending on the person's income and the type of diet he or she has been prescribed. The formula dates back to 1996, from which time the basis for calculating the rate of the diet supplement has remained unchanged.

In commissioning the report, the Department wished to put in place a fresh formula that would take account of what a modern diet might be. Diets have changed considerably, even since 1996, and the range and requirements of specific diets have also changed in that time. It is therefore wise to use a professional institute to seek to recast that formula to see what now constitutes a modern diet in prescribed cases and link that with the affordability of the social welfare system.

I accept the Senator's point. Although, as I said, I keep an open mind on such matters, my current thinking is to continue to build a really good scheme for those with specific dietary needs

under a modern formula. That is legitimate. The time may come when we get our basic rates to such an attractive level that we will not need to continue many of these schemes. That is the subject of a broader debate in which I will be happy to engage as time goes on.

Amendment, by leave withdrawn.

Section 2 agreed to.

NEW SECTIONS.

An Leas-Chathaoirleach: Amendments, Nos. 12 and 14 to 16, inclusive, are related to amendment No. 11 and they may be discussed together by agreement.

Ms Terry: I move amendment No. 12:

In page 3, before section 3, to insert the following new section:

“3. The Minister shall, as soon as may be, after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the impact of increasing the minimum contribution all recipients of Supplementary Welfare Allowance Rent/Mortgage Supplement are required to make towards their accommodation by €1 per week to €13 per week.”.

Will the Minister outline the impact that last year's cuts had and how many people were affected by them?

Mr. S. Brennan: This amendment relates to the rent supplement debate, which has been protracted. I reviewed this scheme and made some changes to it. I only made those changes having met many groups, having listened to what was said in the Dáil and in the Seanad and having studied the matter in the Department with officials. I put a number of new arrangements in place. I have abolished the six months rule that applied for entitlement to rent supplement. It has been replaced by new measures to ensure that bona fide tenants who experience a change of circumstances are not disadvantaged but are eligible for rent supplement. The new criteria will be introduced in January 2005 after we have a chance to consult interested parties.

Applicants for rent supplement will be required to show that they could afford the rent when they took on the tenancy, that they had a reasonable expectation that they would be able to afford the rent into the future and that they have experienced a substantial change in their circumstances such as illness or loss of employment. Rent supplement will remain in payment in the case of a number of offers made from a local authority unless a third, as distinct from a second, offer has been refused. I have increased the number of offers in that respect from two to three. I also decided not to raise the minimum contribution for rent supplement this year, which would normally be expected.

There are specific provisions to ensure that the interests of vulnerable groups, for example, women who have crisis pregnancies, the homeless, the elderly and people with disabilities will continue to avail of rent supplement irrespective of whether they are on the housing waiting list. They are eligible to the rent supplement in their own right.

The new rental accommodation scheme operated by the local authorities provides for the long-term housing needs of those in receipt of rent supplement for 18 months or more. Rent supplement was not meant to be a permanent solution to housing needs. It is a short-term income support to get one through a period when because of illness or unemployment one can no longer afford accommodation.

The annual cost of the scheme this year is approximately €350 million. An economist said to me recently that if one took the amount we pay in rent supplement and paid a mortgage on it, we could probably raise €6 or €7 billion. We would build many houses for that amount. Getting from where we are to that point is not as easy as it sounds. The State is the largest single player in the private rented property market through this scheme. This scheme accounts for 40% of all the private rented property here. As a result of that, there are implications for rental prices and so on.

I am conscious that ultimately, housing, whether social, affordable or private, is the medium and long-term answer to the need in this area. At best, my Department can deal with the short-term situation by providing rent supplements but in the long-term it is better if we provide houses. Conscious of that, I transferred €90 million in funding from the rent supplement scheme to the local authorities as an initial measure to enable them to start to put long-term housing solutions in place to meet the needs of people who otherwise would rely on rent supplement on a long-term basis. That is a fairly radical step and it will help to put the focus where it is needed to bring about a solution.

I have come to one conclusion from examining many such issues in recent months. It is not enough for me as Minister for Social and Family Affairs or my Department to simply take the view that we are there to administer schemes and to pay out the money. We have to examine the need behind the payment of the money to see if we can solve the problem in respect of which we are making payments. It is easy to get a problem to go away if one deals with it by paying money. Probably in most walks of life, one can buy one's way out of a problem. In many ways that is what we are doing with schemes such as this. We are buying our way out of problems and we can go home fairly satisfied that as long as we keep churning out the money the pressure will not build up. However, we must look at the issues behind the problem and solve it for the long term. Those comments come to mind in talking about the rental supplement scheme because fundamentally it is not a scheme on which in years to come

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a society like ours should rely. We should have houses for people who need them and not consign them to rental accommodation indefinitely into the future.

The changes we have made are for the better because people who need rent supplement will get it. It does not matter the number of months one is renting, but it does matter that one is able to demonstrate that one is bona fide in need of housing accommodation. I took the view that the six months rule should be removed because whether one is renting for two, three or fourth months, the issue is whether one is genuine and in need of such accommodation.

We wanted to stop abuse of the scheme that was taking place whereby the children of middle class families decided to move out of home because they fancied a nice pad in the Financial Services Centre or somewhere else and then began to claim rent supplement. There was no way they could have afforded the accommodation when they acquired it, therefore, they should not have done so and now they have fallen back on the State for support. That is from where that six months rule originated. I understand the thinking behind the policy to try to tackle the abuse in that way. I do not have any criticism of that but I choose to tackle it a different and better way, that is, by focusing on the individual and on whether he or she is genuine, should be in the apartment, could have afforded it in the first place and is in need of housing. The overall expenditure in terms of rent supplement next year will be €372 million. We are paying out rental payments of that order when perhaps we should be considering buying houses.

Ms Terry: I thank the Minister for his reply. I greatly welcome that he abolished the six month rule that applied to eligibility for rent supplement. I can understand the thinking behind it, but perhaps it did not extend to the people on whom it would impact. As public representatives, we have all met, heard and received letters from people who deal with the homeless in particular. Homeless people have suffered as a result of that rule. There was no way many people were in a position to rent in the private sector. If they were able to rent in that sector for six months in the first place, one would expect that they should have been able to continue paying rent after the six month period. Therefore, it was an impossible rule to implement or it seemed impossible for people to work out how they would get rent supplement at the end of the six months period.

I agree with the Minister that the only way out of this problem is to provide housing. Expenditure under this scheme is a dreadful way to spend money, although it is essential at present. We need only think of all the other things we could do with that money, if it was not being paid out to private landlords. While we need private landlords at present in this context, if they were not there we would be in a worse situation as the

Government would be forced to act. Only last week we saw the list of the number of houses local authorities had built for people on their housing lists. That was a shameful list. Many local authorities had not built the required numbers of houses, which is not good enough. While this is not the Minister's brief, it impacts greatly on his Department. If local authorities are not spending their resources and building the required number of houses, this impacts on the Department of Social and Family Affairs and means that money is being spent on rent supplement when it could be spent on other ways of tackling poverty. It requires a Government decision to force the local authorities to increase the number of houses they build each year. Perhaps 48,000 households are now on the housing list. It seems an impossible job to tackle this but we must quickly do so. I thank the Minister for his response.

Amendment, by leave, withdrawn.

Ms Terry: I move amendment No. 13:

In page 3, before section 3, to insert the following new section:

“3. The Minister shall, as soon as may be, after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the impact of excluding Supplementary Welfare Allowance to a couple if one is in full-time employment.”.

I ask the Minister to report on the impact of this cutback last year.

Mr. S. Brennan: The amendment refers largely to rent supplement. Subject to certain conditions, the supplementary welfare allowance scheme provides for the payment of a weekly or monthly supplement in respect of rent to eligible persons whose means are insufficient. I have dealt with this question. With the exception of those participating in improved employment schemes, those engaged in full-time remunerative employment are excluded. Basically, if one has a job, one does not get rent supplement.

It was always the intention of the rent supplement that it would not be paid to households where one of a couple was in full-time, open market employment. However, a practice seemed to emerge in recent years where a spouse of a person in full-time employment applied for assistance on behalf of the household. In other words, the person in a relationship who was not working was, in effect, sent to claim the allowance, which was obviously not the intention of the scheme.

In August 2004 a working group reported to the Department in regard to the impact of the changes arising from this scheme. The working group met with a number of community welfare officers and came up with some interesting figures. The group considered 498 randomly selected rent and mortgage interest supplement applications which were refused since the measures came into effect in January 2004. It found that

11% of the refusals were due to the new measures, of which 1% were found to be in respect of the exclusion of the spouse. Therefore, the exclusion of the spouse, which was due to the new regulation, accounted for 1.2% of the refusals. That restriction has applied since the inception of the rent supplement in 1977.

The intention was that the supplement would be paid to one person of the couple. If both were unemployed they were entitled to apply but if one or other was in full-time employment, it was never the intention that the other person in the same household would get the rent allowance. Some 39,000 rent supplements have been awarded since January 2004, which is a significant number, whereas the change affected just 1.2% of refusals.

I will keep the matter under constant review. As I stated many times, if I am convinced there is hardship in any of these areas I will move swiftly to make amendments, as is my duty. For the present, I am satisfied that not paying this allowance in the case of the employment of one member of a couple was always the intention.

Amendment, by leave, withdrawn.

Amendments Nos. 14 to 16, inclusive, not moved.

Ms Terry: I move amendment No. 17:

In page 3, before section 3, to insert the following new section:

“3. The Minister shall, as soon as may be, after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the impact of the discontinuation of the supplement given to recipients of Supplementary Welfare Allowance who have been supported by MABS in brokering a deal with creditors.”.

I ask the Minister to respond to the amendment.

Mr. Brennan: The Senator's amendment refers to the Money Advice and Budgeting Service, MABS. MABS was established in 1992 with just five local projects. It now comprises 52 companies, employing 229 members of staff, and the service is now “almost nationwide”, as a great phrase goes. The latest information available from the 52 companies of MABS shows that 12,000 people were availing of the service, which shows it is popular.

MABS does not provide direct financial assistance to its customers as this is not its business. Instead, it provides advice on practical budgets and how to manage budgets. It helps people to move permanently from dependence on moneylenders, which was the original idea behind the service, and to access alternative sources of low-cost credit. It is a hands-on service which offers more than just advice. Its staff make phone calls and arrangements, and reach settlements with banks, financial institutions, moneylenders and so

on. It is an excellent service which has my 100% support, as well as that of Senators.

The service was allocated €13.62 million for next year. I want to put this figure firmly on the record as there was confusion in the other House that, somehow, it was getting just €700,000 for that period. The budget for next year is €13.62 million, a substantial increase of €2.22 million on the 2004 allocation. For 2005 I specifically decided to award an additional €700,000, which was the amount saved last year due to the curtailment of the supplement.

My predecessor acted from the best motives in seeking to curtail the spending of this €700,000 last year because the evidence was clear that this amount was going virtually directly from the Department into financial institutions, which were literally grabbing the funding because of the way the Department made it available. Its non-availability did not affect the 12,000 clients of MABS; it affected the institutions which no longer received it. Therefore, I decided to restore this funding of €700,000, but in a different way. In other words, I am making €700,000 available to the companies of MABS for them to help to develop more innovative ways of tackling indebtedness. I have great confidence that MABS will focus this special funding to help its clients. The service knows how to help its clients better than I do and I know it will spend the money wisely.

MABS provides a good service which has wide support in the Houses of the Oireachtas. It has a solid budget and has helped many thousands of people to extract themselves from debt and make a fresh start.

Ms Terry: I thank the Minister for his reply. I congratulate MABS for the work it has undertaken. It provides a wonderful service. While 12,000 is a lot of people to help, there are many more who could possibly avail of the service. In recent days it has been brought to my attention that there is a noticeable increase in the number of loan sharks or money lenders operating in some areas of the city. Whether that is due to the time of year, I do not know but it is a matter of major concern. I only have anecdotal evidence but the Minister might keep an eye on the situation to see if there is anything he can do about it. I have no doubt that MABS will spend the additional funding wisely but perhaps a media or leaflet campaign could be undertaken to ensure that people are aware of the service and will avail of it. In that way, people could seek advice rather than getting themselves into debt with money lenders. People may be desperate for money at Christmas time, which is a particularly difficult period. They may be driven into the hands of moneylenders. We must do all we can to encourage people to avoid moneylenders because they will only end up paying them a fortune and getting themselves into greater debt.

Mr. S. Brennan: Of the 12,000 people I mentioned, some two thirds are women. Obviously

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the matter affects women disproportionately, which is a cause for concern.

Mr. Wilson: I welcome the allocation of €13.6 million to the MABS service. We are all aware of people in a financial vicious circle who have availed of the service. There was no light at the end of the tunnel for them until they consulted the local MABS office. This money is being well spent. The Minister said that this year's allocation related to 52 centres nationwide. Funding has now been allocated for an expansion of the service, which is a welcome move.

Amendment, by leave, withdrawn.

Section 3 agreed to.

NEW SECTIONS.

Ms Terry: I move amendment No. 18:

In page 3, before section 4, to insert the following new section:

“4. The Minister shall, as soon as may be, after the passing of this Act prepare and lay before both houses of the Oireachtas a report on the operation of the Family Income Supplement.”.

This amendment seeks to elicit information on how well the family income supplement is working. While the FIS is of great benefit to many families, I wonder how many are in receipt of this payment. Is the Minister aware that some families should be in receipt of it but, for one reason or another, are not aware of their entitlements? What steps is the Department taking to ensure that people know their rights in this regard? It is difficult to inform people of all their rights because there are so many different schemes and allowances. It is even difficult for families themselves to know what they are entitled to but we are talking here about the most vulnerable people. The FIS would be of benefit to them so I would like to know how many are currently in receipt of the supplement and how much it costs.

Mr. S. Brennan: As of 3 December 2004, the number of families in receipt of the family income supplement was 14,611. They received an average weekly payment of €72.19. The scheme dates back to 1984 when it was established to assist low-income families. The measure is designed to help people move from unemployment into work, as well as supporting employees on low earnings who have families. The FIS ensures the option of employment is the most attractive one. The FIS is very much a welfare to work measure on which I am continually determined to focus.

Weekly FIS payments are made to families with at least one qualifying child aged under 18, or 18 to 22 in full-time education. The family income supplement is also available to couples and one-parent families. It is payable at a rate of

60% of the difference between the weekly income and the income limit for the family size. Once entitlement has been established and the claimant continues in employment, payment is made for 52 weeks. Where entitlement is established, the minimum weekly family income supplement payment is €20, which was increased from €13 in January 2004.

From January 2005, the income threshold will be increased by €39 at each point. This is one of the substantial changes made in the budget and will cost €15.53 million next year. The income threshold increase will add approximately €23.40 to almost all weekly family income supplement payments. I estimate the increased thresholds will enable 2,600 more families to become eligible for FIS as a result of the budget.

The Senator specifically asked me about drawing people's attention to their entitlements in this regard. The Department does undertake a number of proactive measures to ensure that people are aware of their entitlements. The measures include advising all newly-awarded one-parent family payment recipients. In addition, all employers are advised annually in PRSI mail shots. The Department examines entitlements in all awarded back to work allowance cases, so the recipients can be informed. Information on the FIS is also contained in all child benefit books and on the Department's website. Next year, I will take a special interest in strongly promoting the services of the Department so that nobody will be in any doubt about their entitlements. These are people's legal entitlements, not hand outs, so they should be able to receive all of them in a dignified manner.

Amendment, by leave, withdrawn.

Ms Terry: I move amendment No. 19:

In page 4, before section 4, to insert the following new section:

“4. The Minister shall, as soon as may be, after the passing of this Act prepare and lay before both houses of the Oireachtas a report on the impact of the of the increasing of the Back to Education Allowance qualifying period from 6 months to 15 months.”.

This amendment relates to the qualifying period for the back to education allowance. I welcomed what the Minister had to say about this yesterday, when he indicated he was willing to change the qualifying period back to nine months. While that would be welcome, I would like to see it reverting to six months. If someone lost his or her job in March or April, and the period remained at nine months, it would mean the person could not take up a college place in October of the same year. He or she would have to wait until October the following year to do so. If such people remain unemployed, they will lose out on another year. Does the Minister think people might purposely try to lose their jobs in order to be able to go

college and receive this allowance? I do not know if people would do that.

Was this scheme abused when the qualifying period was set at six months? Perhaps that is why the previous Minister increased it to 15 months. If there was no abuse we should keep it at six months so that somebody who is six months unemployed will have the opportunity to achieve a third level place and improve their education, something we should encourage. Getting out of poverty is difficult enough for people. We should do anything we can to improve their lot, and the best way is through education and on to employment. We should not put obstacles in their way. The proposed qualifying period is an obstacle. I ask the Minister to seriously consider bringing it back to six months.

While I welcome the indication that it may be reduced to nine months, somebody who loses their job in, say, March, will not be able to take up a place in college until September or October the following year. That is a long time and does them no service. What was the thinking behind the previous Minister's decision to increase the qualifying period to 15 months? Was the scheme abused? If not, can we revert to six months?

Ms Cox: I note Senator Terry has asked this question. The Minister will know from our connections in Galway that the business in which I have been involved for many years is in the area of recruitment of people for jobs. I am personally aware of a number of people who abused the system and gave up jobs in order to go on the live register for a period of six months and benefit from this scheme in the following September or October.

While I accept Senator Terry's point regarding genuine hardship cases where people are genuinely unemployed and need education — we are agreed that education is the path towards employment and out of poverty — the benefits of this scheme need to be directed at people who are using and not abusing the system. The system was exploited and abused. If the qualifying period is reduced to six months there must be rigorous checking, and people must be aware that there will be rigorous checking, to ensure that anybody who voluntarily gives up a job and signs on the live register in order to benefit from rent and other allowances does not get away with it. It is not fair. As the Minister said yesterday, it takes money away from the system that could be spent on people who need it. My experience has been that this scheme was abused, and not by the poorest people and those most in need but by people who were not in need and wanted the benefit of the type of apartment in the IFSC that the Minister referred to and to go to colleges they wanted to go to. I therefore urge caution on this issue.

Mr. S. Brennan: I reiterate that I have reduced the qualifying period from 15 months to 12 months. The reason is that it was originally intended to be an assault on long-term unemploy-

ment. Long-term unemployment is generally defined as 12 months. With unemployment at 4.4% and a long-term unemployment rate of less than 1%, it is very tightly focused. I thought 12 months made sense given where the scheme was originally intended to be focused.

I have said in this and in the other House that I would be interested in reducing it not to six months at this point but to nine months, I need to examine what funding would be required. I am told it would cost approximately €1.4 million, excluding a cost of education allowance. With that included the cost would rise to approximately €5 million over a three-year period. That is something I need to consider. I expressed the hope that I could reduce it to nine months, which would be a considerable improvement on 15 months.

I accept the principle referred to by Senators Terry, Cox and others that we must make it easier to move from unemployment to education and from unemployment to work. Education is a critical weapon in the fight against disadvantage. This refers to third level education. Second level is not affected — the qualifying period is still six months in that case. We are talking about a scheme that is very attractive to people. It will cost €40.1 million next year. That is taxpayers' money. We have choices as to how we spend it. We are spending it on this scheme. Someone who qualifies for this scheme will have funds available for a number of years through the duration of their period of education. It is, therefore, attractive.

Senator Cox recounted her personal experience and impressions from her professional background. What she says is borne out by the statistics available to me. Those who were nine months or less unemployed accounted for 36% of the people in receipt of the back to work allowance. If the qualifying period is 12 months that is another 14%. In all, 50% of those in receipt of back to work allowances from the €40 million would have been unemployed for less than 12 months. If the period is reduced to six months the percentages are even higher. There is considerable evidence to back up what Senator Cox says. Once the six months elapses the number of people in receipt of back to work allowance swells. That was the thinking behind my predecessor's decision. We are acutely conscious, as every Senator is, that every euro given out to people who abuse the system is a euro taken directly from the social welfare budget.

I am conscious of Senator Terry's point that people might miss out on the opportunity of a third level place because of the academic calendar. I am actively examining, and will report my finding within weeks, whether I can identify funding to settle on a period of approximately nine months, which I believe would be reasonable. We have made progress and we can examine these statistics as they evolve to see what basis there is for improving matters. I would not agree to reduce the qualifying period to six months at this stage, given the statistics. I would be interested in

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taking it to nine months if I can secure funding to do that and I will make an announcement regarding that in the coming weeks.

Ms Cox: We are in agreement regarding the importance of this project, which is very beneficial to people who qualify for it. For many training schemes and so on for which businesses apply, a fairly detailed application process must be gone through. Members may be familiar with the Skillsnet programme of the Department of Enterprise and Employment under which proposals are made and evaluated by Government Departments or agencies regarding the benefit of the training being requested, the need for the training in the organisation and whether it is available elsewhere or through some other means of finance. Some people who have given up a job to be unemployed because of their personal circumstances are not in a position to fund themselves through a college education.

There are always genuine cases within the whole gamut of people we may think are exploiting the system, and there are those who are exploiting the system. It might be a good idea to create some kind of application process for 2006 in which people would go through what they hope to achieve. There could be an evaluation of people's family circumstances, their background, their financial circumstances and so on. Perhaps it would be a way of administering the scheme on the basis of need with very clear guidelines so that people will know what to expect. Under such a system those who are abusing the system will not qualify and people who are in genuine need and would genuinely benefit from it. There are FÁS schemes under which people apply for grant funding for training. There are also Department of Enterprise and Employment schemes such as Skillsnet, the one of which I am aware. This type of focus may afford a way of accommodating the opportunities and difficulties in this area.

Ms Terry: Senator Cox has made my point for me. I accept what the Minister is saying. His reasoning for not returning the qualifying period for the scheme to six months relates to the people who have spoilt it for those who really need it. We all accept that the reason for last year's change was to prevent those not financially in need of the allowance from qualifying. However, by trying to deal with such people, we have made it more difficult for everybody and those who deserve to benefit from the scheme are suffering.

In this day and age, we should be able to identify those in need of this allowance. We should be aware of situations where a person gives up his or her job and becomes unemployed for six months in order to avail of the allowance. Anybody who gives up his or her job on a voluntary basis should not be able to draw any benefit. This and other schemes are there for the benefit of those who deserve the associated allowance, including the unemployed, disabled and elderly.

The schemes are not designed to accommodate those who decide to have an easy life and let the State fund their existence.

We should be doing exactly as Senator Cox suggested but we must not wait a year to do so. By not changing this provision, we are depriving people in genuine need of an opportunity to improve their lot. They are being punished by the actions of other greedy people who wish to jump on the bandwagon and claim a benefit to which they are not entitled. Will the Minister reconsider this issue? I welcome that he has already made a change and may consider a further change. He should look at ways of reducing the qualifying period to six months to enable those in genuine need to improve their situation. There must be ways to ensure those not entitled to the allowance do not qualify. As the Minister observed, they may qualify for other schemes, such as the rent supplement scheme.

Mr. S. Brennan: I will consider this issue before Report Stage. The contribution of Senator Cox, supported by that of Senator Terry, strikes a chord with me. This is an area that is difficult to administer because of the numbers involved. I have already said regarding the rent supplement scheme that we should deal with people on the basis of individual needs, not according to an arbitrary time restriction or set of rules. I still believe that, even in this case. For some schemes, however, in the absence of a system for making individual assessments, there must be rules like those that apply to this scheme.

Every deadline is crude by definition. It is tough if one falls a few hours the wrong side of it. This has happened to us all, depending on age and other factors, in that we may find we are three or six months short of a particular deadline. This is part of our systems. In the area of social welfare, we should try to focus on individual needs as far as is possible. However, until we design the type of system about which Senator Cox has spoken, we must deal with the system we have. I will consider the points raised by Senators Cox and Terry.

Amendment, by leave, withdrawn.

Ms Terry: I move amendment No. 20:

In page 4, before section 4, to insert the following new section:

“4. The Minister shall, as soon as may be, after the passing of this Act prepare and lay before both Houses of the Oireachtas a report on the impact of the discontinuation of the transitional half rate payment for lone parents where a recipient of the One Parent Family Payment takes up employment where earnings are in excess of the upper threshold of €239 per week.”.

Will the Minister outline how many people have been affected by the removal of this benefit and the saving it has afforded the State?

Mr. S. Brennan: In my review of the 2004 provisions, I concluded that some easement of this measure would be appropriate. Therefore, with effect from next January, the transitional half rate one-parent family payment will be made for a period of six months for qualifying recipients. Some 700 one-parent family payment recipients will benefit from this measure. The introduction of the transitional arrangement whereby a lone parent who exceeds the earning threshold receives 50% of his or her previous payment for a further six months will provide support for lone parents as they move off the scheme. Lone parents will, of course, be able to avail of the family income supplement if they comply with its eligibility criteria.

It is important to note that the means test for one-parent family payment makes provision for the exemption of a significant level of earnings and maintenance payment. The first €146.50 of earnings is disregarded and all further earnings up to a maximum threshold of €293 per week are assessed at 50%. This means that a person with earnings of €293 per week still qualifies for a partial one-parent family payment, plus a child dependant payment of €19.30.

The recent OECD report entitled *Babies and Bosses* states, "The existing system of earning disregards serves largely to encourage lone parents to top up benefit income with small earnings rather than help them back into regular employment." Our objective is to assist lone parents in entering regular employment. It is worth noting that Ireland has the highest percentage of lone parent families within the EU, with more than 11% of households headed by a lone parent. A relatively small number of those parents are in employment compared with the situation in other countries.

When the transitional payment was removed last year, a clause was inserted into the regulation to ensure those claimants already in receipt of the transitional payment would continue to receive it. Therefore, benefits were not taken from anybody in the sense that no payments were not renewed. With effect from next January, the transitional half rate payment will be made for a period of up to six months. This will help people return to employment, which is the focus of departmental policy.

Ms Terry: I thank the Minister for his reply. However, I would prefer if the provisions of this scheme were returned to the situation that pertained prior to this year. The cost of full-time child care makes it difficult for lone parents to take a job. I do not know how they can manage it now. It seems it would be easier for them to stay at home than to take on the expense of child care and the other costs associated with going out to work. People in such circumstances may decide that going back to education to improve their prospects is a better option. It is extremely difficult for lone parents to return to the workplace. For those who make that transition, we must

ensure that they receive assistance for as long as is possible or necessary.

Mr. S. Brennan: I have no difficulty with the principle of helping lone parents. It is worth noting, however, that there are almost 80,000 people in receipt of one-parent family payments. The State's budget in this area is some €700 million, which is a substantial resource. Not all the recipients are lone parents in the traditional sense in that some may be widows and so on. It is also an area we need to keep under review to see how we can make it more human. I find some of the rules and regulations surrounding it somewhat ancient and these could be improved.

Amendment, by leave, withdrawn.

Sections 4 to 9, inclusive, agreed to.

Schedules A and B agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

Ms Cox: I thank the Minister and his officials for the way they have dealt with the legislation. During Second Stage most Senators complimented the Department of Social and Family Affairs officials on the way they do business and the ease of communication with them. This Bill represents the largest ever social welfare spend, which has increased by €1 billion. I compliment the Minister on his approach. There is a sense of agreement on all sides that the Minister has come to this portfolio with a particularly open mind. He has some deeply held philosophical beliefs on how to look after those who need our help. I look forward to future budgets in the hope that we will be able to expand on the work we have done this year.

Ms Terry: I also thank the Minister for spending his time here throughout all Stages of the Bill. I thank his staff for their help and reiterate the many well deserved compliments paid to them yesterday. For many years the Department of Social and Family Affairs officials have been well known for the assistance they have given to public representatives.

While I tabled many amendments today they were essentially for the purpose of seeking information. We welcome the many improvements in the social welfare package since last year. We look forward to further improvements in coming years with the Minister for Social and Family Affairs, Deputy Brennan, at the helm. We live in a healthy economy and money is available. I am glad it is being targeted at those who most need it. Now is the time to make the improvements we have sought for a number of years. I am glad to

[Ms Terry.]

give credit where it is due. This year those less well off in society have been looked after. We can always say that more could be done. I am sure it can and will be done in coming years. I again thank the Minister for his time and patience in dealing with the amendments today.

Minister for Social and Family Affairs (Mr. S. Brennan): I thank you, a Leas-Chathaoirligh, the Cathaoirleach and the various acting chairpersons for the work done in helping us with the Bill. I thank each Member of the Seanad for the work they put in and the comments they made. I single out Senator Terry, who through all Stages assiduously pursued me on a range of issues, which gave me the opportunity to explain and expand. I know that the background work in preparing all those amendments is hard work, particularly when in Opposition. Such work gives us a better Bill. I listened carefully to what every Senator had to say. I came to the Department of Social and Family Affairs this year at short notice and had to organise a budget. I look forward to being able to work at a much more effective pace in preparing for next year's budget, which I hope will be equally impressive.

I say a special word of thanks to my officials. While I did not realise it until I got stuck into it, the Social Welfare Bill is one of the most complicated pieces of legislation put together. Senator Terry said that many people did not understand the schemes; she can include many of us in that. The schemes are technical and difficult. The officials work with the Attorney General's office and all their legal advice is exemplary. I am very fortunate to have arguably the very best officials the Civil Service can offer. Armed with those resources I hope we can make further progress next year.

I wish Members a happy Christmas. We cannot become complacent. While this Bill is good, I believe we can do better. In that spirit I thank Senators for their support for the Bill.

An Leas-Chathaoirleach: I take the opportunity to wish the Minister and his officials a happy Christmas.

Question put and agreed to.

Social Welfare Bill 2004: Motion for Earlier Signature.

Ms Cox: I move:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Social Welfare Bill 2004, on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her.

Question put and agreed to.

Sitting suspended at 4.10 p.m. and resumed at 4.30 p.m.

Appropriation Bill 2004 [Certified Money Bill]: Second and Subsequent Stages.

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

Minister of State at the Department of Finance (Mr. Parlon): I welcome the opportunity to address the Seanad on the Appropriation Bill 2004. In light of the House's busy schedule I appreciate that today's debate will be brief. However, I understand that we will have further opportunity to discuss the matter early in the new year.

The main purpose of the Bill is to give statutory effect to the departmental Estimates for supply services, current and capital, including all of the Supplementary Estimates which have been approved by the Dáil since the previous Appropriation Act. It also makes provision for two excess Votes in 2003.

As has been the practice in recent years, the Bill includes a technical provision to allow for deferment of the end-year deadline for the financial resolution passed on budget night. Also in line with recent practice, the Seanad is being asked to approve an early signature motion to facilitate a request to the President to sign the Bill earlier than would normally be the case. A new feature of the Bill is that it provides for the first time for the carryover into the following year of unspent voted capital under the multi-annual capital envelopes introduced in 2004.

Section 1 makes provision for the grant of excess supply from the Central Fund for 2003 of €71,280 for the Civil Service Commission and the Office of the Ombudsman. The excess Votes, which arose due to the changeover to new financial management systems, have been approved by the Committee of Public Accounts, the Minister for Finance and the Dáil.

Section 2 appropriates for the year 2004 the net sum of €33.1 billion to the various services listed in Schedule 1, comprising just over €33 billion for the supply services in 2004 and the sum of €71,280 for two excess Votes in 2003. The 2004 sum includes Supplementary Estimates of €133 million on 11 Votes which have been approved by the Dáil. The services covered range from €60 million for the Department of Education and Science to grant extra funding for redress, pensions and special needs, to token Estimates of €1,000 for the Departments of Finance and Transport in order to allow moneys to be transferred to the North-South INTERREG programme and to fund the taxi hardship scheme, respectively. Notwithstanding the Supplementary Estimates, current indications are for a saving on net total voted spending in 2004 of some €250 million. This is comprised of €170 million on the current side and €80 million on capital side. The latter excludes capital carryover. The actual end-

year outturn will be published in the end-year Exchequer statement on the 5 January next. As usual, the Bill also seeks approval for the use of departmental receipts, some €2.9 billion, as appropriations-in-aid of the services listed in Schedule 1.

Multi-annual capital envelopes give Departments and implementing agencies certainty in the medium term in regard to the resources available to them to fund their capital programmes. The facility to carry over unspent voted capital from the current year to the next is an important element of the capital envelopes. The new arrangements give Departments and agencies more flexibility and allow them to plan and implement their programmes and projects more efficiently and effectively.

Statutory authority for the carryover of up to 10% of unspent voted capital was provided for in section 91 of the Finance Act 2004. That Act requires that the proposed capital carryover amounts for each year must be specified by Vote in the Appropriation Act of that year. Section 3 of the Bill provides for the carryover of some €237 million — or 4.3% of total voted capital — from 2004 into 2005. The Votes involved are listed in Schedule 2. The €237 million will issue from the Exchequer at the end of the year to the credit of the PMG accounts of the Departments concerned. However, it will not be available for spending in 2005 until the Dáil approves an order — at the beginning of the year — specifying the capital subheads in each of the Votes concerned against which the money will be spent.

Article 17 of the Constitution requires that the financial resolutions of each year must be enacted into law by the end of that year. However, the end-year deadline can be deferred if an Act to that effect is passed before the end of that year. This section makes provision for this deferment to be invoked. The inclusion of this provision in the Appropriation Bill will maintain the normal statutory deadlines for passing budget measures into law. Identical provisions have been included since the Appropriation Act 1997. The Seanad is also being asked to approve an early signature motion. This is sought each year in order to ensure that the necessary legislative authority is in place for the final end-year issues from the Exchequer.

Sound and effective management of the public finances by the Government have enabled it to make gross provision — including for the non-voted social insurance and national training funds — of over €41 billion for spending on the public services in 2004. We have provided substantial additional resources for the priority areas of health, education, social welfare and capital investment and we have again done so within budget.

I commend this Bill to the House.

Mr. J. Phelan: Fine Gael has no difficulty with the Appropriation Bill. However, I am not sure I would agree with the Minister of State's conclud-

ing remarks about sound and effective management. Given the time constraints, I do not believe we will have much of an opportunity to discuss that matter today.

An Cathaoirleach: Is the Senator aware that the broader debate on this matter will take place in the new year?

Mr. J. Phelan: Yes, and I am glad we will have the opportunity to debate it further.

There is one issue which may not relate directly to the Appropriation Bill but I want to raise it with the Minister of State because this is probably as good a time as any to do so. I refer to the roll-over relief scheme. From comments she made previously, I am aware that the Minister of State's party leader, the Tánaiste and Minister for Health and Children, has serious reservations about the adjustments made a number of years ago. This is particularly relevant in terms of the new national roads infrastructure that will be put in place throughout the country in the coming years and the impact the latter will have on landowners. However, it also relates to business people seeking, in the interest of upgrading, to sell their premises and purchase new ones. These individuals were affected by the changes made two years ago. I urge the Minister of State to use his influence with the Government to ensure that these changes, which were a step in the wrong direction, are reversed as soon as possible. I have no difficulty with the Appropriation Bill and I wish the Minister of State and all Members the best for Christmas and 2005.

Dr. Mansergh: I welcome the Minister of State and this Bill to the House. It enables us to go into Christmas and the new year with good cheer from a financial and economic point of view. The public finances are in excellent order, as is the economy, with strong growth, employment rising and inflation below 3%. I also pay due tribute to social partnership as well as the Government for achieving this. I welcome the capital carryover from 2004 to 2005, which is an important and valuable innovation.

Mr. O'Toole: I welcome the Minister to the House. In recognising the state of the national finances, it is an appropriate time to pay tribute to the former Minister for Finance, Charlie McCreevy, for the job he did. We had differences of opinion along the way but there is no doubt that great credit is due to him for his work. I admired him in his time in office and I have no doubt his successor, Deputy Cowen, will do equally well. Between the two of them there have been two astute people in the job.

I welcome the fact that the Department of Finance has finally listened to its own propaganda after 12 years and agreed to multi-annual budgeting.

It will be more appropriate to discuss the detail of this Bill when we come back to it in January

[Mr. O'Toole.]

but in supporting Senator Mansergh's remarks, we should congratulate ourselves on the importance of social partnership and what it has delivered. In spite of all that the prophets of doom said about benchmarking, it has been an extraordinary success. The public service has enjoyed the best 18 months anyone can remember and there have been no stoppages at all. It is significant that the current problem in An Post is related to the fact the staff have not been paid the amount due under the last agreement. We should not forget that security of tenure for the worker and certainty for management are prizes indeed. We may have to look for this in future and we may have to pay for it but I look forward to discussions to achieve something similar in the next year.

Minister of State at the Department of Finance (Mr. Parlon): I thank Senators for contributing to the debate on the Appropriation Bill 2004. I appreciate how busy is the House and that we will have the opportunity to debate this at greater length in the new year.

I listened to Senator John Paul Phelan's points about roll-over relief and I will discuss them with the Department and the Minister. Likewise, I join Senator O'Toole in recognising the astute financial management of the former Minister for Finance, Charlie McCreevy. I am delighted he is

being followed by an equally astute Minister for Finance.

I extend the greetings of the season to all Members of the House and look forward to the debate in the new year.

Question put and agreed to.

Bill put through Committee, reported without recommendation, received for final consideration and ordered to be returned to the Dáil.

**Appropriation Bill 2004 [Certified Money Bill]:
Motion for Earlier Signature.**

Ms O'Rourke: I move:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Appropriation Bill 2004 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

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

The Seanad adjourned at 4.50 p.m. until 10.30 a.m. on Friday, 17 December 2004.