

SEANAD ÉIREANN

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Déardaoin, 3 Feabhra 2005.
Thursday, 3 February 2005.
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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for Health and Children to order an urgent study into the synergistic effect on human health of the heavy metal and chemicals coming from the eroded surface of the tailings pond at Gortmore, Silvermines, County Tipperary.

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

The need for the Minister for the Environment, Heritage and Local Government to outline the procedures by which unreuseable tyres are to be disposed.

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

The need for the Minister for Education and Science to outline the reason no plans have been advanced for a new school for children with Autism in Carlow Town, County Carlow.

I regard the matters raised by Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

Death of Former Member: Expressions of Sympathy.

Ms O'Rourke: I wish to express my sympathy and that of my party, on the recent death of Gordon Lambert, who had been a Member for four years and had been appointed by the then Taoiseach, Jack Lynch, following the 1977 general election. He was a cultured, eminent gentleman and was kind as well. Having asked somebody to look at the debates, it is clear he contributed greatly to cultural and education matters when they were being debated. We would all know of him through Jacobs because for many years he was the head of the Jacob's Biscuit Com-

pany. He was well known in artistic circles in Dublin. I note that he left his whole collection to the Irish Museum of Modern Art when he became ill. It has great praise for Gordon Lambert and the collection he left it.

Perhaps I can be allowed make a small colloquial remembrance of him. For many years my late husband worked in Jacobs and he wrote to Gordon Lambert when I was first seeking to become a Member of the Seanad because Gordon Lambert had interviewed him for the job. One particular morning during that campaign I got a telephone call and Gordon Lambert, who had just been into the offices of the Seanad and cast his vote, said, "I do not know what other votes you are going to get, Mary, but this morning you got a No. 1 vote on the cultural and educational panel." As the House can imagine he was a very kind man.

Mr. Minihan: He also had a good sense of judgment.

Ms O'Rourke: He had a great sense of judgement. I subsequently went on to get that seat by a pure fluke because I was on the inside panel.

(Interruptions).

Ms O'Rourke: What are all the Members saying?

Mr. Minihan: It is lack of judgment.

Ms O'Rourke: The usual suspects are laughing during a vote of sympathy.

An Cathaoirleach: It is in order to tell the House about your first vote.

Ms O'Rourke: Thank you very much. We all have reminiscence of that. He has a wider family to whom we convey our sympathies and thank for his years of service when called upon by the then Taoiseach to take his place in the House.

Mr. B. Hayes: On behalf of the Fine Gael group I express our sympathy to the wider Lambert family who are a well-known, well-respected Dublin family of many generations, on the untimely passing of former Senator Gordon Lambert. Unlike the Leader, he never voted for me. I never knew him. From speaking with people from those times he made a worthwhile contribution to the House during the four years of his membership from 1977 to 1981. It was a great testament to the then Taoiseach, Jack Lynch, who decided to appoint him to the House at that time.

Gordon Lambert was an independently minded person. I understand he was an Independent Member in the House. He was a person who had a huge business acumen. The Leader has rightly referred to his connections with Jacobs' Biscuits, which was in the heart of my Dublin South-West

[Mr. B. Hayes.] constituency. I understand he was one of the instigators behind the Jacobs awards, which has been significant in terms of amateur dramatics and persons with a particular interest in music and he should be remembered for that. Senator Coghlan has informed me he was the man who invented the slogan, “he put the fig in the fig roll”.

Ms O’Rourke: He was.

Mr. B. Hayes: I am not sure about that but I will bow to his superior knowledge on this subject. It is only right and proper that the House remembers his contribution to public life. Clearly he was someone whom Mr. Lynch regarded as a person with a considerable knowledge of the arts and of business. I am sure his contributions greatly added to the work of the House. Today the House records his passing. I wish to express my sympathies to the wider Lambert family.

Mr. Quinn: I speak today on behalf of the Independent Members but I also speak on behalf of Senator Ross who was a friend of Gordon Lambert. I knew Gordon very well and had known him since the 1960s. If the term “Renaissance Man” means anything, he was exactly that sort of man. His mother was one of the Mitchell family of wine merchants and it was from her he inherited the art collection to which he added in later years. Given his background, he had a great interest in both wine and in art. He was on the board of the National Gallery of Ireland during the 1970s and later on the board of the Irish Museum of Modern Art of which he became a patron. As the Leader stated, he donated his collection to that museum. With David Hendricks, he formed the Hendricks Gallery. His activity in that area was well-recognised and renowned.

He also had a background in accountancy and was a very efficient accountant. He was educated in Russell Schools in Lancashire. He told me, and also recounted it on a radio programme, that while there he became accustomed to having a cold shower every morning and continued that practice for the rest of his life. I did my best to encourage my children to follow his example but I did not get anywhere with that suggestion. It probably served the purpose of waking him up every morning. He became a very efficient managing director of Jacobs and later of Irish Biscuits and was one of the success stories of Irish business in those years.

He was a very private man in other ways. He never married but had a close — shall I say — professional relationship with a lady who was very well-known, Frankie Byrne. The radio programme “Dear Frankie” was sponsored by Jacobs and was one of the most popular programmes on radio.

Gordon was involved with the first television awards in 1962. He competed with Eamonn

Andrews to stage the TV awards show which became the Jacobs TV awards. They were originally held in the Jacobs factory in the city centre and I remember attending. When the factory was being renovated, the show was staged in venues in Cork, Galway and Limerick. Those of us who were recipients of the hospitality from Jacobs remember him as a man who loved to entertain. He was great fun but also the sort of man who enriched everyone he met because of his joy and interest in everything he did.

He came from a sporting family. His brother, Ham — short for Hamilton — and to whom I spoke yesterday, is a young man who will not be 95 until next month. Ham played cricket and rugby for Ireland and was a professional rugby player. He told me that Gordon had inherited this love of sport but was never as active as himself.

His desire for privacy was evident in that prior to his death, which occurred last Thursday, he asked that it should not be announced until a private family funeral service had taken place. It is hoped that a public ceremony will take place at a later date.

He was appointed by Jack Lynch to the Seanad and played a very active role particularly in matters of culture and the arts. He is the sort of man one would like to think of as representing the membership of Seanad Éireann.

Mr. Ryan: Listening to the Leader I am reminded of the notion in chaos theory that a butterfly in the Amazonian jungle can change the weather here. It is clear that a single No. 1 vote, cast in 1981, had a fairly profound subsequent effect on Irish politics. We can all make an impact and Gordon Lambert had a huge impact.

I have a passing interest in and enjoy modern art. I believe his contribution in that area to the richness of Irish life of itself would make him somebody to be publicly mourned. It was an imaginative decision by Jack Lynch to appoint somebody like Gordon Lambert in what was a very different Ireland. He is one of a number of distinguished appointees, such as a current appointee, Senator Maurice Hayes, who add a considerable amount to our debates and whose contributions are heeded by the Government.

Gordon Lambert was also a successful businessman. We join with his extended family in regretting his passing and in sympathising with his family. People like him deserve to have their lives celebrated. While we mourn, all those who knew him and who were his friends can say it was a life lived successfully and richly and which left a permanent mark on our country and culture.

Mr. Minihan: On behalf of the Progressive Democrats I join with previous speakers in extending our sympathies to the family of the late Gordon Lambert. I did not know him but from what I have read in the past days, I realise he was a cultured and educated man and a very successful businessman. His appointment to Seanad

Éireann in 1977 by the then Taoiseach, Mr. Jack Lynch, was an inspired choice, given that in 1962, Mr. Lambert arranged the first meeting in Dublin between the Dublin and Belfast chambers of commerce, at a lunch hosted by Jacobs. He was already working at a time when it may not have been popular to develop these relationships. He had a vision for Ireland and for business and cultural relationships between North and South which we all must emulate.

At the same time in 1977, Jack Lynch made another inspired appointment when he appointed Mary Harney to the Seanad. Perhaps if things had turned out differently, Gordon Lambert could have ended up where Mary Harney is now.

Mr. Ryan: We must restrain ourselves.

Mr. Minihan: The Leader has already stated that he had a very sound sense of judgment in the casting of his vote——

Ms O'Rourke: I did not say that.

Mr. Minihan: On behalf of the Progressive Democrats I acknowledge the great public service given by a Gordon Lambert. I express our sympathies to his extended family.

An Cathaoirleach: I too wish to join in the tributes to the late Senator Gordon Lambert. He became a Senator in 1977 when he was appointed by the then Taoiseach, Jack Lynch. I served in this House with him and I believe I am the only Member here today who served with him. I found him to be one of the most dedicated Senators who made very constructive and valuable contributions to debates. I do not have any knowledge of the 1981 election to which Senator O'Rourke referred. I was a shy Senator at the time and I do not remember whether I asked Senator O'Rourke for a vote but I definitely did not receive a telephone call.

Senator Lambert was for many years the managing director of Jacobs' biscuits. I may not always agree that Senator Coghlan is correct but he is in this case when he stated that Senator Lambert conceived the slogan, "How do they get the figs into the fig rolls?" He was the first non-family member of the board and devised the Jacobs' Irish television awards in 1962.

His interest in politics was national and he played an important part in improving relations between the North and South. As Senator Minihan mentioned, he organised the first meeting of the Belfast and Dublin chambers of commerce in 1962 at a lunch in Jacobs with the then Taoiseach, Seán Lemass. He was renowned for his interest in the arts and he came from a family renowned for its sporting achievements. I extend my sympathies to the family. The House will observe a minute's silence.

Members rose.

Order of Business.

Ms O'Rourke: The Order of Business today is No. 1, Criminal Justice (Terrorist Offences) Bill 2002 — Committee Stage, to be taken on the conclusion of the Order of Business until 1 p.m. and No. 2, statements on the future development of An Post, to be taken at 2 p.m. and to conclude not later than 4.30 p.m. with the contributions of spokespersons not to exceed 12 minutes, those of all other Senators not to exceed eight minutes and the Minister to be called upon to reply not later than five minutes before the conclusion of statements. There will be a sos from 1 p.m. to 2 p.m.

Mr. B. Hayes: Does the Leader agree that there is something menacing and threatening about the IRA statement issued last night? It is clear from it that the IRA still has not gone away despite the fact that it initially called a ceasefire more than ten years ago and that in 1998 the people North and South voted for the Good Friday Agreement and called on both Governments to implement it.

I will make three suggestions which I hope will be helpful to the Government. I ask the Government to consider reconvening the Forum for Peace and Reconciliation. This could bridge the current gap in the peace process by allowing all democratic parties on the island to come together and state unequivocally what is required of Sinn Féin-IRA before the process can go further.

I ask the Taoiseach to make a statement in the next day or so stating unequivocally that the concessions both Governments were prepared to grant IRA-Sinn Féin before Christmas, including the early release of the killers of Detective Garda Jerry McCabe and a measure concerning those who describe themselves as "on the run", will be removed immediately from any possible discussions or negotiations with Sinn Féin-IRA. Does the Leader agree that a genuine debate among all politicians is required on the proposition that one grouping, a minority of the people, can hold the entire peace process to ransom because it is not prepared to move just yet? That position is not tenable in the long term and a debate, such as that held in the House last night, is needed.

On a positive note, we learned yesterday that a summit will be held in Egypt next week between the new Palestinian President and the Israeli Prime Minister. Given the interest of Senators in the conflict in the Middle East and the interest in the peace process here, the House should wish those talks well. I hope all the parties can again re-engage with the two-state solution to the problem in the Middle East.

Mr. O'Toole: During the debate last night I stated I felt grossly uncomfortable with the motion, even though I agreed with everything in it, and argued that we should look forward. We should not over-react to yesterday's statement.

[Mr. O'Toole.]

Sinn Féin has found itself in a cul-de-sac and like any cornered animal it is looking for a way out and trying to win back ground lost since the previous juncture. The decision to take an offer off the table is a perfectly predictable move to which there should not be an over-reaction. We should not respond by saying, "Woe is us".

Far from the Taoiseach producing a definitive, irreversible, irrevocable statement, it is far better for him to say nothing at this point and work instead behind the scenes to determine how we can move the process forward. Last night I argued that the way to do this — I may be wrong — is to build at community level and in civic society to try to reconstruct political engagement over the next 18 to 25 months.

The necessary hard talking has taken place and the other side has given its reaction. That phase is over and everybody who speaks from this point onwards should have a proposal which will bring us closer to getting the peace process back on the rails. We must continue to remind ourselves that a ceasefire is in place and the leaders of Sinn Féin, however much we have criticised them, have made considerable progress. I do not speak for them, having been one of their greatest critics, but we need balance in this debate if we are to move the process forward. It is time to draw breath and examine where we will go next.

During all the negotiations in which I have participated in the past 17 years, the involvement in society of people with special needs or of different ability has been a major issue. The private sector needs to match the public sector in ensuring that at least 3% of the workforce are people from such a background. I ask the House to recognise the award given to Senator Quinn last night for giving the lead in this area in the private sector. It is a major advance and the Senator is entitled to have it recognised. I hope he will continue to focus his energies in that direction and will not feel a need to top the poll in the next election. He has done well.

Mr. Ryan: I join my colleague, Senator O'Toole, in his expression of good wishes to Senator Quinn. As regards Senator Quinn's poll-topping, I would not mind a little redistribution.

While Senator O'Toole is correct that restraint is necessary, it is difficult. It must be clearly stated by all of those who accept there is only one way to pursue politics that no one is doing us a favour by maintaining a ceasefire. We did them a favour by offering them a way out and the door is still open to them to find a way out of the cul-de-sac in which they find themselves. Beyond that, I do not propose to take up Senators' time discussing the nonsensical rhetoric of the IRA statement to which we have become accustomed.

I will relate a lovely positive little story from Belfast about St. Mary's Training College camogie team, which is training at night in Linfield Football Club's training ground. This is the other

side and we should celebrate little changes such as this which would have been inconceivable 20 years ago. We should give them more prominence as the way the world is going and let others catch up.

On an unrelated matter about which I read in a newspaper this morning, what is the position regarding ratification of the Council of Europe

Convention on Human Rights and Biomedicine, which regulates all research carried out on embryos, etc.? The article cited the immortal statement by the Department of Health and Children that the convention is under continual review. Ireland is one of the few countries in Europe with no legislation on this area. Senator Henry raises this issue regularly. We are leaving ourselves wide open to unscrupulous researchers using Ireland as a base. To pretend that because some of the issues addressed in the convention are a little difficult to grapple with, it is somehow better to have no regulation, is to leave us wide open to all sorts of abuses. Will the Leader ask a Minister why the convention has not been ratified?

Mr. Minihan: I join previous speakers in raising the IRA statement. Every speaker has said something of value with which I agree. Senator O'Toole described the statement as predictable and argued against an over-reaction at this stage. The Senator is correct. I would like to quote a paragraph of the statement. It reads:

The IRA has demonstrated our commitment to the peace process again and again. We want it to succeed. We have played a key role in achieving the progress achieved so far. We are prepared, as part of a genuine and collective effort, to do so again, if and when the conditions are created for this.

But peace cannot be built on ultimatums, false and malicious accusations or bad faith.

The IRA should look at its own statement because everything is in that paragraph. I do not want to get into a slugging match with the IRA because it is not the time for that. However, the positive in that statement is that it has said it wants the peace process to succeed and mentioned that it would make an effort, so it is a time for reflection. Both Governments have made it clear that the ball is firmly in the IRA's court. We know the issue and on what it must reflect. When it does so, I have no doubt both Governments will meet it half way and, indeed, the Irish people will embrace it. We want this to succeed and stories such as that relayed by Senator Ryan show the positive side. That is what we want. We should not overreact. There should be a period of reflection for everyone. Hopefully, when the IRA analyses that paragraph and looks in the mirror, we will be able to get everything back on track.

Mr. Coghlan: In regard to the P. O'Neill statement and the point made Senator Minihan regarding reflection, I support Senator Brian

Hayes's call to encourage the Government to reconvene the Forum for Peace and Reconciliation if it would help that period of reflection.

I presume the so-called Quigley report is available. A debate has been requested on the awarding of Government public relations contracts. Will it take place when we know what the Standards in Public Office Commission is going to do in this regard? Perhaps the Leader will comment on that issue.

Will the Leader inform the House whether the €50 million of public money spent on e-voting is now likely to be written off? Will she outline the Government's policy on the Hanly report and its possible implementation? Is the story we heard this morning that it has been permanently shelved, true? I would appreciate if the Leader could give us some information on that or, if not, perhaps she could arrange for the Tánaiste and Minister for Health and Children to come the House to discuss the matter.

Ms Ormonde: In regard to Northern Ireland, I agree with Senator Minihan that there should be a period of reflection. Taking up the point made by Senator Ryan, encouraging educational institutions and sports bodies is the way forward and is a great way to bridge the gap. Caution is required in respect of Northern Ireland.

We are about to launch an awareness campaign on the referendum on the EU constitution. I would like to think the Seanad will play a leading role in debating that issue, particularly since this House has spoken on many occasions about its importance in reaching out to the public. Will the Leader take a lead and perhaps begin the debate in this House in the near future?

Mr. Norris: I support Senator Brian Hayes's suggestion that the Forum for Peace and Reconciliation be convened only if the purpose is to provide a forum where the contending parties in the North could have an opportunity to meet on the margins because otherwise, it is just a talking shop and would not do any good. If, however, it provides an opportunity for these kinds of off the record discussions, it probably would be serving a very useful purpose.

When I heard about the IRA statement, it reminded me of the famous quote, "The IRA hasn't gone away you know". I am afraid it has not and that is a central part of the problem. I was very interested and heartened, in a way, when I heard Senator Mansergh on Radio 1 this morning being very clear and firm in what he said. If I remember correctly, he made the point that Sinn Féin would not come within an ass's roar of participation in democratic government until it resolved this problem of the lingering military associations. The question of criminality is central to this issue. For a long time I felt there would be a difficulty when the armed conflict ceased, that it would be very difficult for people involved in the glamour, emotional excitement and, indeed,

the financial profits from operating on the margins of society, to draw away from that into the dull, routine life the rest of us lead. There is a problem of the kind of "Mafiaisation" of the IRA.

Then came the denial that Jerry McCabe's murder was part of an IRA operation. However, it claimed it when it turned out that the people who committed this clearly criminal act were members of the IRA. I said at the time that I felt it was defining itself by that incident into a form of criminality. We recently had the very unpleasant spectacle of Sinn Féin representatives, including young women, saying the killing of Jean McConville was not a crime, so murder is not a crime if committed by members of the IRA.

That makes me worry when I see the IRA's statement saying it will not be quiescent. What does that mean? During the period it describes as quiescent, there have been punishment beatings which is a very bland phrase to cover the mutilation of young people by shooting bullets into their wrists, knees, feet and so on. We are entitled to ask that this stop. I suppose the birth of democracy is always painful. If one is to take an optimistic view, this is just another painful spasm and one hopes that real democracy will be born out of it even among these people who appear to have set their faces against it.

Ms White: Will the Leader arrange a debate next week on the proposed relocation of the Central Mental Hospital in Dundrum to a site close to the new prison? The Minister of State, Deputy Brian Lenihan, said at a public meeting in the area that no consultation on the location of the prison had taken place before the decision was made. Yesterday, I met Mr. Michael Ringrose, chief executive of People with Disabilities in Ireland. He said the siting of the hospital in the same complex as a prison, if allowed to proceed, would generate stereotypical perceptions of people with mental health difficulties.

Every day when travelling to and from the House, I pass the Central Mental Hospital in Dundrum and there is certainly no sense of criminalisation. I know the people in it have committed misdemeanours of various degrees but they are mentally ill, so it is a sensitive matter. Yesterday, I heard from the Tánaiste and Minister for Health and Children that a Cabinet decision had been made that this would go ahead, but a Cabinet decision was also made on the Hanly report. This relocation should be considered again by the Cabinet.

The Irish College of Psychiatrists, the Mental Health Commission, the Psychiatric Nurses Association of Ireland, Aware, the Samaritans, relatives and care groups at the Central Mental Hospital and Schizophrenia Ireland are totally opposed to the relocation of the hospital to a site in close proximity to this prison. We all know conditions in the Central Mental Hospital are appalling. Mr. Ringrose said economic pragma-

[Ms White.]
tism — and if I may dare say so, right-wing politics again — seem to prevail over the dignity of people with disabilities. As the hospital is close to the Luas line, it is now realised that it will fetch millions of euro if sold for housing development. A very short-term view is being taken. If that decision is implemented, it will have serious consequences for future generations.

Mr. J. Phelan: I agree with Senator Brian Hayes's remarks on the Forum for Peace and Reconciliation. I also agree with the views of Senator White on the Central Mental Hospital and its proposed relocation. She raised a very valid point.

I refer to the report of the Central Bank published on Tuesday on the general level of indebtedness. It would be apt if the Leader could ask the Minister for Finance to come to the House at some early opportunity to discuss the report which contained important and serious information.

I also wish to raise the issue of employment inspectors. A situation has come to light in recent weeks involving the exploitation of immigrant workers from eastern Europe in the construction industry. There are more dog wardens than employment inspectors in this country. In light of the obvious negligence in this case, it is important that this issue should be discussed as a matter of urgency.

Dr. M. Hayes: I too would like to see the Central Mental Hospital in Dundrum replaced. There are difficulties with having such a facility on the same site as a prison. I hope all those who say it should be replaced but not alongside a prison would welcome it in their own area.

Mr. B. Hayes: Hear, hear.

Dr. M. Hayes: There is much evidence of the NIMBY syndrome on this issue. I have a certain amount of sympathy with the Minister who says one may as well have one facility instead of two.

I wish to associate myself with the comments of Senator Ryan regarding Linfield Football Club, which has taken much stick over the years. It is a small gesture but a civilising one and it is helpful to recognise it as such.

I support Senator Ormonde in her request for debates in the Seanad in regard to the EU constitution. This is an important issue with which Irish people must engage. There must be a major programme of public information and explanation of what is a complicated issue. The Seanad is the perfect place for such discussion.

Mr. U. Burke: The survey published yesterday by the Irish Primary Principals Network has frightening implications for primary education. Some 75% of the 850 principals and deputy-principals surveyed indicated a sense of hopelessness.

Many also admitted to suffering from stress and exhaustion. It is a serious issue for education at that level when so many principals admit to a feeling of hopelessness.

Serious concern was expressed by those who responded to the survey in regard to the workload endured by principals. Few of them have an official office and only 50% have some secretarial assistance. Respondents indicated increasing bureaucracy and requirements under the new special needs legislation, as particular difficulties. These concerns relate to the dwindling number of teachers applying for the post of principal. This is a serious concern. Will the Leader ask the Minister for Education and Science to take immediate action to alleviate the workload endured by principals and to allay their fears and concerns as indicated in the results of this survey?

Mr. Leyden: Will the Leader consider an early debate on health issues? In this session, it is important that the Tánaiste and Minister for Health and Children, Deputy Harney, should have an opportunity to outline her policies, particularly regarding the Hanly report. This should be a definitive statement on the future of the health services, which hopefully will not be based on that report.

The incidence of the mixture of public and private facilities in hospitals creates major difficulties. I am aware of a public patient who was sent to the radiology department of Portiuncula Hospital, a public hospital for which I had the pleasure of signing the purchase contract on behalf of the Government.

Mr. B. Hayes: There were many signatures in those days.

Mr. Leyden: This medical card holder was sent a bill for €71 for a dexta scan which should be free under the public health service.

An Cathaoirleach: Is Senator Leyden anxious to have a debate on this issue?

Mr. Leyden: That is correct.

An Cathaoirleach: Now is not the time for such a debate.

Mr. Leyden: I appreciate that but wish to finish my point. There is also a charge for mammograms in Portiuncula Hospital. Such services should be free in a public hospital.

Mr. B. Hayes: Hear, hear.

Mr. Leyden: The hospital was purchased for £11 million. We are paying for the equipment, the CAT scans, the nurses and the accommodation,——

An Cathaoirleach: Now is not the time for this debate.

Mr. Leyden: —yet a medical card holder was billed for €71. I told her not to pay it.

Mr. Bannon: It is evident the cracks are growing deeper within the Government parties—

An Cathaoirleach: Senator Bannon should speak on issues appropriate to the Order of Business.

Mr. Bannon: —particularly in regard to areas of policy. The evidence is here today—

An Cathaoirleach: The Chair has instructed Senator Bannon to speak on matters relevant to the Order of Business.

Mr. Bannon: —and I advise Senator White to put down a motion of no confidence at her next parliamentary party meeting in regard to the delivery of services in the north County Dublin area.

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

Mr. Bannon: Will the Leader invite the Minister for Finance to the House for a debate on the rural renewal scheme that expired in December 2004 and which was successful in six or seven counties in the BMW region? Many smaller villages were unable to avail of it because the proper infrastructure was not in place, including sewerage and water schemes and so on. This was a worthwhile scheme which brought much business, employment and development into the region by way of tourism and infrastructure. A debate on the issue would encourage the Minister for Finance to extend the scheme for a further two years, a move that would be of significant benefit to that region, especially the small villages.

I called for a debate when the mid-term review of the BMW region was published last year because there was evidence of a significant under-spending of funds. A debate is required and I was given some encouragement by the Leader in this regard. However, I am still waiting.

Labhrás Ó Murchú: One can appreciate all the concerns expressed here today about the state of the peace process. Those concerns are all genuine and each has a different emphasis. However, it is unthinkable that the peace process should unravel at this stage. It is badly damaged and frayed at the edges but not beyond repair. It is important for us all to focus on solutions in the future. Too much time, hope and persistence has been invested in this process for it to fail at this time.

I empathise with Senator O'Toole and the parameters which he has set down. There are times when one cannot see the horizon but one knows it is still there. There is not a person on this island who is not aware that the human spirit can be

dulled and oppressed by major setbacks. This is no less true in the case of the peace process. We have seen the pendulum going back and forth but must keep in mind the progress that has been made. All parties could face each other around the table, ask difficult questions and be straight in their answers. In such a way a final solution can be found. That is still my hope for the peace process.

An Cathaoirleach: There is only one minute remaining and three Senators are offering. I will accommodate those three but no more.

Mr. Kett: I endorse the comments congratulating Senator Quinn on his most recent award. At a time when people with disabilities are still struggling for a measure of equality, it is gratifying to know there are people like Senator Quinn in business. I read last week about a pub in Temple Bar in which there was a toilet door marked for disabled use but behind which there was nothing but a wall. With that type of cynicism still in our midst it is gratifying to observe the behaviour of people such as Senator Quinn.

Mr. Hanafin: I ask the Leader for a debate on the mobile phone market in this country. It is widely acknowledged, including by the regulator and the EU Commission, that Ireland is paying one of the highest average costs per user in Europe. The mobile telephone companies here are heading towards profits of €1 billion per year. It is accepted that where competition is in place the cost to the consumer reduces by approximately 25%. It is within our control to insist that these companies allow competition into the marketplace. We analyse the fine detail of other matters for very small amounts. Here is an opportunity to create employment and save the consumer huge amounts of money. It is time that the regulator was given teeth.

Mr. Dooley: Like other Senators I would welcome a debate on the future of the health services. We should compliment the Tánaiste and Minister for Health and Children, Deputy Harney, for the speed with which she has grappled with some of the very serious issues in her new Department. We should not get hung up on labels or terms for the future as it is all about the delivery of service. In the case of County Clare it is about the upgrading of the hospital, spending the €20 million that has been promised for some time and retaining the accident and emergency services in the hospital on a 24-hour basis. We should not have a tit-for-tat argument as to whether we proceed with the recommendations of the Hanly report. Let us move away from the labels and consider the people and the services that need to be delivered.

Ms O'Rourke: Senator Brian Hayes, the Leader of the Opposition, raised the statement

[Ms O'Rourke.]
made by the IRA last night. He asked the Government to consider reconvening the Forum for Peace and Reconciliation, a matter he referred to in his speech during yesterday's debate in the House. He also asked that concessions already announced should be withdrawn and he sought a genuine debate as to how one grouping could prevent progress. Reconvening the Forum for Peace and Reconciliation makes sense in that nobody wishes that a vacuum should continue. While I have not spoken to the Taoiseach, I understand from the media that the British Prime Minister and the Taoiseach spoke of trying to engage in a range of activities, which would get us through a particular period until after the British general election. While I will convey the Senator's idea to the Taoiseach, I would anticipate that they are already discussing the matter, which makes sense. I do not agree with parsing and analysing the statement by P. O'Neill; I believe we should all shut up about it. In that regard I agree with Senator O'Toole in that to do otherwise would only give further oxygen to those concerned.

Senator Brian Hayes also raised the summit to be held in Egypt next week between the new Palestinian President and the Israeli Prime Minister, which is a sign of great hope. Senator O'Toole congratulated Senator Quinn on running an ability rather than a disability campaign. I was interested to learn that when recruiting employees the interview is called a talent interview, which is correct because everybody has some talent. Clearly Senator Quinn's firm has sought to bring this talent out.

Senator Kett also raised this matter and he would know and appreciates the importance of a positive attitude towards people with a disability. It is greatly to be welcomed that against a commercial background, Senator Quinn has over the years seen fit not alone to give the best produce to people, but also to see behind the facade and to seek to give people with ability an opening in his stores.

Senator Ryan referred to the IRA statement as nonsensical, with which I agree. He lauded that St. Mary's Training College camogie team is now training in Linfield's training ground. I found that information startling and wonderful. He asked why Ireland had not yet ratified the Council of Europe Convention on Human Rights and Biomedicine. I will inquire about the matter.

Senator Minihan echoed what Senator O'Toole said about the IRA statement in recommending that we should not over-react to it. Senator Coghlan asked about the Quigley report. I understand it is in the Oireachtas Library and can also be accessed on the Internet. However, copies were not placed in our pigeonholes, which is what the Senator meant. He asked when we might have a further debate on the Hanly report. I will see if the Tánaiste will be able to attend the

House. I am sure should would be willing to do so.

Senator Ormonde cautioned about the North and also raised an important point, which I had also considered. Perhaps we should hold a meeting of the Committee on Procedure and Privileges to start an awareness campaign on the referendum on the EU constitution with a view to considering the use of this Chamber for that purpose. With your permission, a Chathaoirligh, we might consider doing that.

Senator Norris spoke about the IRA statement and the painful spasms that everyone is undergoing in this process. Senator White spoke about the proposed relocation of the Central Mental Hospital to the site close to the new prison. I believe that wherever it is located some people would object. The proposed site extends to 150 acres, which is an enormous site. While there will be proximity, the prison and hospital will not be cheek by jowl and will have separate entrances.

Ms White: It will have a psychological effect.

Ms O'Rourke: Various groupings have sincerely indicated they did not wish it to be there. While I have not been inside it, looking from the outside at the Central Mental Hospital, I have no doubt of the need for proper facilities. The hospital will have no connection with the prison. Huge money was paid to buy the site and the location makes practical sense. However, the Senator has made her point clearly.

Senator John Paul Phelan referred to the Central Bank report suggesting that we are all living slightly beyond our means.

Mr. J. Phelan: It sounds like *déjà vu* or Groundhog Day.

Ms O'Rourke: While this is not alarming, the general level of indebtedness has increased. He asked for an increase in the number of employment inspectors.

Senator Maurice Hayes agreed with various comments about the North and also agreed with Senator Ormonde's request for an awareness campaign on the European constitution and for this Chamber to be used. We are ideally sited with the right background. We will try to establish an agenda for such work.

Senator Ulick Burke spoke about the primary school principals. I found that to be a very defeatist survey. While clearly it was correct, if they are all exhausted and feel hopeless I would wonder about the children under their care. Principals are held in great respect and I do not know why they should feel so hopeless and exhausted. At the same time I can understand the difficulty of running a big primary school bursting with children who have loads of energy. I found the survey very defeatist when I read the report of it.

Senator Leyden asked for a debate on health issues with the focus on the mixture of public and

private facilities in hospitals and what one must pay in a public hospital. He also referred to the advice he gave a constituent. Senator Bannon spoke about the rural renewal scheme. The Finance Bill will be published today. The Senator indicated that some small villages were unable to avail of the scheme, which has been a great success. Much has been spoken and written about the matter. We will see what the Finance Bill produces.

Senator O Murchú spoke about the present state of the peace process, which is badly damaged but not beyond repair. He expressed the wish that everybody would sit down and talk.

Senator Hanafin called for a debate on the mobile telephone market, which he has asked for on several occasions. We will endeavour to hold such a debate shortly.

Senator Dooley asked for a debate on the delivery of health services. He said we should move away from using handles or names such as the "Hanly" report, etc. That is a sensible comment. He would like a good debate in the House on the matter.

Order of Business agreed to.

Criminal Justice (Terrorist Offences) Bill 2002: Committee Stage.

Sections 1 and 2 agreed to.

NEW SECTION.

Mr. Cummins: I move amendment No. 1:

In page 7, before section 3, to insert the following new section:

3.—(1) This Act shall, subject to *subsection (2)*, expire as and from the 31st day of December 2010, unless a resolution has been passed by each House of the Oireachtas resolving that the Act should continue in operation.

(2) A section referred to in *subsection (1)* may be continued in operation from time to time by a resolution passed by each House of the Oireachtas before its expiry for such period as may be specified in the resolutions.

(3) Before a resolution under this section in relation to a section specified in *subsection (1)* is passed by either House of the Oireachtas, the Minister for Justice, Equality and Law Reform shall prepare a report, and shall cause a copy of it to be laid before that House, of the operation of the section during the period beginning on the passing of this Act or, as may be appropriate, the date of the latest previous report under this subsection in relation to that section and ending not later than 21 days before the date of the moving of the resolution in that House.

(4) For the avoidance of doubt, any enactment the amendment of which is effected by a section of this Act that ceases to be in operation on and from the day referred to in *subsection (1)* or, as the case may be, the expiry of the period for which it is continued in operation under *subsection (2)* ('the expiry') shall, as and from that day or, as the case may be, the expiry, apply and have effect as it applied and had effect immediately before the passing of this Act but subject to any amendments made by any other Act of the Oireachtas after such passing."

On Second Stage last week, I spoke about the need for a review of this legislation. The amendment I have moved proposes that it should be reviewed in 2010. The Bill is emergency legislation, in effect, and I ask that it be dealt with as such. It should be reviewed in 2010. I had hoped that the Minister would have come up with an amendment in this regard after discussing the matter on Second Stage. The legislation deserves to be re-examined. The year 2010 should be an acceptable date for such a review.

Minister for Justice, Equality and Law Reform

(Mr. M. McDowell): The Senator's amendment proposes that a sunset clause be inserted into the Bill. This suggestion was debated in the other House at some length and was also mentioned on Second Stage in this House. While I have reflected on the issue, I have not changed my mind on it. Senator Cummins is aware that Deputy Ó Snodaigh of Sinn Féin tabled an amendment on Report Stage in the other House, the effect of which would have been to insert a sunset clause into the Bill. I did not accept the amendment and I do not propose to accept this amendment for similar reasons.

No legislation is permanent in the sense that it cannot be changed, but this Bill is intended to be a standing part of our legislation. I remind Senator Cummins that the central purpose of the Bill is to give effect to Ireland's international obligations under the UN convention on terrorism and the EU framework decision on combatting terrorism. Perhaps those international instruments will be revoked, repealed, amended or developed at some future stage, but Ireland has certain obligations, as a member of the UN and a member state of the EU, to give effect to them as long as they are in place. I do not think it would be appropriate to include in law a provision that Ireland's obligation in international law to honour a permanent obligation in international law will cease periodically. Therefore, I do not favour the inclusion of a sunset clause in the Bill.

I will be surprised if it is not proposed to amend some aspect of our law in 2010, so the matter will perforce come up for review at that stage. In that context, I hope that matters on this island will have developed by 2010. I hope we will

[Mr. M. McDowell.]

have a totally peaceful and democratic atmosphere in all our political affairs on every part of this island by that stage. A further review of the legislation may well have to take place in that context. I will proceed on the basis that international terrorism is a semi-permanent threat and, therefore, I will not put in place temporary legislation to deal with it. It would make eminent sense to build a sunset clause into the legislation if the framework decision or the UN terrorism instruments to which I am giving effect were time-limited instruments. It would not be wise to place a statutory obligation on a future Oireachtas to review the legislation.

Mr. Cummins: I agree that we should meet our international obligations. As I said on Second Stage, the Minister has the full support of this side of the House for the main thrust of the Bill. We need to combat terrorism at every possible opportunity. This is a significant Bill. In it, we are complying with EU regulations and our UN obligations. We should provide for a review of the legislation, however. The Minister has said it would be unusual not to have reviewed the legislation by 2010, the date mentioned in my amendment. We should include in the Bill a mechanism to ensure that the legislation will be examined. I hope legislation of this nature will not be needed at that time. I have explained the reasons for this amendment, which I do not intend to pursue. A review of this major legislation — it is practically emergency legislation — should take place in 2010 because it is so important.

Dr. M. Hayes: I am fully persuaded by the point made by the Minister, but I would like to make a helpful suggestion. People have certain worries about legislation of this sort. Would it be possible for the relevant Minister to report to the Oireachtas on the operation of this legislation once a year, so that people know what is going on? He would not have to report in detail but in broad terms about the cases and issues which have arisen.

Ms Tuffy: I support Senator Cummins's amendment. I raised this issue on Second Stage. What are the Department's plans for the implementation of the report published by Mr. Justice Hederman?

Mr. M. McDowell: I will outline the Government's position on the Hederman committee report. The provision in the Constitution for special criminal courts is not an emergency provision. It comes into play when the ordinary courts are inadequate for the administration of justice. While it is part of the Constitution, it is not an emergency extra-constitutional arrangement. We have an obligation to ensure that the ordinary courts are capable of discharging criminal justice as far as possible.

I emphasise that I am a great fan of jury trials. I will never be shaken from my belief that they are superior to judge-only criminal trials. When criminal justice verdicts are given by juries, the population accepts that the scales of justice have been evenly held, the ordinary person's perspective of the relevant events has been considered and the evidence before the court has been taken into account. One does not usually hear people saying a jury's decision was a travesty of justice. Unfortunately, people find it entirely possible to say this of judge-only trials, irrespective of the form of those trials or whether they are held north or south of the Border. Judge-only trials are always the focus of an immediate and bitter onslaught by those who dispute the verdict.

Another problem with judge-only verdicts is that all the reasons therefor must be stated and elaborated upon at great length. If a jury has a doubt about the evidence of a particular prosecution witness, it encapsulates all that doubt in a not guilty verdict. It does not dismember in public the evidence of an individual or set out in written form precisely why it preferred one person's evidence to that of another. However, in a judge-only process, a judge is faced with the necessity of giving a reason for preferring one person's evidence to that of another. We have had cases in which witnesses' credibility and integrity were the subject of judicial comment. There is nothing wrong with this if it is central to a verdict in a judge-only forum, but it always strikes me that it can create difficulties if two different courts do not share the same view of a particular witness's credibility. One must ask whether public confidence in the system of justice is enhanced if three judges say on occasion A that a particular witness is not credible and, on occasion B, accept key evidence given by that witness. A witness could be credible on one occasion and incredible on another, but it does not do very much for public confidence if the credibility of a witness who testifies repeatedly before the courts is itself the subject of constant written evaluations. I believe in the issuing of a guilty or not guilty verdict, as appropriate.

Sometimes we are inclined to test everything in the legal system to the point of destruction. The jury system, although it has evolved over centuries and is not the same now as when it started, has a great amount of common sense attached to it and therefore we should be very careful before we depart from it. I say this only to emphasise that we should do everything in our power to strengthen the jury trial process. I have a fairly heavy caseload of legislation in this regard. I am conscious that we do not have a very sophisticated method of protecting, assisting or sequestering jurors.

It is true that a reasonably lengthy trial would represent an economic disaster for a self-employed person summoned for jury service. A self-employed electrician called to Athlone Circuit Court to preside as a juror in a trial that lasts

for two weeks is not given a cheque or thanked for his service to justice. It is just assumed that his time is given freely. This may be reasonable in respect of short cases. In one-day cases it may be an obligation of citizenship. It is strange that employees are in a wholly different position from that of the self-employed. This should be examined. I imagine that the Department of Finance will have a view on it. If everybody who comes to court as a witness gets his or her expenses paid and the jurors are unpaid, it will skew the cross-sectional nature of jury selection against those who simply cannot afford to become involved in a lengthy case.

On Senator Tuffy's remarks on jury trial, I hear people say on occasion that some cases, such as lengthy fraud cases, are too complicated for juries to follow. In response, I always ask whether there is justice in the putting of a person into jail under circumstances in which 12 jurors, who take an oath to follow the proceedings of the trial, cannot understand why that person is put in jail. It is not right to put somebody in jail if 12 people cannot follow the reasoning behind the decision to put that person in jail.

In the case of complex financial transactions, the answer is not to say that jurors cannot be expected to follow them. Rather, the answer may be to say that jurors should have access to expert evidence and that both the prosecution and defence should be able to convey their cases to the jury without simply relating direct evidence of a multiplicity of transactions.

I have great faith in jury trial and believe we should do all we can to sustain it. I hope political developments in this island will be such that I will be able to address the Hederman report before the end of this term. The care with which both the majority and minority made their carefully thought-out arguments in the report is such that they deserve some form of response. The report should not be put on the shelf indefinitely.

Amendment, by leave, withdrawn.

Section 3 agreed to.

SECTION 4.

An Leas-Chathaoirleach: Amendments Nos. 2 and 3 are related and may be taken together. Is that agreed? Agreed.

Ms Tuffy: I move amendment No. 2:

In page 8, line 32, after "2002" to insert "(OJ L 164, 22.6.2002, P3)".

Amendments Nos. 2 and 3 are drafting amendments to insert references to the relevant passages in the *Official Journal of the European Union*. I would like to hear the Minister's comments thereon.

Mr. M. McDowell: I understand the purpose of the amendments is to insert references to the

published opinions of the European Parliament. For ease of reference, we have gone to the trouble of scheduling the full text of the framework decisions in both the Irish and English languages in Schedule 1 to the Bill.

On amendment No. 3, the reference to the framework decision which is made in the Bill is included in section 4 for the purpose of definition to ensure that it is correctly identified as it is referred to in some of the provisions of the Bill. I thank the Senator for the thought behind the amendment but really do not recognise the value of referring to the opinion of the European Parliament because it does not assist in identifying the framework decision to which effect is being given. We would complicate law greatly if we were to study our legislation by reference to the opinions of the European Parliament. The unintended consequence of going down this road would be that nobody would schedule texts at all. One would simply be told to find the relevant information oneself. I would prefer to leave the legislation as it stands.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

An Leas-Chathaoirleach: Amendment No. 5 is cognate with amendment No. 4. We will take amendments Nos. 4 and 5 together by agreement. Is that agreed? Agreed.

Ms Tuffy: I move amendment No. 4:

In page 9, line 3, after "a" to insert "democratic".

The Human Rights Commission suggested this amendment because the broad definition of terrorism in the Bill would cover legitimate acts of rebellion against a tyrannical or despotic government. We want to ensure that is as far as it would go.

Mr. M. McDowell: I am grateful to the Senator for raising this issue. Since publication of the Bill several concerns have been expressed about the possibility that a person engaged in activity against an oppressive or tyrannical regime might be prosecuted and convicted under the provisions of the Bill.

As I said on Committee Stage in the other House, however, there is no solution to the issue which these amendments attempt to address in good faith. I am conscious of the Senator's belief and that of the Human Rights Commission that insertion of the word "democratic" would solve the problem but that is not the case. There are regimes which some would regard as democratic but others would not, according to one's definition of the word "democratic".

On Committee Stage in the other House I cited the example of the republic generally called North Korea, which refers to itself as the Demo-

[Mr. M. McDowell.]
cratic People's Republic of Korea. The Communist Party of North Korea has created a dictatorship of the proletariat which it claims is in some sense democratic. Many Marxist guerrillas around the world are still trying to establish dictatorships of the proletariat on Marxist-Leninist principles. In their minds they are establishing democracy but that is far from what we would regard as democratic.

North Korea is not the only example of this; there are many others. The multi-party system may not be a prerequisite for definition of a democracy. For example, as I understand it, the People's Republic of Cuba allows only one party to contest elections, the Communist Party. Others are not allowed to organise parties to run for election, which is hardly democratic.

The obverse is that there are still autocracies of one kind or another around the world. I see from today's newspapers that the King of Nepal has extensive powers and faces a classic Maoist guerrilla movement which seeks leadership. It is difficult to say that either a Marxist-Leninist group or a king is democratic. When one looks at the Arab Emirates, the kingdoms and principalities around the world, one is forced to ask what the word democratic means and whether including it here would solve any problems.

Is a person contending for power in a manifestly undemocratic regime, such as those in some Arabian peninsula states, free to carry out acts of terrorism? There must be a point at which it is not legitimate for someone to commit terrorist acts in states such as Saudi Arabia or Brunei just because they do not have our system of democracy.

The mechanism chosen, after 18 months debate in Government, to give the Attorney General's approval the status of a condition precedent to a prosecution going on under this legislation, is a better approach than the superficially plausible but deeply problematic statement that it would be a defence for anybody planning a terrorist act to show that the state against which he or she plotted was not democratic. We would not accept that a person accused here of planning to set off a bomb in a supermarket in Havana would have a full defence in law because he persuaded a court or jury that the system in Cuba was not what we would call democratic. Likewise, for someone to perpetrate an equivalent act in a state because it is a monarchy is not a defence. That is not a viable method for distinguishing the two cases.

Dr. M. Hayes: I too was persuaded of the Minister's point. I would find it difficult to decide who would determine, and how, what was democratic. There are people in this country who think we do not have a democratic Government. The essential point is that the Act refers to unduly compelling by terrorism. I agree with the Minister that one

cannot regard acts of sheer terrorism and murder as defensible.

Nothing in this Act prevents people conducting a protest or preparations for a change of government by means we would accept and approve. The filter of the Attorney General seems the most sensible way of dealing with this.

Ms Tuffy: Senator Maurice Hayes refers to murder but the definition of terrorism in the Bill is much broader than that. To respond to the Minister's points, if we used the word democratic in the legislation it would refer to our understanding of democracy. We consider this to be a democratic society and our judgment would be that democracy includes free elections in which people have the right to put themselves forward and run. We have certain restrictions but they must be reasonable.

We would surely judge by our standard of democracy. The term "a government" is used in the legislation and we must make a judgment as to what constitutes a government. Why not "democratic" too? The most important feature of our democracy is that if we are not happy with a Government's performance we can decide not to re-elect it. We also have an Opposition that can make a Government accountable in Parliament. That is the type of democracy by which we would make the judgment.

I do not condone murder but in determining a person's acts as terrorism under this legislation one must also consider the situation the person faces. It may be necessary to go
12 o'clock beyond the form a protest might take here to bring a government or monarchy to account on a particular issue. I am not referring to killing people or other violence but the definition of terrorism in the legislation could be interpreted more broadly.

Dr. M. Hayes: It could if the person bringing the prosecutions had a bit of wit too.

Mr. M. McDowell: I may get into trouble by saying this but at present there is a major controversy as to whether it is possible, right or appropriate for liberal democracies to engage in regime change to bring about liberal democracy, as we see it, in places where we say it does not exist. I do not want to get involved in that debate here. While Senator Tuffy advances the term "democratic", I must deal with what it would actually mean. If, for example, I am asked whether this applies to North Korea, Cuba, Morocco, Bahrain, Kuwait or Saudi Arabia, I must be able to answer yes or no. I cannot simply state that if it does not apply, what would otherwise be a terrorist offence internationally can be planned in Ireland in respect of all those countries.

The terrorist offences under discussion are set on page 78 of the Bill from paragraphs (a) to (i), and include attacks on a person's life which may cause death, attacks on a person's physical integ-

rity, kidnapping and hostage taking and a series of other offences. If I were to accept the proposition that because a country has neither elections nor a parliament no offence is committed if somebody plans a terrorist atrocity on Irish soil to be perpetrated in that country, the effect would be far-reaching.

While we may all have our pet list of kingdoms or people's democracies, to take the discussion beyond left or right I will use the example of the Vatican. Is it a democracy? I could not accept that it is right to let off a bomb in the Vatican or to plan in Ireland to do so simply because it does not have elections. Of course the Vatican does have elections but they are for life.

Mr. Cummins: I appreciate Senator Tuffy's intention but I must accept the Minister's point. If we include the word "democratic" in the Bill, we must define what it means, which would take us into a minefield. I accept the Minister's position.

Amendment, by leave, withdrawn.

Amendment No. 5 not moved.

Section 4 agreed to.

Sections 5 to 50, inclusive, agreed to.

NEW SECTION.

Ms Tuffy: I move amendment No. 6:

In page 47, before section 51, to insert the following new section:

51.—Where the Director of Public Prosecutions certifies, pursuant to the Offences against the State Act 1939, that the ordinary courts are inadequate for the trial of an offence, the Director shall, if requested by the Defendant, either give reasons for the making of such a certificate or apply to the Court for the appointment of special counsel to inquire into the adequacy of the reasons for the certificate.”.

The purpose of the amendment is to rectify the breach of international law which has been held by the United Nations to exist, given the power of the Director of Public Prosecutions to send offences for trial by the Special Criminal Court without providing reasons. This procedure is condemned by the UN Human Rights Committee in the case of *Kavanagh v. Ireland* in 2001. I would like the Minister to respond.

Mr. M. McDowell: I acknowledge that the Senator raises an interesting and important issue, namely, whether the decision of the Director of Public Prosecutions to refer a case to the Special Criminal Court should be one with reasons attached to it. The purpose of giving reasons is obviously with a view in some way to testing the

decision to find if it was proper or to challenge the reasoning given.

This raises several collateral issues. For example, it may be decided to send me to the Special Criminal Court because the Director of Public Prosecutions believes I will tamper with a jury. If that reason is made public, is this prejudicial to my innocence? If a debate takes place, in court or elsewhere, as to whether I am likely to interfere with a jury, who my associates are and what I do in my spare time other than in regard to the offence with which I am charged, does it improve matters that a justiciable controversy is created, prior to the commencement of a case, as to my character, past actions or otherwise? For example, if the Director of Public Prosecutions is strongly and for good reason of the view that I am likely to tamper with the jury, is it right that he must make public his evidence to support that view?

I assume the amendment's reference to "special counsel" is to a counsel who could be made privy to the reasoning without revealing the matter to his or her client.

That carries with it certain implications, including, for example, that I could be represented in a court case by counsel who would know why I won the case, or what was held against me if I lost it. However, I would not know what my own counsel knew was being alleged against me in court proceedings. That carries with it many complex issues as to whether it is appropriate for me to go to court and know that a hearing or trial of some kind took place at which I was represented, but about which the grounds for the decision were never revealed to me.

I do not know whether that is a huge advance on the current situation. I am not saying this dismissively because I have spent some time contemplating all of these issues. I am not persuaded that the solution proposed by the Senator is the most attractive one.

When I was Attorney General, this matter was raised before the United Nations committee in Geneva by a number of participants who were ably assisted by NGOs in Ireland in identifying this issue in Irish law. This was an occasion prior to the more recent committee decision on this issue. I found it odd that countries whose representatives said that jury trial was neither attractive nor necessary, and would not guarantee it to their own citizens, were saying that the mechanism whereby the Special Criminal Court's jurisdiction was invoked was, in their opinion, in breach of the convention. It would seem to me that in order to have a reasoned view on that issue, one would, first, have to understand the common law system and, second, share the view that a jury trial is, in our order of things, superior to a judge only trial. One would also have to come up with some kind of mechanism, which would stand up to scrutiny, for making this decision in a way that would give greater rights to an accused person. That is the issue. Are we

[Mr. M. McDowell.]

going to have some mechanism for a hearing at which the accused person is represented but is not entitled to attend and know the reason, and the public is not entitled to know the reasons because it could prejudice a trial?

I will provide a straight example. Somebody might be charged with murder and the issue would be whether or not he or she should go to the Special Criminal Court. A hearing may be held as to the accused's propensity to interfere with witnesses or intimidate jurors. At that hearing, much evidence could be put on the table tending to suggest that the accused was likely to interfere with jurors and intimidate witnesses. The hearing may decide that, on balance, the accused should go before a jury trial but if all that pre-trial hearing evidence was made public it could be massively prejudicial to a jury trial. If there was a law that such evidence must remain unpublished and, in certain cases, that not even the basis of the opinion could be revealed to the accused, it would be hard to say that was a major advance on the current situation.

To cut a long story short, I concede that this is a serious issue but it is not one about which I am in a position to offer a serious, thought-out solution at this point. I am not confident that the solution offered by the Senator's amendment would be a significant improvement on the present situation.

Ms Tuffy: I am prepared to accept what the Minister has said, that our solution might not be the right one. I hope he will examine the matter, however. The UN human rights committee has raised this issue, so surely it is our responsibility to try to address it. We should try to find the required mechanism, even if it is difficult to do so due to the complexity of the issue. We must respond; we cannot just say it is too difficult to address the matter raised by the UN committee. Surely it is the Minister's duty to address the difficulty outlined by the UN. He should do so. It may not be possible in the manner proposed by my amendment but he has to come up with another solution.

Dr. M. Hayes: I agree with Senator Tuffy that the issue is a very serious one and I am glad the Minister has taken it seriously. I am thinking about his comment that eminent jurists elsewhere have expressed a view on the matter. They should try living in a terror-stricken area for a while and they would see it differently. The nature of terrorism is that it terrorises people. One saw it occurring in some recent events. I have seen such cases. One of the reasons the Diplock courts were introduced in the North was because of attacks on jurors and not only directly on jurors but through their families and extended families. It is almost axiomatic that it becomes extremely difficult to think in terms of a jury trial for terrorist offences, unless it concerns an external terrorist

posing a threat to some other state, with few resources or friends in this State. By and large, however, the connotation of terrorism changes the geometry of the situation in which it is being considered.

Amendment, by leave, withdrawn.

Question proposed: "That section 51 stand part of the Bill."

Mr. M. McDowell: It is my intention to introduce a further amendment on Report Stage. As the House is aware, it is the Government's intention to establish a second special criminal court. That is being done with a view to ensuring that people awaiting trial would not face lengthy delays. The establishment of two such courts means that the trial of offences will be speeded up. It will no longer be a matter of one court dealing with cases in a linear way, one after another. I want to have a situation whereby if somebody is sent to one court they can be sent to the other court so that the load can be shared. I am advised that I need a statutory amendment to bring that about. It was my intention to do so on Committee Stage but I will now have to do it on Report Stage because the wording of the amendment has run into a bit of trouble. Under the procedure of the House, I have to mention it at this point.

Mr. Cummins: Is it appropriate to make such a major change on Report Stage? Should such an amendment be made to this legislation at this point?

An Leas-Chathaoirleach: Is there such an amendment on the list?

Mr. Cummins: The Minister was speaking about introducing an amendment on Report Stage.

Mr. M. McDowell: I think we are talking about two separate things. I am signalling to the House what I propose to do on Report Stage. I think Senator Cummins is asking me about the retention of communications data.

Mr. Cummins: Yes.

Question put and agreed to.

Sections 52 to 58, inclusive, agreed to.

NEW SECTION.

Government amendment No. 7:

In page 55, before section 59 and Part 7 of the Bill, to insert the following new section:

"Part 7

Communications Data

59.—(1) In this Part—

‘Act of 1993’ means the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;

‘aggregated data’ means data that cannot be related to individual subscribers or users;

‘data’ means communications data;

‘data retention request’ means a request made under *section 61* for the retention of traffic data or location data or both;

‘designated judge’ means the person designated under section 8 of the Act of 1993;

‘Directive’ means Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and protection of privacy in the electronic communications sector;

‘disclosure request’ means a request under *section 62* for the disclosure of traffic data or location data retained in accordance with *section 61(5)*;

‘Garda Commissioner’ means the Commissioner of the Garda Síochána;

‘processing’ has the same meaning as in the Data Protection Acts 1988 and 2003;

‘Referee’ means the holder of the office of Complaints Referee under the Act of 1993;

‘service provider’ means a person who is engaged in the provision of a publicly available electronic communications service by means of fixed line or mobile telephones.

(2) A word or expression that is used but not defined in this Part and is defined in the Directive has the same meaning in this Part as in the Directive.”.

Mr. M. McDowell: The purpose of this and subsequent amendments is to give a solid basis in Irish law to the retention of communication data and to protect people in a way that is not done at the moment. Information concerning the use made of communications services is an essential aid to the Garda Síochána in the fight against crime and in combating terrorism and, together with the Defence Forces, the protection and security of the State.

Phone companies generate data regarding who phoned whom so that they can work out who pays the charge. Although there is provision in law to permit the providers of electronic communications services to disclose such information to the Garda and the Defence Forces, there is no obligation in law providing for the retention of such information in the first place.

In April 2002 the then Minister for Public Enterprise issued directions at the request of my predecessor to providers of telecommunications services obliging them to retain data for at least three years. Those directions were intended to be a temporary measure bridging the gap between the transposition into Irish law of an EU directive on privacy and electronic communications and the introduction of primary legislation on data retention which was approved by the Government on 20 March 2002. The transposition of that directive mandates that providers are confined to retaining data for a considerably shorter period than three years. As a result of an extensive consultation process with interested parties and publication of a draft EU framework decision on data retention during the Irish Presidency, the legislation was never published.

On 4 January 2005 the Data Protection Commissioner, Mr. Joseph Meade, issued enforcement orders to the providers in receipt of ministerial directions obliging them, with effect from 1 May of this year, to erase data which is more than six months old. In other words, he served a notice on them obliging them to erase data which was more than six months old. The commissioner took the view, and he is independent of me, that the temporary directions were in force too long and that it was time to replace them with primary legislation. Without some contrary action being taken, the initiative by the Data Protection Commissioner would, if the telecommunications companies accepted its validity, seriously undermine the ability of the Garda Síochána to investigate criminal activity, including terrorism and to protect the security of the State.

In its decision of 21 January 2005 in the case of the Director of Public Prosecutions *v.* Murphy the Court of Criminal Appeal upheld the admissibility of telecommunications data as evidence. In his opinion on this decision the Attorney General has stated that notwithstanding the judgment of the Court of Criminal Appeal it will still be necessary to enact new primary legislation requiring the retention of data by telecommunications companies. He also advised that the legislation would require safeguards against the possible misuse of statutory data retention provisions by the security forces.

The amendments seek to address the situation whereby providers of electronic communications services will be subject to two conflicting obligations in respect of retaining data information. These are the directions that were given under section 110 of the Postal and Telecommunications Act 1983 requiring that they retain data for at least 36 months and, now, the enforcement notice served by the Data Protection Commissioner under the Data Protection Act, requiring that they delete such data after six months. The advice of the Attorney General on the legality of the commissioner’s actions was sought and he advised that the commissioner may be acting outside of his powers in this context but that the

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need for primary legislation still remains. I cannot go into a legal no man's land at this stage where there are two apparently conflicting directives given to telecommunications companies.

The framework decision ran into difficulties with the European Commission. It is difficult to understand exactly what has happened to the framework decision but it appears that the commissioner is of the strong view that data retention should be dealt with in the first pillar of the European Union treaties, that is the same pillar as data protection and communications. While it is probably safe to assume that the framework decision in its present form is moribund, we do not know what proposal will take its place. The Commission has apparently promised a first pillar on data retention but, whatever the outcome, it seems that any EU initiative will not now take place in a time frame that would allow me to meet the May deadline set by the Data Protection Commissioner. Faced with that I must act now before 5 May. There is no EU cavalry coming down the hill to help me. I must sort out this conflict.

What we have put forward here is a statutory basis to replace the existing one, which allows a senior Garda officer to have access to such data for the purpose of investigating serious crime under the 1983 Act. What we now propose is to give that a statutory basis by putting a statutory duty on telecommunications bodies to keep the data they have for 36 months and to bring in a system of protections which are analogous to those that apply at the moment in respect of a slightly different situation, namely, the interception of communications regime.

Members of this House may or may not know that at the moment the Minister for Justice, Equality and Law Reform signs warrants for what is colloquially called tapping phones and opening mail in the post. First, the Commissioner of the Garda Síochána or the appropriate person in the Army applies for a warrant to an authorised officer in my Department who is designated under statute. That authorised officer must evaluate the application and prepare a file for me justifying the application if he or she supports it. The application comes before me with reasons and a background memorandum supporting the application for a wire tap or a warrant to intercept postal communications. If I grant the warrant it is put into effect.

There are two safeguards in place. First, if somebody believes he or she is being improperly tapped, a judicial officer is appointed to check out the situation. Second, there is a wholly different regime whereby a different judicial officer, a senior judge, reviews all the decisions I make every year and is in a position to report any impropriety on my part or any doubtful cases where I might have strayed from the straight and narrow. That is what happens regarding interceptions at the moment.

Mr. Cummins: How long have those regulations been in place?

Mr. M. McDowell: They have been in place since 1993, a fairly long time.

Mr. Cummins: They should have been there much longer.

Mr. M. McDowell: Prior to that it was done by warrant under some postal Act of the late 19th century and a decision of the Court of Appeal or the House of Lords had interpreted the term "postal packet" as being broad enough to include a telephone call.

That was some creative judging. It was on that flimsy basis that this kind of work was done until comparatively recently.

In 1993 the Government introduced legislation to deal with this issue. The position at present is that there is no supervision whatsoever afterwards of whether a particular application was justified or unjustified. There is no mechanism to look back at it to review it. I emphasise this has to do with data, not what is said in the course of a telephone conversation, merely the fact that A telephoned B at a particular time and the telephone call took X amount of time. That is the kind of data we are talking about.

Ms Ormonde: What about the content?

Mr. M. McDowell: The content is not covered. This is purely data on the fact that a transaction has taken place through a telecommunications company.

Dr. M. Hayes: Surely the content is not recorded?

Mr. McDowell: I presume the content is not recorded. The law in regard to content is as I have described it and requires ministerial intervention.

Ms Ormonde: Yes.

Mr. M. McDowell: Clearly it is impractical to have ministerial intervention in every request for who telephoned who. As a matter of practicality in the investigation of, say, a kidnapping, a bank robbery or whatever, that work would involve looking at a suspect and seeing who did the suspect telephone during the relevant period. It might also involve looking at the suspect's contacts. I would spend all my life writing further warrants and I would have to move into Garda headquarters because one could not have the same degree of ministerial control and accountability in an issue that is going to change from hour to hour. I do not want to speak about current cases but Members are aware this kind of material is important and that it could not possibly involve the Minister having an intervening role as he does in relation to interception of the content of communications.

It appears to me that if we are giving a statutory basis for the retention of data we should, at the very least, insert the two judicial protections to ensure that somebody who thinks their data has been improperly accessed can make a complaint to a judicial figure and have their situation investigated. Even if there is no controversy and nobody is aware of it, there is a person whose job it is to go over all these transactions to ensure it is not being used by the senior Garda officers who are given the power to apply for this kind of data. That is the balance that is being struck here.

Senator Cummins asked why now and why in this mechanism. I have until 5 May to deal with this issue. The Houses of the Oireachtas will have its Easter holidays and the St. Patrick's Day break fairly soon. If I were to provide for all of this in a separate Bill it would be doubtful if I could meet the 5 May deadline. I can say for a certainty that it is cognate to this Bill in that any effort to monitor international terrorism or to counter it would fall flat on its face if on 5 May, telecommunications data was to become erased automatically after six months. Any effort to look back over a reasonable period, which is 36 months in the Government's view, would become impossible if the telecommunications companies accepted the validity of the directive they have now received from the Information Commissioner. I had hoped to avail of the European basis for making rules in this area but it did not materialise. I have now my own sunset clause coming down the tracks at me on 5 May. Therefore, after long consideration it was decided the appropriate course of action was to take advantage of this legislative vehicle to insert these new provisions into our law.

Ms Tuffy: This is a complicated issue. Is the word "data" defined in the legislation? My understanding is that the Garda Commissioner has to request the service provider to keep the data and it would not have to keep it unless requested by the commissioner. Surely the Garda Commissioner would be inclined to write to all the service providers asking them to keep the data. Surely also the legislation will be used by the Garda Commissioner to request every service provider to keep the data concerned. If so, does not that mean that virtually every person who uses the services of telecommunications companies would have a possible grievance under the section and could make a complaint? The provision appears very broad in its application.

Mr. M. McDowell: The position is that under the 1993 Act a senior Garda officer can apply to a telecommunications company for access to its telecommunications data in pursuit of an investigation of a serious offence. Today as we speak, all of us are subject to the fact that our telephone transactions, such as, are recorded and accessible in that scenario. We do not all ask who is applying for access to our telephone data. In this regard, I

do not see how bringing in new protections would change our attitude. The real issue is that since telecos, as they are called, are not obliged to hold data, they assemble the data to prepare their bills and manage their business appropriately and, presumably, to enable them to fend off cases that telephone conversations were never made.

If there was no retention of this type everybody could say they never made, say, 5,000 telephone calls during that month. The telecos have to be in a position to say that one did make the calls and these are the telephone transactions one made at a particular time. They have to amass the data even from a defensive point of view, otherwise every bill would be disputed. People would say their bill looked steep and that they did not use their phone often and challenge the telecos to prove the contrary. The telecos have to be in a position to say that one's telephone was used X number of times for international calls and X number of times for local calls and to show the times and dates.

The issue is first, whether that kind of material can be stored indefinitely and if there is an increased cost and, second, if the Data Protection Commissioner arrives at a view regarding, say, a six-month period but without a statutory authority, what would be the implications for the investigation of serious crime from my perspective? I must ask myself that question. The Commissioner is entitled to his view but I have to take a different view into account. All in all, I believe that 36 months is an appropriate period. I do not believe there is much difference between six months and 36 months. If my privacy is in some way infringed by having the information on file or on a hard disk for six months, I do not regard it as a great reassurance to me to know that it is erased after six months rather than 36 months. It would not change my sense of wellbeing to know that an additional period of time had not elapsed before the data was destroyed.

Ms Tuffy: I apologise for interrupting the Minister but it is being retained for a different purpose than originally. Surely six months does not have the same legal purpose.

Acting Chairman (Mr. Mooney): Is the Senator addressing the Minister?

Ms Tuffy: Yes, through the Chair.

Mr. M. McDowell: It is a matter of degree. Perhaps I should inform the House that on one occasion I received a visitor in my Department when my office was in the other building on St. Stephen's Green. He was a Canadian data protection commissioner. He told me it was his strong view that there should be no retention of any kind. I asked him if he did not regard that as a very strong position to take and he said, "No". He was adamant that this was an unwarranted infringement on everybody's privacy; that the

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State did not need to have this kind of information; it could use wire tapping of the classic kind but retention was an infringement of everybody's liberty. I noted that shortly after his conversation with me he lost office in circumstances where his expenses figured.

Dr. M. Hayes: His telephone was tapped.

Mr. M. McDowell: No, just his expenses. In my view whether the period is six months or 36 months makes very little difference. I do not think that with these safeguards in particular it is a matter of great importance.

I have always been unimpressed by the arguments that material deleted after a period of time increases one's dignity and rights as a human being. This notion that if, for instance, I gave a fingerprint which is destroyed after some specified period of time does not really worry me. I am aware of a contrary opinion which worries about a big brother state amassing information indefinitely about everybody. The 36-month period is what the Government favours.

The fact that a person has communicated with somebody else could in certain circumstances be intrusive on his or her liberty. If one telephoned a certain type of chat line, I presume one is entitled to keep that fact secret. The only circumstance in which that is likely to be investigated now is if a senior Garda officer goes looking for it, subject to the knowledge that his or her application for it will be the subject of judicial scrutiny afterwards and he or she will be called to account if he or she abuses the facility.

Mr. Cummins: The Minister has explained the point very well. I can see now why he would have no problem in clarifying matters for any jury. The whole area of telecommunications and retention of data is very important where crime is concerned and to which the Minister referred. In my view if the Garda Commissioner is of the opinion that it is necessary to retain data such as that relating to terrorist offences, for instance, for 36 months, the House should take his advice on this and agree to 36 months.

There is a big difference between six months and 36 months. However, if the Commissioner believes it would be helpful to retain such records for that period in respect of the security of the State, the House should agree.

Mr. Kett: Is it the case that if I phone somebody it is possible for the phone companies to have the content of the conversation without a pre-tap? If I make a threatening phone call to a person who then complains to the Garda, can the Garda elicit the content of the phone call from the phone company?

Mr. M. McDowell: If as frequently happens, somebody says they are being subjected to har-

assment or nuisance calls, all the Garda can establish is that one phone contacted another at a particular time and for a particular length of time. The Senator can be reassured that the content of the call is not recorded. What the Senator says on the phone is not on some recording device, unless the Minister, on foot of the statutory process I mentioned earlier, sanctioned in advance a tap on his phone. For instance, if one is investigating nuisance or harassment calls, there is no method whereby the telecommunications company or the Garda can summon up from somewhere the content of the conversation.

Acting Chairman: I think this issue has been exhausted. The House has spent nearly 20 minutes on the specific point about the time period. With respect, I am not trying to stop the debate but unless the Senator has something new to offer, I would like to move on.

Ms Tuffy: This is a new amendment which has just been introduced at this late stage.

Acting Chairman: I am only concerned about the longevity of the debate and whether it is moving into repetition.

Mr. Cummins: This is a very important area which the Minister has outlined.

Ms Tuffy: It is a very significant new departure. The Minister mentioned a period of six months for retention of information. My understanding is that the reason for keeping the information for six months was different to the reason that information will be kept for three years under this legislation. I can understand the reasoning behind it and I am not arguing against it. However, this provision may make everybody a potential criminal in a way. One of my concerns is the definition of "data". It is no good saying that there are currently no recordings. We need to know that data does not include such recordings. Where is the definition of "data" in the Bill because I cannot see it?

Dr. M. Hayes: I presume the Minister is not asking people to retain data in general. I presume the Garda will ask that data be retained in respect of calls emanating from person X or situation X. Which of those two is it?

Mr. M. McDowell: What is meant in the Bill is there should be an obligation to keep data which is currently generally kept. This means that a phone company could not simply say it does not keep data at all. In such a situation, all the baddies in the world would use that phone company. If one of the three mobile phone companies decided not to keep any data and it was therefore never possible to establish whether any of their phones had communicated with another, all the baddies would go to that service because the Garda would not be in a position to establish

whether a person did or did not contact another person.

Senator Maurice Hayes asked the question. This is access to data which is kept and it is not a case of the Garda deciding it wants Senator Maurice Hayes's data to be retained for a period of time. This provision asks telecommunications companies to keep their electronic data for a period of 36 months.

Senator Tuffy is anxious that the content be excluded in a particular way. What is intended by these amendments is to use the definitions in directive 2002/58/EC of the European Parliament and Council. I will examine the matter before Report Stage to ensure it is clear it does not relate to the content of communications and tighten up the provision if possible.

Amendment agreed to.

Government amendment No. 8:

In page 55, before section 59 and Part 7 of the Bill, to insert the following new section:

60.—This Part applies to data relating to communications transmitted by means of a fixed line or mobile telephone, but it does not apply to the content of such communications.”.

Mr. M. McDowell: We have already debated the principle involved in this amendment.

Amendment agreed to.

Government amendment No. 9:

In page 55, before section 59 and Part 7 of the Bill, to insert the following new section:

61.—(1) Subject to *subsections (2) and (4)*, the Garda Commissioner may request a service provider to retain, for a period of 3 years, traffic data or location data or both for the purposes of—

(a) the prevention, detection, investigation or prosecution of crime (including but not limited to terrorist offences), or

(b) the safeguarding of the security of the State.

(2) The data retention request must be made in writing.

(3) Traffic data and location data that are in the possession of a service provider on the passing of this Act and that were retained by the service provider for the purposes specified in *subsection (1)* are deemed to have been the subject of a data retention request, but only if the 3 year retention period for the data has not elapsed before the passing of this Act.

(4) For the purposes of this Part, the 3 year retention period begins—

(a) in the case of traffic data or location data referred to in *subsection (3)*, on the date before the passing of this Act on which the data were first processed by the service provider, or

(b) in the case of any other traffic data or location data, on the date on or after the passing of this Act on which the data were first so processed.

(5) Notwithstanding any other enactment or instrument, a service provider shall retain, for the purposes and the period specified in *subsection (1)*, the data specified in a data retention request made to the provider.

(6) Nothing in this section shall be taken as requiring a service provider to retain aggregated data or data that have been made anonymous.”

Mr. M. McDowell: This amendment relates to the obligation to retain data and requests by the Garda Síochána to have access to such data. It provides that the Garda Commissioner may request a service provider to retain data for the purposes of the prevention, detection, investigation or prosecution of crime, including but not limited to terrorist offences, or the safeguarding of the security of the State.

Amendment agreed to.

Government amendment No. 10:

In page 55, before section 59 and Part 7 of the Bill, to insert the following new section:

62.—(1) Subject to *subsection (7)*, a service provider shall not access data retained in accordance with *section 61(5)*, except—

(a) at the request and with the consent of the person to whom the data relate,

(b) for the purpose of complying with a disclosure request under *subsection (2) or (3)* of this section,

(c) in accordance with a court order,

(d) for the purpose of civil proceedings in any court, or

(e) as may be authorised by the Data Protection Commissioner.

(2) If a member of the Garda Síochána not below the rank of chief superintendent is satisfied that access to any data retained by a service provider in accordance with *section 61(5)* is required for the purposes for which the data were retained, that member may request the service provider to disclose the data to the member.

(3) If an officer of the Permanent Defence Force not below the rank of colonel is satisfied that access to any data retained by a ser-

vice provider in accordance with *section 61(5)* is required for the purpose of safeguarding the security of the State, that officer may request the service provider to disclose the data to the officer.

(4) A disclosure request must be made in writing, but in cases of exceptional urgency the request may be made orally (whether by telephone or otherwise) by a person entitled under *subsection (2)* or *(3)* to make the request.

(5) A person who makes a disclosure request orally must confirm the request in writing to the service provider within 24 hours.

(6) A service provider shall comply with a disclosure request made to the service provider.

(7) Where all or part of the period specified in a data retention request coincides with the period during which any of the data specified in the request may, in accordance with law, be processed for purposes other than those specified in the request, this section does not prevent that data from being processed for those other purposes.”.

Mr. M. McDowell: This amendment provides for a prohibition on access to data, except in accordance with those provisions set out in subparagraphs *(a)* to *(e)* of subsection *(1)*. It means that telecommunications companies may not allow access to data or access data, except at the request of the person to whom the data relates, or for the purpose of complying with a disclosure request under subsection *(2)* or *(3)* of the section, or in compliance with a court order, or for the purpose of civil proceedings, for example, where bills are in dispute, or as may be authorised by the Data Protection Commissioner. In general, material of this nature will be made secret, subject to a number of exceptions.

Amendment agreed to.

Government amendment No. 11:

In page 55, before section 59 and Part 7 of the Bill, to insert the following new section:

63.—(1) A person who believes that data that relate to the person and that are in the possession of a service provider have been accessed following a disclosure request may apply to the Referee for an investigation into the matter.

(2) If an application is made under this section (other than one appearing to the Referee to be frivolous or vexatious), the Referee shall investigate—

(a) whether a disclosure request was made as alleged in the application, and

(b) if so, whether any provision of *section 62* has been contravened in relation to the disclosure request.

(3) If, after investigating the matter, the Referee concludes that a provision of *section 62* has been contravened in relation to the disclosure request, the Referee shall —

(a) notify the applicant in writing of that conclusion, and

(b) make a report of the Referee’s findings to the Taoiseach.

(4) In addition, in the circumstances specified in *subsection (3)*, the Referee may, if he or she thinks fit, by order do either or both of the following:

(a) direct the destruction of the relevant data and any copies of the data;

(b) make a recommendation for the payment to the applicant of such sum by way of compensation as may be specified in the order.

(5) If, after investigating the matter, the Referee concludes that no provision of *section 62* has been contravened, the Referee shall notify the applicant in writing to that effect.

(6) A decision of the Referee under this section is final.

(7) For the purpose of an investigation under this section, the Referee is entitled to access to and has the power to inspect any official documents or records relating to the relevant application.

(8) Any person who was concerned in, or has information relevant to, the making of a disclosure request in respect of which an application is made under this section shall give the Referee, on his or her request, such information relating to the request as is in the person’s possession.”.

Mr. M. McDowell: Amendment 11 inserts a safeguarding section providing for a referee and judicial oversight function.

Amendment agreed to.

Government amendment No. 12:

In page 55, before section 59 and Part 7 of the Bill, to insert the following new section:

64.—Section 8 of the Act of 1993 is amended by substituting the following subsections for subsection *(1)*:

‘(1) The President of the High Court shall from time to time after consulting with the Minister invite a person who is a judge of the High Court to undertake

(while serving as such a judge) the duties specified in this section and *section 65* of the *Criminal Justice (Terrorist Offences) Act 2005* and, if the invitation is accepted, the Government shall designate the judge for the purposes of this Act and the *Criminal Justice (Terrorist Offences) Act 2005*.

(1A) Subsection (1) does not affect the functions of the Data Protection Commissioner under section 10 of the Data Protection Act 1988.”.

Mr. M. McDowell: This amendment provides that the President of the Circuit Court may invite a judge of the High Court to undertake the functions to which I referred.

Amendment agreed to.

Government amendment No. 13:

In page 55, before section 59 and Part 7 of the Bill, to insert the following new section:

65.—(1) In addition to the duties assigned under section 8 of the Act of 1993, the designated judge shall—

(a) keep the operation of the provisions of this Part under review,

(b) ascertain whether the Garda Síochána and the Permanent Defence Force are complying with its provisions, and

(c) include, in the report to the Taoiseach under section 8(2) of the Act of 1993, such matters relating to this Part that the designated judge considers appropriate.

(2) For the purpose of carrying out the duties assigned under this section, the designated judge—

(a) has the power to investigate any case in which a disclosure request is made, and

(b) is entitled to access to and has the power to inspect any official documents or records relating to the request.

(3) Any person who was concerned in, or has information relevant to, the preparation or making of a disclosure request shall give the designated judge, on his or her request, such information relating to the request as is in the person’s possession.

(4) The designated judge may, if he or she considers it desirable to do so, communicate with the Taoiseach or the Minister concerning disclosure requests and with the Data Protection Commissioner in connection with the Commissioner’s functions under the Data Protection Acts 1988 and 2003.”.

Mr. M. McDowell: This amendment gives the judge, among other things, an obligation to keep the operation of the provisions of this Part under review to ascertain whether the Garda Síochána and the Army are complying with its provisions and to include in a report to the Taoiseach, under section 8(2) of the 1993 Act, such matters relating to this Part that the judge considers appropriate.

Amendment agreed to.

Government amendment No. 14:

In page 55, line 10, to delete “section 13” and substitute “section 13, or produced under section 14(7).”.

Mr. M. McDowell: This is a technical amendment which provides for inclusion of a reference to section 14(7).

Amendment agreed to.

Section 59, as amended, agreed to.

NEW SECTIONS.

Government amendment No. 15:

In page 55, before section 60, to insert the following new section:

60.—The Act of 2003 is amended by the insertion of the following section:

‘4A.—It shall be presumed that an issuing state will comply with the requirements of the Framework Decision, unless the contrary is shown.’.”.

Mr. M. McDowell: The purpose of this amendment is to introduce, with regard to European arrest warrants, a presumption that an issuing state will comply with the requirements set out in the framework decision unless the contrary is shown. In other words, it will be presumed that member states of the European Union will comply with the requirements of the framework decision unless somebody shows the contrary.

Mr. Cummins: Is this intended to overcome the main problem?

Mr. M. McDowell: No, it is a different issue. We have moved on to European arrest warrants. At present, if a person is contesting a European arrest warrant, the question which arises is how does one know that France, for example, will comply with its obligations under the law. This new section will provide for the assumption that the issuing state will comply with its obligations unless it is shown otherwise. We do not want to have debates in court and requirements to produce evidence with regard to what the French authorities, for example, propose to do to comply with the law.

Amendment agreed to.

Government amendment No. 16:

In page 55, before section 60, to insert the following new section:

61.—The Act of 2003 is amended by the substitution of the following section for section 5:

‘5.—For the purposes of this Act, an offence specified in a European arrest warrant corresponds to an offence under the law of the State, where the act or omission that constitutes the offence so specified would, if committed in the State on the date on which the European arrest warrant is issued, constitute an offence under the law of the State.’”

Mr. M. McDowell: This amendment provides that offences under European arrest warrants are assumed to correspond to an offence under the law of the state where the act or omission which constitutes the offence would, if committed in the state on the date on which the European arrest warrant is issued, constitute an offence under the law of the state.

Amendment agreed to.

Section 60, as amended, agreed to.

Sections 61 and 62 agreed.

SECTION 63.

Government amendment No. 17:

In page 58, between lines 15 and 16, to insert the following new paragraph:

“(b) the substitution of the following subsection for subsection (7):

‘(7) Where, in relation to a person who has been remanded in custody under subsection (3), a European arrest warrant is transmitted to the Central Authority in the State in accordance with section 12—

(a) that person shall be brought before the High Court as soon as may be, and

(b) the European arrest warrant, or a facsimile or true copy thereof, shall be produced to the High Court,

and the High Court shall, if satisfied that the person is the person in respect of whom the European arrest warrant was issued—

(i) remand the person in custody or on bail (and for that purpose the High Court shall have the same powers in relation to remand as it would have if

the person were brought before it charged with an indictable offence), and

(ii) fix a date for the purposes of section 16 (being a date that falls not later than 21 days after the date of the person’s arrest).’”.

Mr. M. McDowell: The amendment amends section 63 by the insertion of a new paragraph (b) after paragraph (a). Its purpose is to substitute a new subsection in section 14 of the Act of 2003. It is a technical amendment which follows from an amendment to section 12 of the European Arrest Warrant Act, which was inserted in the Dáil and clarified the status of warrants received by fax. The amendment to section 12 was inserted by section 62 of this Bill. The amendment before us clarifies that faxed copies received under section 12 are also acceptable in cases where the person has been arrested on grounds of urgency on foot of a Schengen alert.

Amendment agreed to.

Section 63, as amended, agreed to.

Sections 64 to 67, inclusive, agreed to.

SECTION 68.

Government amendment No. 18:

In page 63, to delete lines 10 to 15, and substitute the following:

“21A.—(1) Where a European arrest warrant is issued in the issuing state in respect of a person who has not been convicted of an offence specified therein, the High Court shall refuse to surrender the person if it is satisfied that a decision has not been made to charge the person with, and try him or her for, that offence in the issuing state.

(2) Where a European arrest warrant is issued in respect of a person who has not been convicted of an offence specified therein, it shall be presumed that a decision has been made to charge the person with, and try him or her for, that offence in the issuing state, unless the contrary is proved.”.

Mr. M. McDowell: The revised section 21 provided for by the amendment allows the arrested person to raise a question about the intention of the issuing state and, in this case, to raise a question about the issuing state’s intention to proceed with a prosecution. However, amendment No. 18 adds a presumption that there has been compliance by the issuing state with the terms of the framework decision unless the contrary is proved by the party making the claim of non-compliance. In other words, the complainant would have to do more than merely claim that he issuing state

has failed to comply with a framework decision. He or she would have to overcome the presumption before the court could examine the claim of non-compliance. One cannot simply make a claim and have an inquiry made into it in the court. One must put before the court some evidence which would persuade it that there is an issue to be inquired into. If one does not bring substantial grounds, the presumption will operate in favour of the requesting state.

Dr. M. Hayes: Does that mean that it is presumed a decision to convict has been taken and would be proceeded with? It does not include provision for a general consideration that a case will be proceeded with some day in the distant future. I presume there must be proximity.

Mr. M. McDowell: There must be an intention to prosecute rather than a general desire to engage in a fishing expedition. Having included these protections, we wanted to make clear that it is not sufficient for a person to ask questions in court and list a series of matters which must be proved. The warrant system would collapse if one had to effectively move the judicial officers to Ireland with a view to giving an explanation to the court of what they are doing. The system would not work.

If the arrested person raises a substantial issue, then there can be a court hearing and an appropriate decision based on two contending claims about the intention of the issuing state. However, it is not sufficient to put the matter in issue by raising it and then saying one wants proof of all these things because, otherwise, the European arrest warrant would become unworkable.

Amendment agreed to.

Section 68, as amended, agreed to.

Progress reported; Committee to sit again.

Sitting suspended at 1 p.m. and resumed at 2 p.m.

Future Development of An Post: Statements.

Minister of State at the Department of Agriculture and Food (Mr. J. Browne): The Minister for Communications, Marine and Natural Resources, Mr. Dempsey, who is out of the country, extends his regret that he cannot be in the House today to address Members on this matter.

The Government recognises the critical importance of a nationwide, reliable and efficient postal service. Despite the changes that have taken place in recent years, particularly with regard to electronic communications, postal deliveries and the range of services available at the post office counter are an integral part of the daily lives of our business communities, public services and the citizens of every town and village. There is no wavering of the Government commitment to

postal services. It is precisely because of this commitment that urgent action is now needed to put in place the necessary measures to ensure An Post can deliver a quality service to its customers and to the community at large.

However, we must all recognise that the challenges facing the postal sector at the start of the 21st century are not the same as those that existed at the start of the 20th century. Like all businesses, if An Post is to prosper and grow, it must adapt to the demands of its customers and must develop a genuine partnership relationship with its employees that places delivery of quality services to its customers as its primary focus and objective.

It is worth emphasising that the universal postal service provided to every address in the country is enshrined in EU and Irish law. The European Community (Postal Service) Regulations 2002 make specific provision for a universal service obligation, featuring nationwide deliveries of mail at a uniform tariff and with guaranteed frequency. This is a statutory obligation which An Post must meet. On the other hand, An Post also has the benefit of having normal letter post deliveries reserved solely for itself. This reserved area, as it is known, represents a significant commercial advantage for An Post, one on which it must capitalise if it is to be fully prepared for liberalisation of the market when that comes on stream, probably in 2009.

There has already been part liberalisation of postal services in the parcels area. Unfortunately, An Post's specialist parcels delivery service, SOS, has been unable to survive in this competitive market. Nobody can say Irish consumers do not have available a range of fast and efficient service providers for parcel delivery, but it is a source of regret that An Post has not been able to compete effectively with other players in this market.

However, An Post management is taking steps to integrate its parcel service back into the main business, thereby saving the jobs of 180 SOS employees. The redundancies required will be entirely voluntary. The management of An Post and the Communications Workers Union have been working with the national implementation body over the last number of months to resolve outstanding issues surrounding the reintegration of SOS. This process of change in the parcels service will shortly be addressed by the Labour Court to ensure it is completed in a fair and transparent way, with full regard to the rights of employees.

The proposal to go to the Labour Court, which was accepted by both sides, will see both parties bound by the court's decisions on SOS reintegration and also on Sustaining Progress issues. Labour Court hearings on these matters are scheduled to commence in February. While the impending closure and reintegration of SOS is regrettable, it is a timely reminder to us all that if consumers are to have the benefit of competition in all sectors, including the postal area,

[Mr. J. Browne.]

existing players in the market must adapt to the competitive world. Our citizens are demanding the right to have choice available to them, wherever possible. Accordingly, the way forward for our postal services is to ensure that we have both adequate competition and no diminution of the universal service.

Commission officials in Brussels have embarked on an extensive analysis of postal services throughout the 25 member states. Over the next two years, it will continue with that analysis with a view to proposing a model for EU postal services that combines competition and the delivery of a reliable service to all 450 million EU citizens. This is a daunting task to which Ireland will contribute, with particular regard to the need to cater for both our significant rural population and our fast growing and vibrant economy.

I have concentrated on sketching out the rapidly changing business environment in which our postal services operate because it is important that we are under no illusion about the challenges facing An Post. I turn now to some of the specific issues that An Post management and unions are attempting to resolve so that the company can be placed on a firm financial footing. An Post lost €43 million in 2003. This fact cannot be disguised and nobody can possibly dispute that, following losses on this scale, the workers, management and the Government were facing a crisis. During 2004, however, management and unions working together have made some progress in dealing with the crisis situation and, despite the negative comments we have heard on the issue, there is a joint commitment by all parties to restructuring.

All sides are to be commended for their efforts to date. The Government is not trying in any way to ignore or minimise the significant disagreements that exist between the management and the Communications Workers Union but we must concentrate on the process, which is well under way, of resolving the issues subject to dispute. Nevertheless, the Minister, Deputy Dempsey, recognises that we are not yet in the position where we can say that the necessary restructuring programme to secure the future of An Post has been agreed.

This is essentially the nub of the problem. The unsustainable losses of 2003 have been stemmed by implementing a number of tough measures including the non-payment of Sustaining Progress increases and the vigorous control of costs. It is regrettable that Sustaining Progress payments have not been made to the workers and pensioners of An Post. The welcome intervention of the national implementation body has ensured that the issue of Sustaining Progress increases will be addressed by the Labour Court as a matter of urgency during February. In particular, the court will investigate the "inability to pay" clause adopted by the company. Both sides in the dispute have agreed to be bound by the Labour Court decision.

Much good work has been done to date by management and unions under the auspices of the Labour Relations Commission. It is essential that both sides continue to work together in conjunction with the State's industrial relations machinery to broker a deal that will allow the company to deliver quality services to our citizens, while at the same time providing sustainable well-paid employment to its staff. That is the challenge facing us and the board and management, together with the unions, should not allow themselves to be deflected from meeting that challenge.

I commend the work of the Labour Relations Commission and the national implementation body in dealing with the serious issues facing An Post. There can be no doubt that they have made a significant contribution towards teasing out the possible way forward for unions and management in the company. With hearings in the Labour Court due to commence this month on the restructuring programme, Sustaining Progress increases and SDS reintegration, the Minister, Deputy Dempsey, urges both parties to embrace this opportunity to reach agreement on how best to work together to secure the future of the company.

One regularly hears concerns expressed about the future of our extensive urban and rural post office network. I emphasise that the Government and An Post remain committed to our nationwide service. To enable the post office network to face the challenge of modernisation, the Government has already provided An Post with an equity injection of €12.7 million.

For its part, An Post has introduced new service delivery models to improve access to post office services. It has 1,000 automated post offices, 475 non-automated post offices and 160 postal agencies. It has also established 3,000 post-point outlets in retail premises of which 600 can be used for bill payment. Automation of the post office network has also been completed. The automated network accounts for more than 95% of counter business while 475 non-automated offices undertake 5% of business. This figure clearly illustrates the level of business transacted by individual non-automated offices.

The board and management of An Post are in no doubt that the Minister and the Department will be extremely supportive of them in their efforts to ensure that our post office network continues to develop and thrive. I am aware that An Post, in partnership with the postmasters, has had some recent success in acquiring new business for our post offices. For example, many Senators will be aware that in accordance with a contract between An Post and AIB, customers of that bank can now transact business at more than 1,000 post offices throughout the country. Other business opportunities in the public and private sectors are being explored by the company and the postmasters' union. An Post has been assured that the Government will play its part in assisting

An Post to secure additional Government business, wherever possible, whether it be in the fields of social welfare or the development of e-Government services. With the roll-out of e-Government services, the automated element of the post office network is ideally placed to capitalise on opportunities arising in this area.

All of these efforts help to underpin the future of our post office services. They also illustrate that the core objective for the Government and An Post continues to be the retention of access to post office services in as many locations as possible, in the manner which best meets customer needs, whether services are provided via post offices, postal agencies or the postpoint network.

I return to the immediate and underlying problem of agreeing a restructuring plan for An Post. The Minister for Communications, the Marine and Natural Resources, Deputy Noel Dempsey, has met separately with the board, management and representatives of the Communications Workers Union to discuss the future of postal services and of An Post. The Minister has emphasised that it is an absolute imperative that both sides approach the difficulties arising in a spirit of partnership, while at the same time making full use of the available industrial relations machinery, which represents the only way forward.

While it would be easy to be downbeat about An Post in the current environment in which it is operating, I am convinced that the company has significant strengths to build on if it can get the fundamentals right. The future for An Post can be bright if the company and its workers seize the moment to implement change that all agree is necessary to secure the future of the company.

Mr. Finucane: I welcome the Minister of State to the House. If the Minister of State had sat in on yesterday's meeting on the postal structure, what he would have said today would have been considerably different. To quote Shakespeare's Hamlet, "Something is rotten in the state of Denmark." Yesterday I learned that something was seriously wrong when a trade union official described management as a pack of marauding animals. I would never have anticipated hearing that type of statement in 2005, with the type of industrial relations machinery we now have. This statement was symptomatic of the frustration experienced by the unions in their discussions with management. While I do not know the backdrop to this, I know that something is seriously wrong in discussions between management and unions when a leading union official states that his discussions with top management have been negligible.

In January 2004, the chief executive of An Post, Mr. Curtin, outlined the survival plan to the Oireachtas Joint Committee on Communications, Marine and Natural Resources. He pointed out the importance of the plan in addressing the type of losses which An Post had incurred in recent

times. He spoke of the rationalisation and redundancies that would be necessary to move on. As he had discussed the plan with the then Minister for Communications, Marine and Natural Resources, Deputy Dermot Ahern, in October 2003, the Minister would have been aware of the survival plan. While I recognise that management needs to prepare, in doing so it should have some discussions with the union when at least drawing up the framework of a survival plan. If such discussions take place there is at least a chance of embodying in the plan what is achievable and realisable.

Some members of senior management at An Post have come from another semi-State organisation under the umbrella of the Minister for Communications, Marine and Natural Resources, namely, the ESB. While I have no doubt these people were very successful in the ESB, this must be considered in context. The ESB is a very wealthy organisation with a long history. The electricity generating sector had a turnover of €250 million last year and was able to pay a dividend to the Government. It is well recognised that the staff in the ESB are well paid and deservedly so. However, it is also recognised that the staff in An Post are not well paid. Sometimes when trying to give the impression that workers at An Post are well paid, figures are given including excessive overtime. While this pitches the figure fairly high, it is very much a distortion.

When management is framing a policy for An Post it is not possible to expect the same principles to be adopted in An Post as were adopted in the ESB. When changes in the ESB are negotiated, employees are compensated accordingly. One can understand the distrust in An Post. In January 2003 the previous chief executive, John Hynes, told the Oireachtas Joint Committee on Communications, Marine and Natural Resources that he expected a profit of €1 million in that year. We all know that in that year An Post lost €46 million. It is possible to understand how An Post workers would feel in such circumstances given that in the previous years An Post was in profit. What is wrong with its financial forecasting and audits that it could get it so completely wrong? This is mainly down to poor management.

The Minister for Communications, Marine and Natural Resources, as the chief stakeholder, has a major responsibility and it is up to him to provide political leadership. In the past ten years, regulators have been appointed in various sectors and Ministers can claim to have nothing to do with matters which are the responsibility of the regulator. In the past four years electricity charges have increased by 40% because any time the ESB seeks an increase, the regulator, Mr. Reeves, agrees automatically. In recent times it got an increase of 9% just like that.

ESB bills now reflect a "PSO" charge, which is a deduction for a public service obligation. The ESB is a very successful company and everybody sees ESB bills increasing dramatically. On the

[Mr. Finucane.]

other side we have ComReg and An Post. An Post applied to increase the price of a stamp for a local letter from 48 cent in May 2004 and ComReg is still deliberating. That is the type of contrast: 9% awarded just like that to the ESB and nothing done for An Post. The liberation of the energy market affecting ESB will have no impact on the domestic consumer because we will not be able to shop around for an alternative.

I was surprised by a recent statement about An Post, which is the nub of the issue. I invite those who recently claimed to be socialists to prove they are. The chief executive of An Post recently said that the company is a commercial operation and should operate as such, without any social obligations to rural communities. That is the nub of the issue. The problems faced by An Post — its universal obligation to deliver mail and the fact that many people live in rural locations — will have to be recognised. This country's demographic structures are different from those of England. There are approximately 140 people per square mile in this country.

If we examine the successful British model, we will see that it receives a great deal of support from the British Government. The Royal Mail has given various commitments. It has guaranteed that no post offices will be closed down and it intends to proceed with the total automation of all post offices in England. Almost 1,000 post offices were included in this country's automation programme, but the other 450 post offices were excluded. Those post offices have to use the old system because, according to An Post, it is not commercially viable to automate them. People who pay their ESB or Eircom bill at a post office may be threatened with being cut off because their payment may be late as a consequence of the slowness of the old system, as opposed to the computerised system.

Approximately 600 rural post offices have closed in recent years. There are six post offices in an area of west Cork that is the same size as County Meath. People in areas with certain demographic problems have to travel long distances to get to a post office. The post office network has a tremendous advantage because, unlike the banking institutions, it has never been tainted by any impropriety or financial scandal. It warrants further development and help. When An Post had losses of €46 million in 2003, the Government committed over €13 million for capital investment in the post office structure. It behoves the Government to offer leadership to An Post and to provide equity funding for the automation of all post offices, if such moneys are required. Many of those who work in smaller post offices are doing well to make a profit of €3,000 per year, after they have paid for rent, heating and light, etc. The postmasters' union made a valid point when it said a commitment should be made to give a postmaster or postmistress a minimum wage.

All politicians should be concerned about the current evolution of An Post. We have to decide whether to seek a commitment at European level. Can we examine every semi-State organisation in a parallel fashion? Can we examine the ESB as we would examine An Post? If we recognise An Post's universal obligation and demographic challenges, should we not consider its social dimension? I think the ESB has a public service obligation to sustain peat stations in various parts of the country. Surely there is justification for building into the system some support for An Post as it deals with various social challenges.

We all know about the industrial relations developments at An Post over the last two years. An Post is becoming dubious about the postal system as a result of the industrial relations malaise within the company. In a competitive era such as this, it is to be expected that the company will move in other directions and it may be difficult to get it to refocus on its core operations. I am conscious that the Government will have to examine and recognise An Post's social dimension. I know every semi-State company is trying to return to profitability, but one has to recognise the factors which lie within that.

The exchange on this issue yesterday was healthy, but worrying. I have never seen union members so bitter and hostile to management. When we discuss Northern Ireland, we often say that those involved are making progress if they are talking to each other. That is not happening in the case of An Post, however. Every time a problem is encountered, labour relations mechanisms are invoked to try to tease out the matter. One has to sit down and talk to people. Management cannot implement its policies if proper discussions do not take place with workers.

We understand the importance of the postman in rural Ireland. The House debated some years ago attempts that were made to place post boxes outside the main gates of houses, for example on laneways, to speed up the mail delivery process. Mr. Hines intended to introduce such a system. An Post ordered the boxes in advance. It reminds me of the €50 million that was spent on electronic voting machines, which is being discussed by the Committee of Public Accounts today. After An Post had ordered all the post boxes, it was told by ComReg that it could not introduce the new system. We said at the time that the proposal was unfair on elderly people in isolated areas who might not see anybody over the course of the day other than the postman who came to deliver their letters and have a chat. We were pleased that the proposal was not accepted. It is obvious that An Post favoured the change in the interests of cost economics.

The management of An Post will have to cop themselves on. I will tell them that when they return to the joint committee in a few weeks. If they want even part of their survival plan to be implemented, they will have to talk to the unions. If they do not engage in such discussions, we will

see the return of the industrial relations difficulties of the past. In this day and age, one would not expect to encounter some of the rhetoric that has been used by those involved in the current difficulties, such as “a pack of marauding animals”. The use of such a phrase is symptomatic of a malaise. As the sole shareholder, the Minister will have to bang heads together if that is what needs to be done. One cannot allow a stand-off to continue while the whole thing tumbles asunder.

Mr. Kenneally: I am happy to contribute to this debate this afternoon. I have received representations from people in County Waterford about the diminished and unsatisfactory nature of the service provided by An Post. I have a great deal of sympathy for the staff of An Post because they have been given a raw deal, almost from the time the new body was established. It is no secret that the new body has been managed badly. Morale has deteriorated steadily almost from the outset and there is little incentive for the staff to try to improve the service.

The record of management since the break-up of the old Department of Posts and Telegraphs is dismal, to put it kindly. The sense of urgency, loyalty and dedication among staff seems to have disappeared. That, along with poor management decisions, has left the service in a lame duck position. An Post has been marked by years of mismanagement, dreadful public relations practices and bad business decisions. Senator Finucane referred to the relatively recent decision to purchase 500,000 roadside boxes without the necessary approval of the regulator to install them. The plan foundered when it was pointed out that the regulator’s approval was necessary. Not only did it cost the company money, but it gave a bad impression of the business to everyone.

Radical changes must be made in An Post as it cannot continue the way it is going. It had an operational loss in 2003 of £43 million, which is totally unacceptable and unnecessary. The loss is an indictment of the company because postal services throughout Europe are making profits. While we have to take into account our relatively small population and the dispersed nature of the people to the most remote corners of the country, such a deficit is not acceptable or justifiable. I agree with the chief executive of An Post, who told the Joint Committee on Communications, the Marine and Natural Resources last January:

The maintenance of the universal service obligation inevitably imposes additional costs on postal services. Parcel services are subjected to increasing competition from a wide variety of sources. Crucially, there is growing competition from operators which are not subject to the USO.

I realise the burden this places on the company and that a postal service is, by its very nature, a labour-intensive industry. Having said that, it

would still be difficult for any company to lose more than €750,000 every week.

The former chief executive’s forecast for the balance sheet for 2003 was as follows:

In 2003 we will start the process of turning the corner and we might explore the assumptions on which we turn that corner. Our operating loss will be a shade above break even at plus €1 million.

It turned out to be a loss of over €40 million. It seems incomprehensible that any chief executive on top of his or her job could get it so wrong. I will not comment further on former management. Suffice it to say that we have staggered from bad years to worse years. Although it was promised that there would be realistic improvement, nothing came of this promise.

Mr. Curtin said the following in his submission to the Joint Committee on Communications, Marine and Natural Resources 12 months ago:

Our customer standards must be raised. To do that, we must develop a culture of customer service to compete in the market. We will need to improve our service level performance on our next day deliveries. Moreover, we need to monitor and reduce queues in the post office business, which is a source of potential growth within our business. Next year, we will introduce a customer charter which will include financial penalties for An Post where there are verifiable service deficiencies.

I look forward to an update from Mr. Curtin on what progress has been made on these aspirations.

Public confidence and morale in the service are at an all-time low and the service that is being delivered continues to be dismal and undependable. A constituent of mine summed this up recently when he said that, 40 years ago, a letter posted in the General Post Office in Dublin and date-stamped in the early hours of the morning would be delivered before 9 a.m. on the same day to a town over 100 miles away. Moreover, it could be depended upon to arrive on time. Last year, the same constituent had the experience of having a letter take 17 days to travel 80 miles to Limerick. Can the chief executive reconcile this with his statement last year that, “we will need to improve our service level performance on our next day deliveries”? Such reconciliation has not occurred. I can readily understand that a percentage of post could be a day or two late, but it is incomprehensible and totally unacceptable that it could be 17 days late, or any number of days close to that duration. My post from Leinster House has regularly taken from Thursday to the following Tuesday to arrive in Dungarvan, Waterford. That is also unacceptable and an indictment of the service.

There needs to be a greater sense of realism in An Post and the sooner the company realises that the end of the line is near if it does not get its act

[Mr. Kenneally.]

together, the better. Most of the family silver is already disposed of to keep the company afloat and it has been made abundantly clear that the Government will not bail it out in the future. Neither will the public have any sympathy with it as public patience ran out a long time ago. It is to be regretted that instead of concentrating its every effort on rationalisation and good business practice, the easier method of selling off premises was the favoured course. We are told that anything saleable is now gone and that a new source of funds is required. We must be realistic and recognise that banks and businesses will not advance money to an ailing company with a record loss of €43 million in one year. The company will have to take hard decisions, develop its business and learn to stand on its own financial feet.

The chief executive stated the following during his appearance at the Joint Committee on Communications, Marine and Natural Resources on 8 January last year:

It is not only the management team's view but my own personal view that such a programme of change cannot and should not be achieved by means other than through negotiations and by agreement. It is a fundamental change to the long-term health of the company and I believe it can only be done through the consensus of the management and the workforce.

We noted at the committee meeting yesterday that this is certainly not happening. The management and workforce seem to be moving further apart. I wonder how Mr. Curtin can reconcile that statement with the SDS debacle of recent weeks. Management will have to do better to convince the workforce, the unions and the public that the company is serious about tackling its many problems on a united front with all the stakeholders involved. There needs to be agreement on the re-integration of the SDS business into the day-to-day business of the company. I realise it may only represent 10% of the company's business, but it also represents 33% of the losses. I am not convinced that the way forward is to ditch SDS just because it is not making money at present. An Post should hold onto every element of its business, make each one financially viable and serve the public it was set up to serve. However, it must be done in a spirit of co-operation and agreement with staff, which is not evident at present.

The company will have to do much better in the area of industrial relations. Much of what we have seen in regard to the SDS debacle would hardly inspire confidence. Without going too deeply into the rights and wrongs of the recent industrial dispute, one must note that it is essential that industrial harmony be made one of the priorities. Overnight notification of changes of work location for employees is at best unwise and at worst a guaranteed recipe for disaster. It is to be

hoped that management learned something from the industrial relations and public relations disaster of recent weeks.

I was pleased to hear the chief executive assure the committee yesterday that the company is on the verge of making a profit. Even if this only amounts to the anticipated €1 million per annum, at least it will be a major step in the right direction. There seems to have been little sense of realism in An Post over the past two decades or so. There was no realistic effort to develop the business, and even the arrival of the much-vaunted electronic mail does not seem to have rung the warning bells. Instead of meeting the challenge head-on and adopting an aggressive and proactive approach, management was content to sit back, dig into reserves to make ends meet and, in recent times, sell property just to pay the wage bill.

There was little evidence of aggressive marketing on television, for instance. With the exception of the Christmas snowman campaign, which has been running for many years, there seemed to be little evidence of any new initiatives or efforts to sell the strong points of the service. One will recall the postal competitions that were a feature of the "Late Late Show" under Gay Byrne, which generated 500,000 postcards every time a car, exotic holiday or other attractive prize was offered. I know that such competitions are still a feature of the "Late Late Show".

There are other avenues which could also be explored. There should be no shortage of partners in the media who could derive value from such campaigns, generating a considerable postal response with consequent benefits in revenue. Junk mail was never more plentiful than it is at present and incentives could be given to those companies involved which wish to promote their products and services. Everyone has a birthday and birthday cards are still a very personal way of sending greetings. This practice could be developed and expanded upon. St. Patrick's Day is celebrated in a unique way in Ireland and there are enough Irish expatriates and people of Irish descent abroad to justify a promotional campaign in this regard. There was a very successful write-and-invite campaign some years ago which had the benefit of generating postal revenue and afforded the possibility of attracting visitors to Ireland. Such a campaign may not be successful or seem to be worthwhile commercially, but every opportunity to generate an honest euro should be availed of. That is what people in private business do if they want to grow their business and make money.

Given its network of offices around the country, An Post is in a position to pick up some of the business that the banks seem to be shying away from at present. Banks do not seem to want customers to enter their offices and would prefer them to do their business remotely by electronic means. With proper identification and development of services, there is an opportunity for An

Post to become the small person's bank. There has been a precedent for limited co-operation with AIB since 2002 but there is ample scope for further co-operation of this nature. There are many other opportunities to be availed of outside the postal service *per se*, one of which might be to provide motor tax facilities. This was examined in the past, but with little enthusiasm on the part of the licensing authorities. However, with immediate electronic access to files there is no reason An Post could not supply the service.

It is vital that the post offices be kept open in rural areas. Too many post offices have closed already and the Garda stations are long gone. However, we should fight to maintain the post offices we have left. In addition to the companies whose job it is to devise selling campaigns, there must be staff working at the coalface who have ideas for the expansion of the business. Have they ever been asked for their ideas? Are there tangible rewards and an incentive campaign to make their efforts worthwhile? I am not in the marketing business but there are opportunities which could profitably be tapped. There can be little scope left for staff reductions and there is no point reducing the workforce until expansion is no longer possible. Let the service be streamlined but do not make it a lame duck.

It is essential that An Post survive, thrive, serve the people and make a profit. This will not be easy to achieve but must be done because it is a vital service. Management primarily, and all stakeholders generally, must work to achieve that objective.

Mr. MacSharry: I welcome the Minister of State to the House. Notwithstanding imminent talks and decisions in the Labour Court it is good to have this debate today, particularly in light of yesterday's four hour meeting of the Oireachtas Joint Committee on Communications, Marine and Natural Resources with the unions and An Post. Like Senators Kenneally and Finucane, I am a member of that committee and attended the meeting yesterday.

Afterwards I tried to think of one positive point that emerged. I was still thinking about it as I sat here but can only say that it seems the unions and management want to find a solution. I saw nothing yesterday, however, to inspire confidence that they will achieve that.

The Minister of State said both sides have agreed to binding arbitration at the Labour Court. That is so in connection with the SDS issue but not other issues. They will have to ballot their members and that will be another problem. If the relationship between An Post management and the unions was a marriage we would by now have engaged every marriage guidance counsellor available because they have reached total breakdown. The management has good intentions but has used disastrous methods to reach a solution.

It blames its predecessor but that is irrelevant. In the two and a half years that I have been on

the joint committee An Post management has been saying the same thing and quoting the projected profits mentioned here today. A professional politician does not blame a previous Minister for a problem, saying he or she was not Minister at the time. The management needs to accept that it is in command now, that it is accountable and responsible.

Partnership is the only way to achieve that and everybody favours that approach. For example, yesterday the major unions made their presentations for approximately two hours. The senior management, to my knowledge, had no representation in the Visitors Gallery listening to them. That creates a bad image, suggesting that management does not care what the unions say because it takes the view that "it is our way or the high way." I heard that phrase at least 400 times yesterday from the unions.

The lack of communication between management and unions at An Post is chronic. The level of passion and the amount of steam coming out of the unions' ears was more than one saw in the tough game between Arsenal and Manchester United on Tuesday night. There will be no binding arbitration on the major issues in An Post before the Labour Court on 7 February. Members will be balloted but I doubt they will reach a solution. The body language and gestures we witnessed yesterday do not suggest that even if An Post were to offer €1 million for every employee it would be a deal.

The relationship is not such that there can be a deal without binding arbitration. The Minister must get involved. Senator Finucane used the phrase "bashing heads together." That may well be necessary but the dispute requires professional and sensitive management by the Minister, or another body, to try to heal the wounds that have deepened over many years, whoever is to blame. Management and boards must take responsibility. At least both sides would like a solution but it is a long way off.

It is inconceivable that any Government, much less this one, would allow a situation to develop in the era of the Celtic tiger whereby pay deals promised under Sustaining Progress are not paid. Worse still, pensioners have been overlooked although they gave a lifetime to An Post. Whatever happened in recent years the money should have been found to ensure those people got their due. I hope that will be top of the list in any solution to the dispute, and that it will come soon.

The people, particularly those of us from the west, owe a debt of gratitude to the many postmasters and postmistresses throughout the country. They would be the first to say that we need to cut back on the 3,000 post offices but I would not like to see more closures because there is a strong social dimension to these offices. Previous speakers here, and those at the committee meeting yesterday, pointed this out.

Senator Kenneally alluded to other services in which these offices could engage. For example,

[Mr. MacSharry.]

one should be able to pay one's car tax there, or rent on a county council house, and so on. It will soon be possible to pay parking and Garda fines there. Local authorities are opening one-stop shops around quite large areas yet a State infrastructure exists in the post office network that could be engaged to offer those services.

Some years ago people living in west Wicklow had to travel over the mountains from Baltinglass or Blessington to Wicklow town to pay their car tax. One entrepreneurial newsagent charged a small fee to do this for a few people each day. These suggestions for using the offices could be considered.

We should study the UK model in this. The Royal Mail has invested £450 million in securing its network and ensuring that it stays open. While I am not suggesting that level of expenditure we should examine what it would cost. The Minister could devise a strategy for the post office network to establish how we can best use and expand it for the future. Apart from its important social dimension there are many services into which it could diversify. It might be a form of decentralisation without the trouble of asking people to move.

Those people running the offices which have served An Post for years are entitled to a basic minimum wage. Some operate on a very small sum and that too could be examined in light of the UK model. The union representing them is concerned about security in remote areas, because there is money on the premises.

I am not aware of any marketing of An Post. Senator Kenneally mentioned the postman-snowman Christmas advertisement which is approximately 40 years old. It was my favourite advertisement when I was seven and I am now 31 years of age. It is necessary to address the marketing strategy which should come from the hunger and enthusiasm to develop and build on a business that could be successful.

It is laughable that there is only one advertisement in the year and that at Christmas time when business is up anyway. An Post needs to think of a marketing campaign to encourage people to use it when business is slowest. Toyshops sell toys all year round, including January, because they market them, and have different items or whatever.

With regard to the public service obligation, since 1994 the company was set up with a commercial mandate. In general terms, State agencies should have a commercial mandate to the extent possible but not to the detriment of public service or the purpose for which they were originally set up. We could say this about a number of agencies, particularly An Post and Bord Gáis. Representatives of Bord Gáis recently attended an Oireachtas committee meeting and stated how well its operations were progressing, yet there is a gaping wound in the north west, including my area of Sligo, because the company has a com-

mercial mandate. We need to revisit the issue of commercial mandates in regard to some of the semi-States, particularly An Post and Bord Gáis.

I wish the unions and management of An Post well in the search for a solution. It will take high level intervention to progress the matter. I hope the Minister will seek to achieve that.

Ms O'Meara: I welcome the Minister of State, Deputy Browne, and welcome this timely debate. I and other speakers were present at yesterday's meeting of the Joint Committee on Communications, Marine and Natural Resources, of which I am a member. Members have described the grim picture presented to the committee of what appears to be an inevitable stand-off between a group of unions representing many thousands of State workers and management, against the backdrop of a commercial State company in difficulty. While I would not go so far as to say An Post is in crisis, it faces serious challenges. We, as Members of the Oireachtas and citizens of the country, must take an interest in and be supportive of initiatives to bring the commercial semi-State body that is An Post forward, and ensure the problems are resolved.

I do not want to rehearse what others have stated in regard to the deep unhappiness expressed yesterday by the group of unions at what they perceive to be the refusal of the management of An Post to talk to them or negotiate on change. They believe that not only will management not play ball with them but that it is being obstructive. An example was given of a Labour Court hearing on 22 January last before which, as union officials were entering the Labour Court, they received telephone messages from their members to tell them there had been suspensions. The atmosphere this created was a difficult one and causes union representatives to throw their hands in the air and question whether management are serious about negotiation.

The Minister is aware of the strong indication from the group of unions that it is being forced into a confrontation and forced to take industrial action to protect and preserve the rights of its members. This cannot be allowed to happen. While we did not get to hear fully from the management side, it is clear they take a different view. We face a potential head-on collision between the group of unions and the management of An Post. It must be asked whether this serves the future of a company facing serious and immediate problems and the answer is that it does not.

All Members of the House are united in believing the only and best way forward is through a partnership approach. I call on all involved, including the Government as the main stakeholder on behalf of the public, to ensure that a way is found to get off the hook the parties are rapidly getting themselves onto. The unions must consider a plan B. It is one thing to state they are protecting the rights of their workers, and I totally support the right of the unions to protect

their members as that is their purpose. However, the future of the company is at stake. At some level, a decision must be made by everyone involved to put the interests of the company and the future of the postal service first. A stand-off is not the way to achieve this.

The Minister and the Government must ensure that partnership is put in place. Of course partnership cannot be “put” in place — it is a voluntary decision of the parties to enter a partnership. In particular, I call on the management of An Post to be partners, to respect the views of their workers, treat them with respect and actively listen to what they have to say.

From what I heard yesterday, particularly from the postmasters’ union, I am convinced that those working in An Post want to contribute to the future of the company. I know from speaking to workers at Nenagh post office, who raised this matter with me over the counter, that they know the company has difficulties. They want to help and be part of the solution. I call on the company to find the necessary strategies and to actively engage in a partnership because, when one considers the backdrop, it is urgent this happens.

Major change is taking place in postal services worldwide. While the extensive use of Internet facilities is great for consumers, and I use it to pay my bills, it means fewer letters go through the mail system. Therefore, the postal service is facing a new challenge as a result of Internet use, e-commerce and the communications revolution. On the other hand, opportunities arise from this, for example, on the parcel delivery side linked to Internet mail order trade and e-commerce.

An Post needs to be able to manage this change and can only successfully do so if a strategy is in place. That strategy is long overdue. Yesterday’s committee meeting, which I attended, was told that a strategy has been in place for over a year. There is not much evidence of this and I did not get any sense of urgency on the part of management to progress the strategy. Thousands of postal workers on the streets outside the Oireachtas complaining about not being paid their last wage round increase, among other complaints, does not create the environment necessary to move forward.

My desire, shared by others in the House, is that An Post would be a commercial State company of which we can all be proud. We want to marry the major social role of An Post with it being a successful commercial enterprise. This is the same ethic which has driven commercial State companies since the idea was first devised in the early days of the State. We want our commercial semi-State companies to continue to play their social role in the community while at the same time being quality commercial enterprises. The question is whether this can be achieved in the case of An Post — I think it can.

Members have referred to the rural post office. There seems to be a sense coming from the management of An Post that they have somehow

given up on the rural post office, and that it is a low paid, part-time and unimportant role. That is fine until one lives in rural Ireland or works in a rural post office or small village. The majority of post offices are in rural Ireland. Why do post offices not use the technology which the postmasters told yesterday’s committee meeting they wanted to use? The postmasters want investment in rural post offices so they can upgrade their services, provide the full potential service using new technology and be a real hub of activity in their communities. I should not need to reiterate the importance of a post office in a village, particularly for the elderly and those not in a position to travel into towns to avail of services.

Why can we not consider having high quality postal services available locally? Post offices should provide people with a quality service, which is what many postmasters are endeavouring to do, as well providing a hub of social contact and community activity in villages. That has been the role of post offices, in addition to postmen and women. I do not want to pretend that a mythical notion of some former Ireland should somehow be recreated in the modern world, but we can modernise our post office network to a far greater extent than the management of An Post seems committed to doing.

How committed is the management of An Post to seeing the rural network enhanced to a level where it can maximise efficiency, value for money and service? Must we always examine ways of cutting postal services in rural areas on the basis that it will always cost more to provide them outside urban areas? Why can we not be creative and work within the context of the social role of the post office combined with its role as a commercial enterprise? In that context we could possibly move forward.

I am sure the Government is not underestimating the size of the challenge. I note that in his remarks to the House, the Minister of State, Deputy Browne, stressed the partnership approach. The Minister, Deputy Noel Dempsey, although he has only been in the Department of Communications, Marine and Natural Resources a relatively short time, has also emphasised the same approach. Ultimately we are looking at a public service which must manage its business effectively and well. Taxpayers’ money is being invested in it so it must be run efficiently and not at a loss. I believe that can be done in a genuine partnership with the workers.

In its edition of 22 January 2005, *The Economist* examined the global picture for postal services across the world. It painted a clear picture of a major challenge which cannot be underestimated here. The only way An Post can manage the challenge of retaining a social role in a commercial context, is to work in a genuine partnership with its workers. That partnership cannot be undertaken on a pretend basis, with An Post management stating: “Yes, we are partners”, while not really meaning it. Such partnerships have worked

[Ms O'Meara.]

in other semi-State companies and there is no reason why it could not work in An Post, also. I urge the Minister and his Government colleagues to ensure that happens in the case of this company.

Mr. Hanafin: I welcome the Minister of State, Deputy Brian Lenihan, to the House. Why did 10,000 CWU workers turn out to protest in Dublin on 8 December 2004? It was the largest number since the tax marches of the 1970s. The reason for that march is clear. In the 12 years prior to the arrival of the current management in An Post, there were no major industrial relations problems. In recent years, however, there have been significant problems. The problem does not lie either with the Government or the unions, but squarely with the management. Management techniques in An Post need to be examined and changed if necessary.

The following national agreements have been breached: Sustaining Progress; the SDS rescue agreement, June 2003; the Transforming through Partnership in An Post agreement, July 2000; the revised working arrangements agreement, Dublin mail centres, 2002; the agreed grievance and disciplinary procedures, 1990; Labour Relations Commission settlement terms, March 2004; and Christmas arrangements, LRC agreement, November 2004.

There appears to be no economic vision, so while the population is growing, An Post is retrenching. The current An Post management purchased a company that declared a loss of €25 million the following year. If workers had been responsible for that there would have been repercussions.

We must restate An Post's current position in society. An Post is an important part of the social capital of Ireland. The company's social aspect is important; it is part of the value of its brand and should not be lost through taking a narrow commercial view. An Post has been successful in transforming from a Government Department into an independent corporation. It provides universal postal services at prices which, until January 2004, were among the lowest in Europe, and are still in the medium price range. The company did this while also spending €250 million on modernising its transport fleet, post offices and sorting services. The expenditure came from its earnings, without borrowing or Government subvention.

An Post operated on a profitable basis until 2001. Given its resources and strong brand, the company has a bright future. It is a major business with a turnover of €700 million. It employs 10,000 people and is a core infrastructure of economic and social development. However, achieving future stability will require the active involvement of all stakeholders in an atmosphere of co-operation and openness.

The vacuum caused by the loss of An Post's SDS services will be filled at a significant cost to small and medium enterprises. That, in turn, will affect our competitiveness as an island nation. We need an efficient postal system. We needed SDS but the management showed no vision in dealing with the difficulties in that subsidiary. It did not deal with proposals from the union and did not examine possibilities for building the company. An Post adopted management techniques from the "cut and slash" school, rather than examining real opportunities in an island nation whose population is expected to grow by 1 million over the next 15 years and where economic growth is running at a minimum of 5% per annum.

The context in Ireland and internationally in which An Post is operating is continuing to change rapidly. Many of the traditional assumptions on the organisation of postal services warrant re-examination. As much postal policy is defined by the Government and the European Union, a forum is required which will involve all the stakeholders in order to examine the future. Such a forum would also help to modernise thinking with regard to the nature and organisation of modern postal services.

Serious questions can justifiably be asked about the quality of management decision making and its *modus operandi*. Much of the company's decision making lacks positive long-term vision and there is little integration between overall policies and individual decisions. There is a lack of acceptance of responsibility for bad decisions and a failure to grow the business. Examples of this chaos and lack of integrated decision making included the expenditure of €250 million of cash reserves on technology modernisation when losses and a possible cash shortage for maintaining the business was already an issue, and management was stressing the need for cut-backs. If needed at that time, the investment should have been made from long-term borrowing.

The company had no historical debt and interest rates are low. One of the reasons the company found it so difficult to obtain sanction for a rise in the cost of sending a letter was that the regulator considered An Post's cash position to be so strong that it did not require a price rise to maintain the universal service. In 2002, An Post bought two companies which lost €25 million and contributed significantly to the losses of 2003 — a fact that is barely referred to in the annual report.

In 2003, An Post decided to withdraw from attempts to form international alliances with postal operators in other member states and focused only on operating in the Irish market. It has long been recognised that relying solely on the domestic market is not a strategy for economic success. One does not have to be an economics expert to understand that view. Why is An Post's management unable to engage with international companies and form such alliances? The

ability to offer clients an international service is now seen as an essential part of competitiveness for postal services. However, An Post's vision of competitiveness seems to be retrenchment and reduction of capacity for a local business market which it defines as being in decline. How can An Post management decide that the Irish market is in decline?

Throughout the world Ireland is seen as a shining example of growth, development and opportunity. The problem is there is a lack of respect for the process of partnership in decision making. There is also a lack of care and concern regarding the effect of language and public statements on relations and the value of the brand. This applies in simple things that none of us would consider doing. For example, a meeting was arranged between the unions and the Labour Relations Commission for 22 January and an An Post employee received a letter telling him he was being transferred from his current position on a certain date and suggesting that he had requested the transfer. He had not requested a transfer and it created major difficulties. This is not the first time major difficulties have been created in An Post by senseless and insensitive decisions that affect workers.

The overall tone of the language used in the recent recovery plan of An Post is abusive of partnership and conveys the view that the workers are the cause of the problems facing An Post. The unions and workforce have accepted major changes within the company and are working towards making a sound economic proposal and ensuring the company is viable, but management is undermining the workers in this regard. The management recovery plan displays obsolete thinking, referring to obsolete or declining industry when there are new opportunities, including the Internet. It has been proved that people who use the Internet, many of whom purchase items thereon, use An Post services. People who use the Internet send three or four times as many letters or post as people who do not. Therefore, the level of Irish mail volumes can reasonably be expected to grow. The changing mail flow trends the new technology allows, and the use of zip codes, will also assist the company in becoming more profitable, and the workers are willing to negotiate and to assist An Post to come back on track with that. Growing affluence and the economic climate suggest that An Post should be spending money and investing in its people instead of creating industrial relations problems and representing to the public that workers are to blame when there are serious questions over management.

A visionary An Post looking to a bright future for postal services and growing volumes of mail in Ireland and growing revenues from mail and other products and services would borrow money to overcome short-term cash crises rather than dismantling its network and damaging its brand. It would place the creation of a partnership cul-

ture at the centre of its concerns for the future. It would modernise its thinking and analysis of postal services and how their economies operate.

Mr. Bannon: I welcome the Minister to the House to hear statements by Members of this House on the future development of An Post.

The image of Postman Pat and his black and white cat, while childish and certainly dated, is one that subconsciously portrays our ideal of the friendly local postman of yesteryear, still visible in some parts of rural Ireland today. Throughout our history, postal communication in all its forms has been our vital link with each other, from the valiant soldier who at great personal risk delivered the order to commence battle, to the mail riders who can be credited with opening up the Wild West and the stagecoaches continually attacked by highwaymen. Hard-copy documents have been our lifeline and were hard fought. We must fight now for the future of An Post and ensure that progress does not threaten but rather enhances the service.

While we must take into account the social aspect of the postal services, especially in the rural context where the postman may be the only link the elderly and infirm living in remote areas have with the outside world, viability and enhancement are essential to keeping the service in operation. The 1,500 post offices and sub-post offices are a great national communications network and must be cherished.

As legislators we are aware there is political responsibility for the current situation in An Post. The difficulties An Post is experiencing did not happen in the short term but rather have been a growing and festering sore at the heart of the organisation. That the Government has turned a blind eye to this malaise is undoubted. It is time it took the bit between its teeth and set about rectifying the situation. The Government has let down the postal workers, the An Post pensioners and the public, the consumers of the service.

The An Post pensioners are particularly vulnerable as they have no say in the negotiations between the unions and the company. Despite their hard work over many years, they are being deprived of part of their pensions. This was stated over and over again, in particular when they picketed the Dáil approximately two weeks ago.

The public are the backbone of the postal service. They are the paying customers and they want and are entitled to an efficient service, which unfortunately they are not currently getting. It is not unreasonable to expect that a letter posted today to an address within this country will arrive tomorrow. It seems, however, that this is wishful thinking.

We are now seeing the result of efforts of the chief executive of An Post to force through cost-saving work practices. This led to escalating suspensions, ten days of postal disruption and an eventual and inevitable climbdown by management. An Post is now embroiled in yet another

[Mr. Bannon.] industrial crisis which looks set to damage its future prospects despite the interim settlement last month which saw the SDS closure details referred to the Labour Court.

The future of small post offices was discussed at the Oireachtas Joint Committee on Communications, Marine and Natural Resources yesterday, which I attended, where attention was drawn to the fact that there have been 600 closures of sub-post offices over the past six years, a rate of 100 a year, and nothing has been done to prevent this. There are 1,390 sub-post offices nationwide receiving 50% per transaction from An Post. The company is to take over the collection of fines for speeding, seat belt and other offences from the Garda early next year. This will create potential additional revenue for these sub-post offices.

The Irish Postmasters Union, whose efforts I fully support, both in my area of Longford-Westmeath and countrywide, is seeking the following: A commitment to a certain size and distribution of the post office network; funding for technology, that is computers, for the 400 post offices that are still paper based and which An Post sees as falling outside its commercial remit; the filling of the gap between actual income and legal minimum wage, €15,106, as has been done by the UK Government for its post office network; a continuation of the contract for social welfare payments through the post office network rather than through the banks; the provision of a full banking facility to An Post; to ensure that An Post passes on to the post office network a reasonable portion of the fees that accrue for the social welfare contract and the bill pay corporate consumers; and implementation of the Flynn report, 2002, that sees the post office becoming a one-stop-shop for all Government services.

The unions pitch their proposals on the vital social dimension of the post office within communities across the country, which will be seriously threatened unless the above points are recognised by the Government and adopted. I have had representations from postmasters and postmistresses in the Longford-Westmeath area seeking support for these very provisions that will ensure the future of their business which, in many cases, has been in the same family for generations.

Taxpayers cannot be expected to have unlimited patience with the gross mismanagement of An Post. In January 2003 the company's then chief executive told a Dáil committee that An Post's losses would be turned around and that the company would show a profit of more than €1 million for that year. The company ended up with operating costs of €42.8 million for that year. The losses for 2004 are expected to be over €30 million. The face of communications has changed and will never return to the era of pen and ink. An Post must embrace new technology and use it rather than fear it. The adoption of electronic communications by businesses, which poses a

threat to traditional mail services, has to an extent been countered by the creation by An Post of PostGEM, which provides electronic communications and services to An Post business customers, the automation services called Counter Action, and the automated postal sorting project, Track a Package. These are examples of the way forward and the interlinking of traditional and modern services.

During my childhood in Longford I remember the postman had an uncanny knack of knowing when the envelope he was delivering contained bad news, namely, bills, or good news in the form of a cheque which he would hand over with a grin and a comment that this was a good one. An Post needs good news. The cycle of losses must be broken and the Government must take the responsibility it has long avoided to protect its future. There has been much talk of privatisation but it is essential to avoid the mistake of the Royal Mail in the UK, where the move towards privatisation has been abandoned.

The Minister is probably aware that postmistresses and postmasters throughout the country wish to meet all Oireachtas Members next week on this issue. I hope as many Members as possible meet them and hear their genuine grievances which must be addressed.

Dr. Mansergh: I welcome the Minister of State and the comments he made during his speech. I am glad we are having this debate which is not before time, having been called for some months ago. The situation in An Post is not a happy one. I do not propose to take one side or the other. However, I should declare an interest in that I have a relationship with An Post as a member of the philatelic advisory committee which advises on the selection of commemorative stamps. Obviously that brings me into some contact with some of those in management in An Post.

The situation of our postal service is reminiscent of attitudes to the railways 30 years ago. People thought that road transport was taking over and that the railways were on the way out. One might argue that modern systems of communications such as e-mail, various types of competitive parcel services, mobile phones and so on make the postal service a thing of the past. I do not believe that is the case. There will be a need for a postal service into the foreseeable future. Just because there are other technologies available does not mean people no longer write letters or that documentation will not continue to come through the door. It is one of the public services which is most valued by the general public.

In rural Ireland in particular, the daily visit by the postman is a form of communication with the relatively isolated farmhouse or bungalow. That service, though costly, needs to be maintained. Anyone who visits one of our large post offices, particularly in rural Ireland, will be aware of long queues at certain times of the week and barely

enough staff to cope. Given the number of tasks the post office undertakes in terms of paying bills, banking, payment of child benefit, pensions and so on it has become considerably diversified.

I regret deeply what is obvious to anybody who works in An Post, namely, that morale is not what it should be. There is much unhappiness and, unfortunately, much conflict on a large number of issues. It is demoralising and a bad sign if national wage agreements or programme increases cannot be paid. It means something is badly wrong and needs to be put right. Generally speaking such pay increases do not give the sun, moon and stars but are reasonably modest increases. One cannot expect public service workers to accept that position, as that should not be the case. The Government's instinct and advice is that it should stand back from these issues. I am not sure that is always the best approach. One of the reasons the Taoiseach is Taoiseach is that in the late 1980s and early 1990s he adopted a hands-on attitude to many difficult disputes and helped resolve them. To stand back in the event of a major problem is not necessarily the best advice.

I wish to address two or three specific problems, the first being automation of the post office network. In his contribution the Minister of State categorically stated:

Automation of the post office network has also been completed. The automated network accounts for more than 95% of counter business while 475 non-automated offices undertake 5% of business. This figure clearly illustrates the level of business transacted by individual non-automated offices.

There is no recognition of the extent to which that is a self-fulfilling prophesy. Of course an automated office carries out much more business than a non-automated office. What does one expect? I am aware of non-automated offices in villages which are seven or more miles from large towns which are anxious to be automated to enable them to provide services so customers do not have to drive into the middle of a town where there is traffic congestion. I do not like the idea of a two-tier postal service where the majority of post offices are to be automated and given the opportunities to thrive and survive. It is like saying that a branch line of a railway will not be maintained any longer. If such an approach is taken, after a while pressures will force it in the direction of closure. We have never been given any figures. I ask the Minister of State in his reply to give the House the information. What is the actual cost of automation? Is it really all that expensive to install a computer in a post office? As a result of making representations to post office management, I have found they are absolutely adamant. Like the most extreme Unionist politician in the hearing of any case, they will not give an inch. The dogmatic attitude of "it has been completed" is quite unfair to post offices

which perform a very important economic, social and, dare I say, environmental function in the sense that the service could prevent people making unnecessary journeys to town. I am extremely unhappy about the position.

The post office is in possession of some fine properties in towns and cities around the country. Efforts have been made to realise the value of these properties and to push an office from a fine building into a pokey corner of a supermarket where there is not room for people to work. If at all possible, post offices should be able to operate in their original building and where necessary use other parts of the building for other functions. For example, Tipperary railway station is a fine, two-storey building. One room is necessary for railway business and the others have been turned into incubation units for various kinds of business. I recommend such an approach to the post office. As mentioned by Senator Bannon, we will be meeting post office representatives next week. It is important we encourage both sides to seek negotiated and agreed solutions to their difficulties.

The importance of the postal service should not be in doubt. The British Government has given a subsidy of £140 million to maintain rural post offices. I acknowledge it is a much bigger country with a larger population. It took a long time to recognise that the railways needed to be subsidised. It may be that certain vital public services require a small element of subsidisation and if so, the Government should not shrink from that.

Mr. U. Burke: It is ironic that Senator Leyden is the Acting Chairman for part of this debate considering that over the years he acted as a junior Minister in the responsible Department. I do not intend to criticise the Senator personally but I have not seen his stamp, to pardon the pun, on that Department.

Acting Chairman (Mr. Leyden): The Senator cannot drag the Chair into a dispute.

Mr. U. Burke: I could not allow the opportunity to pass.

Acting Chairman: It is also very unfair to attempt to bring the Chair into a debate with a Senator on the floor of the House. I am unable to rise to such an occasion.

Mr. U. Burke: I am sure the Acting Chairman will find an opportunity later.

Acting Chairman: God willing.

Mr. U. Burke: The majority of people throughout the country have great confidence in An Post's delivery service and in the people who work at the counters. They look to them to provide a service within the limitations which are strangling them. Senator Mansergh declared his interest in that he acts in an advisory capacity to

[Mr. U. Burke.]

the committee dealing with commemorative stamps. Will he comment on the practice of An Post sending first editions of postage stamps to all Members of the Oireachtas? They are much appreciated but in the current climate it is a practice that must be reviewed. These stamps could be displayed in the local post offices — those that are still open — or in public places such as libraries and public offices and that would be sufficient. I cannot understand the generosity of this practice. It is a costly exercise and should be reviewed by An Post, given the current situation.

Dr. Mansergh: I will pass on the Senator's point to the committee.

Mr. U. Burke: It is a welcome gesture for which I am grateful but it should be reconsidered in the current climate.

Senator Kitt will be familiar with the closure of two rural post offices in my area, similar to those referred to by Senator Mansergh. With the retirement of the postmistress in Abbey post office and despite strong representations to An Post by the community to retain the post office, An Post was hell bent and determined to close it at any cost. The post office is replaced by an agency which is merely licensed to sell stamps and which pays out the old-age pensions on a weekly basis. We were promised a bill pay service but this still has not been supplied three years later. We negotiated with An Post at management level. They can delay a simple exercise such as this for three years. It is no wonder the situation is as it is. It is not the fault of the workers. The management will blame the workers at the least excuse.

The Leader of the House was formerly the Minister with responsibility for the postal service. On the occasion of a former crisis in An Post, we were assured that no rural post offices would be closed, rather that they would be upgraded.

A proper banking service was promised. Young people are no longer saving with the post office. The management of An Post must realise their responsibility to provide the traditional services. Saving with the post office gave young people a savings habit. That market has been in the main taken over by the credit unions. An Post is losing sections of the market through its own attitude. It is becoming distant from its customers and shows a lack of understanding.

As regards market values, An Post management is incapable of responding to change. While it reacts to failure in many areas, it is not proactive in devising plans to provide for people's needs. A glance at the list of post offices and changes in the service shows that we have had nothing but contraction.

I welcome the decision to incorporate SDS, the parcel service, into An Post. We have a postal service on which we can rely. Senators described how slow the postal service can be, with Senator Kenneally referring to his local service. I give cre-

dit to those who work in the service, as opposed to those who manage it, for doing a good job. I hope the good service provided by the workers on the ground who deliver post and the postmasters and postmistresses who organise deliveries will continue for a long time.

If Government subvention is required to deliver and maintain a service of the standard to which we are accustomed, the Government must indicate its willingness to support An Post in whatever way necessary. If it were to lead by example by expressing confidence in the postal service and indicating that it wants this valued service managed properly, the workers of An Post would respond positively.

It is a pity that the first people targeted by management cuts were workers and pensioners who were denied payments due to them under Sustaining Progress. Why turn on the workers? Is management so starved of inventiveness that it decided to take the easy option and hurt a large number of people?

The post office workers who marched to the gates of Leinster House included people who had given a lifetime's service to An Post and young workers who want to continue providing the service given by their predecessors. They are determined the service will be maintained. It is incumbent on all Members to express support for the continuation of the service. The Government must give a positive lead and the sooner the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, does so, the better. I am not certain the Minister is of such a frame of mind. He must reconsider his approach to secure the future of a service in which people have considerable confidence.

Unlike many postal services elsewhere, it is rare that mail is lost here, whether in large or small volumes. The occasional letter may go astray but the service provided by An Post has been second to none in Europe.

Mr. Kitt: I welcome the Minister of State to the House and thank the Minister of State at the Department of Agriculture and Food, Deputy Browne, for his contribution. Having listened to the debate, I hope the management and unions in An Post will find a resolution to the difficulties in the company. I share the concerns of others that this matter be resolved.

I am concerned by the development of a two-tier postal service, particularly as regards rural areas. During my time in politics the closure of sub-post offices and post offices has been a constant theme. We have been misled by An Post and various Ministers. I was assured by Ministers 25 or 30 years ago when small post offices were being closed that people would be able to get stamps from the local postman. Post boxes were then introduced at the end of roads with the result that the service through which people in rural areas obtained stamps ceased.

More openness and transparency is required with regard to the future direction of the postal service. I am glad the Government is committed to the provision of a service. As a member of the European Union, Ireland is obliged to provide a frequent postal service and An Post meets this obligation by providing a good service. However, rural areas face the threat of more changes which will downgrade services and many postmasters believe changes are taking place too quickly.

The main issue for the trade unions is the €43 million loss suffered by the company in 2003. Only a few years previously the then chief executive stated An Post had made a profit of £1 million. We are entitled to know how a loss of the magnitude of €43 million occurred, who was responsible and who will be held accountable. These are just some of the many questions being asked by trade union members and they deserve an answer.

I am interested in the issues the Irish Postmasters Union wants addressed. Representatives of the union will visit Leinster House next Wednesday to meet public representatives. I hope there will be a large turnout for the meeting. The Irish Postmasters Union has called for funding to provide technology in the 400 post offices which are still paper-based. This is an important issue. The union also raised the gap between postmasters income and the legal minimum wage. I understand governments elsewhere, including in Britain, have addressed this issue.

The post office is a focal point in villages and towns. People want the contract by which social welfare benefits are paid at post offices maintained. They do not want to go to other outlets to receive benefits. It has been suggested that banks could provide this service, which is fine for those who wish to use banks. It is interesting, however, that Allied Irish Bank is the only financial institution which provides a service linked to An Post. Why do other financial institutions not provide this service?

The Irish Postmasters Union also raised the implementation of the Flynn report, which envisages post offices becoming one-stop shops for all Government services. I support the union's position on this issue.

Many contributors have raised the issue of marketing and the need to try to secure new business. I commend postmasters who have ensured the post office network gets involved in new business. Some people have got into processing photographs while others provide a photocopying service. Many have turned their post office into a type of comprehensive shop providing many services.

In that context, I find it hard to understand this constant downgrading of post offices to agencies, an issue to which other speakers referred. As recently as last April, a post office in Kiltormer was downgraded to an agency. It was a post office-cum-shop and was sold. The person who took over, of whom the Minister of State, Deputy

Browne, is aware and who is from his area, is dealing with a very different business from the one purchased because of the changes made. Downgrading that post office to an agency was not the way to go, especially when there was a commitment for a post office. It was very unfair on the person who took over the business but who is doing a good job.

The other marketing issues revolve around Christmas and Easter when new opportunities could be availed of. The postal quizzes in which RTE is engaged are welcome. I recommended to the last Minister for Finance, Charlie McCreevy, and will to the current Minister, Deputy Cowen, that every village should have a lotto outlet which, in most cases, would be the post office. There are many outlets in the larger towns but there is none in some of the smaller villages.

When An Post makes decisions about closing post offices, it should not simply put a sign up telling people to go to the nearby village the following week to collect their pensions. That is not how decisions should be made. I am not saying every post office will continue to operate but in a village with a local supermarket or store, people should have the opportunity to take over the running of the post office. There are many questions to which we and the Communications Workers Union want answers and I hope we get them.

Like other speakers, I believe An Post provides a great service, particularly in rural areas. The people who provide that service are very committed to it but are being undermined. As a Member who represents a rural area, I believe people in rural areas are being undermined when changes are made without any consultation. We find the post office has been downgraded or closed, there is no opportunity to reverse the decision because the die is cast and we are told we must go to the next town or village to do our business. That is not acceptable.

Mr. B. Hayes: I am grateful for the opportunity to comment on this issue. It is important that the House discusses this public business and public asset. An Post is not some privatised industry owned by shareholders who hold positions throughout the EU and elsewhere. It is our company and Members of this and the other House have a direct responsibility to the people to ensure it is well managed, well run, profitable and, ultimately, provides the type of service about which Members have spoken, whether in rural or urban areas. Many of the arguments made in regard to rural areas can also be made about urban areas, including the lack of facilities, investment and of adequate funding for security and other issues. It is important the House debates this issue on a regular basis until we get it right.

In the past, I have been critical of trade unions in instances where they have been belligerent, have not embraced change and have been unable to see the bigger picture. I said one month ago, on the day the unions involved, including the

[Mr. B. Hayes.]

Communications Workers Union, brought their workers on to the street, that I fully supported their actions. I said so because the most blatant discrimination in respect of any aspect of this issue was that meted out to An Post workers in regard to the non-payment of the Sustaining Progress pay deal. As my colleague, Senator Finucane, said, last year all the workers in An Post, who do not earn large sums of money, had to forgo the 5% pay increase due to them under the partnership agreement while this year, they have had to forgo a 2% increase. What other group of workers would accept that their gross income would not increase by 7% to which they were entitled under the pay agreement? What other group of workers would just take that on the chin? They have every right to protest and to cause mayhem in terms of lobbying throughout the country. They also have every right to take this matter to these Houses of Parliament and to state their case clearly because it is a justifiable one.

Not only has this affected the existing workers in An Post but it has affected pensioners. It is absolutely scandalous that pensioners on very meagre incomes have had to put up with this. Senator Kitt and other colleagues have asked who is responsible. As I said a month ago, I make no apology for saying that responsibility lies with botched management. How is it that a company with such dramatic business activity in a country with such economic growth as that we have seen in the past eight years and which has been sustained year on year — in some years, there was almost double digit growth — cannot turn around a profit? How is it possible that in one year, as the Minister of State said, losses of €43 million could be chalked up? I got the answer last night when I saw the current chief executive officer of An Post, Mr. Curtin, on “Oireachtas Report” give a most appalling performance to a committee of the Oireachtas and admit that he had made no effort to deal on a one to one basis with the genuine concerns of trade unions in recent months. That is a scandal.

This is public business and it is our company. We have a direct responsibility to our constituents who put us here to stand up and say that. In any process of modernisation, there is change and it is difficult for people. However, the workers of An Post have had to put up with this for far too long. In my constituency, we saw what happened to SDS on the Naas Road. I was glad to hear the Minister of State say that any redundancies there will be voluntary. I was also glad to hear that all these matters will be before the Labour Court shortly. However, someone must take responsibility for the inability to turn this company around in an economic environment in which such amounts of money have been made by the business sector in recent years. I feel very strongly about that.

The response of the Government, particularly that of the Minister, Deputy Noel Dempsey, has been a hands-off one. Much more needs to be done even at EU level. I note the Minister of State said the EU directive in this area gives all EU citizens the right to a national postal delivery service. This country, in particular, needs this service because of its geography and its peripheral location on the western seaboard of the EU. If subvention is required to turn the company around and make it profitable, then we need to work at EU level to make those arguments where it counts. There is little point in stating there is an EU directive in this area that guarantees a nationalised postal delivery service if, as a small country, we are not entitled to fund a company which needs to be turned around from time to time.

I return to the central point I wish to make on behalf of the workers, many of whom live in my constituency. I congratulate them on bringing this matter to my attention, although we all have a responsibility in this regard. If any other semi-State company had been botched in the same way as this company has been, we would call for the head and, indeed, the entire board of that company to resign. The situation must be turned around. I support the industrial relations mechanism of the State in terms of trying to help that process. Ultimately, however, support will have to be sought through the EU if we are to put subventions into the company to ensure its profitability even in the short to medium term.

I support the workers in this case. It is not a stance I have always taken in regard to a group of public sector workers but the An Post workers' case is justifiable. I ask the Government to abandon its hands-off approach, deal with the issue directly and ensure that the supports are in place, particularly through the EU, to return the company to profitability.

4 o'clock

Mr. J. Phelan: There is a great deal of unanimity across the House on this issue. As someone from a rural area which has lost its local post office in the past 18 months, it is a topic close to my heart. In fact, Phelan's post office in Tullagher was owned by my cousin so its closure represented the end of an element of family history.

I join with previous speakers who have expressed concerns in this area. Rural representatives have witnessed the continued denuding of services in their areas. The local post office is often one of the last remaining services in many rural communities. The Government should consider proactive measures to ensure that as many rural and urban post offices as possible can remain open into the future.

Previous speakers have referred to the 420 paper offices in operation throughout the country which have not yet been computerised. This is unacceptable in this day and age. The computerisation of any office is not as complicated or

costly an issue as it was in the past. If An Post is serious about maintaining its presence in many rural and urban communities, there is no excuse for having 420 post offices that are not fully computerised. I also agree it is unacceptable that 450 postmasters are earning less than the minimum wage.

It is time for the Government to consider the approach taken in the UK whereby, as part of its public service delivery commitment, the Government has stepped in and funded the provision of post offices in many parts of that country. If we are serious about maintaining the service in small rural and urban communities throughout the country, we must be prepared to put our money where our mouth is. I say this as somebody who is not a socialist. I am also somebody who is not traditionally an admirer of some of the stances taken by various trade unions over the years.

However, I was on Molesworth Street to support the postal workers because their action was correct. The treatment meted out to them by An Post in the past number of years is utterly unacceptable. I have no qualms in saying I am 100% behind them in the action they took and in the substance of their complaint. To ask one sector of a workforce to forgo a duly deserved pay award under the Sustaining Progress agreement is indefensible by management or Government. The Government has not tried to defend it. I urge the Minister for Communications, Marine and Natural Resources to take a more active, hands-on approach at the earliest possible opportunity. There is a danger the situation could spiral out of control.

Senator Brian Hayes spoke about the €43 million loss that has just been posted by An Post. There is no possible excuse in this day and age as to how a company in such a position could post such poor returns, particularly when one takes into account that its employees have had to endure a pay freeze. Where has the money gone? It is the clearest example I have seen of pathetic management. I am normally slow to point the finger in one direction but in this instance it is obvious to any objective observer that the management has let the company down.

It is especially disappointing because the postal service is such an integral part of so many communities. The post office and the postman's deliveries represent a social outlet and source of social contact for many. There are people who have no opportunity to speak to another person throughout the day and whose only social interaction takes place with the postman. Every Member of the Dáil and Seanad is well acquainted with the postman who delivers his or her significant volumes of mail. The possibility that this service will be curtailed and that the social aspect of the physical contact it entails may cease to exist in what are mostly rural and certainly vulnerable communities is something we cannot allow to happen. I urge the Minister to take whatever

measures are necessary to prevent such a development.

Other Members have observed that an entire range of services is not provided in post offices in which such provision is possible. I will not go through a list of items but some of them are simple issues relating to local government. Senator MacSharry mentioned the payment of motor tax and local authority rent, for example. Facilities for these types of payments could easily be accommodated in post offices. It simply requires some imaginative thinking on the part of local government as well as the Government to ensure the post office remains a focal point for communities throughout the country.

I am deeply saddened to say that I am somewhat fearful for the future of An Post as we know it. It is a vitally important company which does a tremendous service throughout the length and breadth of the land. I urge the Government not to stand back and let it slip away. Hands-on, proactive efforts must be made to ensure this vital public service remains an integral part of society into the future.

Mr. Leyden: I welcome the Minister of State, Deputy Browne, to the House and wish him well in his Ministry. I thank the Leader for arranging this timely debate. We are meeting representatives of the Irish Postmasters Union next week and the information the Minister of State has provided is important. The key point in his speech is the avowal that there is "no wavering in the Government's commitment to our postal services". We have heard that it is precisely because of this commitment that "urgent action" is now needed to guarantee the future of An Post.

I was in the Department of Posts and Telegraphs in 1982, in a period when we were planning for the future. There was a strong network of post offices at that stage, or sub-post offices as they were called. The Irish Postmasters Union was very effective in its representations for that organisation at the time. It was a different era in that most post offices were linked to local shops and the latter were subsidised to some extent by this interlinking with the postal service. A person collecting his or her old age pension or child benefit tended to spend some of that money in the shop.

This situation still exists in my own area of Castlecoote where there is a well-run post office linked to an efficient shop, providing an excellent service in the area. When I was Minister of State at the Department of Posts and Telegraphs in 1982, I remember the postmaster at the time, the late Mark Delaney, sought to have the office upgraded to a money office, which I duly arranged. That assisted in developing that area of the post office regarding savings accounts. Insufficient emphasis has been placed on the possibilities of development in this area.

Unfortunately several post offices have been closed in recent years. In the next few days a very

[Mr. Leyden.]
old post office in Donamon outside Roscommon town will close as the postmaster is reaching an advanced age and is retiring. No effort has been made to seek a replacement and nobody seems interested in taking on the task. I have received no representations from people in that area because the money paid to the postmaster would not cover the electricity, insurance and other costs of keeping the shop open. It was a very famous post office as the Divine Word Missionaries was located in that area and all its post went through that post office. It was very profitable at that stage.

When I was Minister of State at the Department of Posts and Telegraphs, I was amazed at the amount of competition for a post office. There was nearly a war over the post office in Ballaghaderreen. Different factions were making different representations over postmistress and postmaster applications. The stately Paddy Cooney had been Minister for Post and Telegraphs in the previous Government. He gave a firm commitment to one person that the office would be given to him. I had to either break or honour that arrangement and I honoured it. No one should think Fine Gael Ministers were always pure; they were very political in the allocation of post offices. I can prove this with the records from the time.

However, that was the procedure at the time. We allocated post offices in the Acting Chairman's constituency and throughout the country. I filled a few post office vacancies before I left office in December 1982. I filled them in Ballinaclesh, Mount Talbot, Monesteraden and other areas. It was and is a great service in these areas. There was immense competition to become a postmaster or postmistress at that time. Many services were being provided by the post offices at the time and it was quite a lucrative business, particularly when it was allied to another business.

We are now facing a major crisis with post offices and An Post in general. Regardless of An Post's difficulties, the payments agreed under national agreements must be guaranteed. For a State organisation not to honour those agreements would undermine social partnership. Irrespective of the cost I appeal to An Post to honour the Sustaining Progress agreement, particularly as this affects pensioners, many of whom provided 50 to 60 years of service. As a Member of the Oireachtas who is paid according to national agreements, I am dismayed that postal workers who provided such a service for the people have not been given their increases. This must be rectified regardless of the cost. We cannot keep a service going on the basis of depriving pensioners of their rightful increases.

I have confidence in the Minister for Communications, Marine and Natural Resources and the previous Minister in that Department, Senator O'Rourke.

Ms O'Rourke: Deputy Dermot Ahern was Minister in the interim period.

Mr. Leyden: They have all played a very important role in a difficult portfolio. An Post has been impacted by new technology, particularly e-mail. An Post did not grab the opportunity. It should have had Internet cafés and Internet access in every post office. As far as I know it had an Internet company, which it sold. Golden opportunities were not taken up.

I heard An Post management use megaphone diplomacy on Joe Duffy's radio programme, which was despicable. Labour relations should be discussed at internal meetings and not on the airwaves. One side attacking the other does nothing for the service. A problem exists and I appeal to all concerned to sit down and resolve it.

Senator Mansergh referred to the British Government, which subsidises its service by more than £100 million. We may need to provide a subsidy at some stage. An Post will face a major challenge in 2009. At the moment letter delivery is reserved solely for An Post. While large organisations like the Royal Mail will enter the market in competition with An Post, they may not provide a full door-to-door service. They will cream off the lucrative business in the major cities. We get an excellent service in rural Ireland. Every morning at 9 o'clock, five days a week, letters are delivered to my house by an excellent postman, Micheál Mealy, who is prompt and provides a 100% service to the people in our area. We want this service to continue and, if necessary, we are prepared to pay more to keep the service.

I support An Post and its workers. I support maintaining the maximum number of post offices in rural areas as they are providing a major network and form a key source of assistance for the people of rural Ireland. When a village loses its post office it virtually loses its heart. This should be borne in mind when decisions are made.

Minister of State at the Department of Health and Children (Mr. S. Power):

I have listened to contributions from all sides of the House. As one Member mentioned, this is one of the few issues on which we can get agreement on all sides of the House. There is a great appreciation for the role played by An Post and a desire for that service to continue in every corner of the country. Shortly after I became a Deputy, I attended a meeting at which a colleague spoke on his retirement. He made the point that the influence of Members of the Oireachtas was in decline. He said that when he first became a Member if a postal vacancy became available in his area it was just a matter of making his nomination and that person got the job. He said that things had changed so much that if the vacancy were to arise today and 100 people applied for the job, the only way a Member could ensure his person got the job was to recommend the other 99. While I am

not sure if things have changed to that extent, we can certainly identify with what he said.

The Minister of State at the Department of Communications, Marine and Natural Resources, Deputy Browne, addressed the House earlier. Unfortunately the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, was not in a position to attend today but I will pass on to him the views Senators have expressed. We will appeal to the two sides that in the interest of an efficient An Post they should come together in the spirit of co-operation to try to resolve their differences. I thank all the Members for their contributions.

Acting Chairman (Mr. Finucane): When is it proposed to sit again?

Ms O'Rourke: Next Tuesday at 2.30 p.m.

Adjournment Matters.

Hazardous Waste.

Ms O'Meara: I thank the Cathaoirleach for allowing me to raise this matter today. I may be stretching his indulgence because it may appear to him that I have raised this matter on many occasions recently. Last week I raised the urgent need for the Minister for Communications, Marine and Natural Resources to come up with a plan for the rehabilitation of old mining sites. While the matter I am raising today is related, I ask the Minister of State to take account of the fact that it is also quite distinct.

Gortmore environmental action group, a local community group that is campaigning for the clean-up of the local environment in the Silvermines area of County Tipperary, recently commissioned a scientist, Dr. Rory Finnegan, to produce a report on the matter. Dr. Finnegan specifically examined the figures which have resulted from the monitoring of dust emanating from the tailings pond at Silvermines. That monitoring was jointly conducted by the Environmental Protection Agency and North Tipperary County Council, which are reputable bodies. Dr. Finnegan examined the figures and the synergistic impact of the lead and arsenic dust emanating from the tailings pond.

The Minister of State may not be familiar with the tailings pond, which is a 147-acre site containing tailings, or spoil, from an old mine at Silvermines. The pond is the subject of major concern in the area because its surface is considerably eroded, but I will not rehearse that argument. I urge the Minister of State to examine the urgent need for an epidemiological study to be conducted in the Silvermines area. The study should arise not only from Dr. Finnegan's report, but also from the fact that the incidence of cancer

in north Tipperary, particularly in the Silvermines area, is very high.

The Minister of State may have been listening to "Today with Pat Kenny" last Monday morning when a reporter, Valerie Cox, reported on this issue for the RTE. If he was listening to the programme, as I was, he would have been struck by the stories told by a number of residents of the area, who spoke about the incidence of cancer not only in their families, but also in their communities. No family in the area has been untouched by cancer, including some quite rare cancers. A woman in the area started radium treatment this week for cancer of the tongue. There have been many unusual cancers in the area. When the former health board in the region studied the level of lead in the blood of local children, it found that there were elevated lead levels in the area. It is likely that such high levels have been reduced as a result of advice given to the local community. I spoke to the health authorities about the matter.

The matter I am raising this afternoon is entirely separate, however. It relates to the synergistic or combined effect of lead and arsenic, working together in the human system. The combined impact of lead and arsenic is much different from the impact of either on its own because of a chemical reaction between them. The synergistic effect of lead and arsenic can be to damage or suppress the immune system of the person, or to have an impact on his or her haemoglobin levels. I am not a scientist or a medical person, but I have read the report. I have a copy of the preliminary report with me. There are major concerns in this regard.

The people of the Silvermines area are in a unique position. They live in a community in which there is a tailings pond that is so eroded that there is a growing amount of dust in the area. The analysis conducted by Dr. Finnegan showed that the amount of dust being sent into the atmosphere is increasing every month and every year. The figures show there is a major problem in the locality.

I appeal to the Minister of State to take this issue seriously and to allay the concerns of the local community. I ask him not to say that there is no evidence, but to see whether there is something to be examined. An epidemiological study would involve an assessment of the incidence of cancer in the local area, in order to establish whether there is a cluster. I would be the first person to welcome any finding that there is not a cluster — I would be absolutely delighted. I am not saying there is a cluster, but there is a concern that there may be a cluster arising from the impact on human health of all the airborne toxic materials in the atmosphere around the Silvermines area. Such materials have been a feature of the locality for the past 20 years, but they have been particularly severe for the past five or six years. Those who monitor such matters in the area have found that the acceptable levels of lead,

[Ms O'Meara.]

arsenic and other heavy metals are exceeded on a constant basis. This must be a matter of concern.

I hope the Minister of State will tell me that this issue is being taken seriously. I demand that the incidence of cancer in the Silvermines area be examined. A comparative study should be conducted to allay our concern that there may be a cancer cluster in the area. I hope the Minister of State will take a positive view of the matter. I thank the Cathaoirleach for his indulgence in allowing me to raise this important matter again.

Minister of State at the Department of Health and Children (Mr. S. Power): I thank Senator O'Meara for giving me an opportunity to provide an update on the human health aspects of this important environmental and health issue. It is obvious that Senator O'Meara is familiar with the tailings pond about which she spoke.

In June 2000, an interagency group, chaired by the then Department of Agriculture, Food and Rural Development, presented a report of its investigation into the presence and influence of lead in the Silvermines area of County Tipperary. The investigation covered issues relating to human health, animal health and the environment. The then Mid-Western Health Board was one of the agencies involved in the investigation.

The human health component of the study concentrated on ascertaining concentrations of lead in humans living in the area. Blood sampling was directed at children, in particular. Screening found that lead concentrations in the population were within acceptable international concentrations and generally below those found in urban areas in the developed world. On the basis of the results of the blood testing programme, the group found that the high lead concentrations in the local environment were not, at that time, being transferred to the human population. It indicated the potential for such transfer, however, particularly to children. It recommended that appropriate monitoring should be conducted, particularly in so far as children in the area are concerned.

The interagency group's report concluded that risks arising from particular characteristics of the area must be managed to ensure the safety of local people. It stated that potential risks arise from historic mining operations and the naturally occurring lead and other metals on which such operations were based. It recommended that the local population should avoid exposure to potential risks and that particular care should be exercised in areas of the locality accessed by young children. It advised that those living in the area should follow advice given to them by the public health authorities.

The report contained 39 recommendations, six of which related to human health. It recommended the resurfacing of the local school's play area. It said that children should be discouraged

from accessing areas of high lead content. It called for annual blood surveillance for pre-school and school-going children. It recommended internal and external environmental sampling. It proposed that awareness of the presence of lead should be maintained. It asked for the participation of the community in addressing lead exposure and developing specific prevention strategies.

A multi-agency implementation group for Silvermines was established to report on the progress being made in implementing all the recommendations. The then Mid-Western Health Board participated in the group, which was chaired by the Environmental Protection Agency. In its final report in July 2002, the implementation group indicated that all the human health recommendations had been completed. The report also indicates that all the interagency group recommendations had been implemented, except those concerning the rehabilitation of the mining sites, which was a matter for the then Department of the Marine and Natural Resources. I am advised that the former Mid-Western Health Board was continually involved regarding this issue to ensure public health protection. The Health Service Executive Mid-Western Area has advised that throughout the period 1999 to 2004, a series of annual blood tests was carried out to determine the lead level in children in the area. These tests indicate levels well below the accepted norm. They also indicate that the levels had been declining over the period of testing.

The Senator mentioned the incidence of cancer and stated that a number of families in the community appear to be affected and that there is genuine concern about a cluster. I am advised by the Health Service Executive Mid-Western Area that data provided by the National Cancer Registry do not indicate any excessive cancer rates in the Silvermines area. However, if there is genuine concern, it is important that we are conscious of it and that the matter be kept under review. I understand that ongoing discussions with GPs and public health nurses concerning health issues in the local population did not reveal any issues of concern. The former Mid-Western Health Board, in conjunction with North Tipperary County Council, developed a public health contingency plan in the event of a major dust blow from the Gortmore tailings management facility. The plan contains guidelines and practical advice for the management of the home environment in the unlikely event of a major dust blow. It provides recommendations on how to eliminate or minimise exposure to lead by undertaking simple measures that will get rid of contaminated dust. It is intended to assist in achieving a safe environment for children and adults exposed to lead, thereby limiting any adverse health effects. I am advised that this plan was made freely available in the area.

In June 2001, an expert group, chaired by the Environmental Protection Agency and including international experts, was established to formulate guidelines applicable to Ireland on the management of lead in the environment. During the course of its work the expert group recognised the need to consider guideline values and guidance on other relevant metals associated with lead in the Silvermines area. In 2004, the expert group presented the overall finding and recommendations pertaining to these metals.

The expert group considers the current guidance on human health in the environment of Silvermines to be adequate. The education and awareness campaign implemented by the former Mid-Western Health Board should continue to be provided through the ongoing work of local health care workers and guidance documents should be reviewed regularly and should take account of the results of human health monitoring as they become available. I am advised that the former Mid-Western Health Board provided advice to the local population based on the best international advice and the Environmental Protection Agency's international advisory group in heavy metals and soils. This advice concerns hygiene and avoiding hazardous areas in the Silvermines area.

While there is no evidence of a health impact on the local population from the local environment, the state of that environment is such that significant rehabilitation is required to remove that risk. This issue is being dealt with by the Department of Communications, Marine and Natural Resources. The public health department of the Health Service Executive Mid-Western Area has recently received a copy of a report produced by Professor Finnegan on blood lead levels in children in Silvermines. It is currently reviewing the report and I await its conclusions. Against this background of very comprehensive involvement by the appropriate agencies, I do not consider the action suggested by the Deputy to be required at this stage. However, the matter will be kept under review.

Waste Disposal.

Dr. Henry: I thank the Minister for coming to the House. I have an interest to declare in that I am a director of a company that imports equipment and materials for the tyre remoulding industry. I hasten to add that I do not receive any payment for it. I, like many others, am very concerned about the disposal of waste tyres. There has been a great increase in the number of cars and other motor vehicles in the country, which naturally means there has been a great increase in the number of waste tyres that are not suitable for recycling and which are at the end of their lifespan.

I am very glad to note how concerned the Minister is about waste tyres. I read with great interest

a press release issued by his Department on 29 October 2004 before Halloween which stated:

“The uncontrolled burning of waste tyres must stop,” said Dick Roche T.D., Minister for the Environment, Heritage and Local Government today [29 October 04]. The Minister was commenting in advance of Halloween night where thousands of waste tyres will end up on bonfires all around the country. “The Halloween Bonfire is a great Irish tradition going back to our very earliest times. However, this tradition does not give us licence to burn wastes which give off toxic smoke” said Minister Roche.

The uncontrolled burning of tyres produces dense smoke and toxic fumes polluting air, water, soil and vegetation. Many of the toxic fumes released have the capacity to cause a genetic mutation that can lead to cancer in future generations. It is thought that the uncontrolled burning of tyres is 8 times more likely to cause genetic mutation than the burning of plastic.

In addition water used to control these fires can cause pollutants to be washed into the ground and watercourses. Waste tyres can also provide breeding grounds for mosquitoes and vermin.

The Minister is also quoted as having said that he was very concerned over our failure to dispose of many of our waste tyres in an appropriate environmentally friendly manner. He pointed out that it is clear from EPA figures that very few tyres end up in local authority landfills. It has been illegal to put tyres in landfills since 2003. Tyres are still disposed of on farmyards, for example, where there are considerable numbers of tyres. They may be burnt or disposed of in another inappropriate manner or may be left lying around in unauthorised stockpiles, which can be a hazard to people and the environment. The Minister also pointed out that his Department had been engaged with the Irish Tyre Industry Association to try to get the tyre industry to take proper care of waste tyres. He said he is making progress in that area.

Another point raised by the Minister through the press release appears to have caused some confusion: “I also have concerns about the “environmental levy” that some tyre retailers are charging for the disposal of waste tyres.” The levy is being paid for by the customers who bring the tyres to the retailers. There is really no environmental levy on tyres for retailers. It is the person who sells the tyres who is supposed to dispose of them. There will be a disposal charge for the collection of these waste tyres. There are licensed waste tyre collectors and therefore the retailers have no excuse for saying there is nowhere to get rid of them. There is a facility in Dundalk called Crumb Rubber Ireland which will take the tyres and convert them to a form in which they do not represent an environmental hazard.

[Dr. Henry.]

A great number of tyres still seems to be taken, perhaps by tyre collectors, to farms. This number is surely in excess of that needed on silage pits, for example. In Northern Ireland, a farmer with over 250 old tyres on his land must pay £750 every three years for a waste exemption permit licensing him to hold them on his farm. This amounts to £250 per year. What does the Minister propose to do to address the waste tyre issue in the Republic?

Minister for the Environment, Heritage and Local Government (Mr. Roche): I thank Senator Henry for raising this issue. I wondered at the outset what her interest was and I am interested in the point she made. She is right to say that it is an issue of concern to me.

I have publicly stated my concerns on possible inappropriate practices in the management of waste tyres several times recently. It is imperative that waste tyres are not put to inappropriate uses such as unauthorised burning, uncontrolled disposal or the formation of indiscriminate stockpiles. I agree with Senator Henry on all those points. These practices are not acceptable as they can cause nuisance, pose environmental and health hazards and infringe waste and other environmental legislation.

The Waste Management Acts 1996 to 2003 place a general duty of care on the holders of waste to ensure it is disposed of in a manner which does not cause environmental pollution. In addition, under the Air Pollution Act 1987 the occupier of any premises or land is prohibited from causing or permitting an emission in such a quantity or manner as to be a nuisance.

An estimated 35,000 tonnes of waste tyres are generated in Ireland each year, an astonishing figure. They are not in themselves a hazardous waste, but have the potential to cause environmental pollution if disposed of incorrectly. Tyres when burned produce deadly compounds, including carbon monoxide, volatile organic compounds and most seriously of all, dioxins, for which there are no safe levels of exposure. People who are concerned for example about proper control of incineration in the waste process often seem careless or unaware of the evident dangers from burning a large quantity of tyres in bonfires.

The enforcement of waste and air pollution legislation is primarily a matter for the relevant local authority and my Department has no direct function in the matter. However, the Department has written, at my request, to local authorities asking them to carry out inspections of tyre outlets with a view to improving current practices in the management of waste tyres. The inspections are to be carried out as part of the local authorities' enforcement action plans for 2005. I am considering ways in which better awareness of the issues surrounding the uncontrolled burning of waste can be created as part of the Race Against Waste campaign. I have issued several leaflets in

the past two months, one of which deals with inappropriate backyard burning and its attendant dangers. It does not deal specifically with tyres.

My Department has also written to State bodies with large vehicle fleets and to the tyre industry asking them to review their practices as to how they manage this particular waste stream. The internationally recognised waste management hierarchy places re-use and recycling ahead of other forms of disposal. Re-use, however, will not necessarily provide the best practicable environmental option in every circumstance. This depends ultimately on national and local circumstances, taking account of both the impact on the environment and resource use.

Use of tyres in small quantities on silage pits, as fenders to protect the sides of boats, as engineering material in landfills to assist in holding the leachate drainage layer in place or in children's playgrounds is a beneficial use in the following circumstances — where human health is not endangered and the process does not cause harm to the environment; the use of tyres is suitable for the purpose and is limited to the extent which is strictly necessary; and the tyres replace other materials which would have been used for that purpose, thereby conserving natural resources. Although tyres are frequently used on clamps that is not a major problem.

The tyre industry should co-operate with all stakeholders to achieve more effective management of this waste stream so that any unacceptable practices are eliminated. In response to the reduced availability of traditional disposal and re-use routes for tyres my Department is holding discussions with the Irish Tyre Industry Association with a view to establishing a producer responsibility initiative. I expect to put the necessary arrangements for such an initiative in place later this year.

Senator Henry mentioned the so-called environmental levy which surprised me because no public authority raises such a levy. Some people who sell tyres charge up to €2 per tyre saying that it is an environmental levy. Consumers are not concerned because this seems to be a good thing but in my view it is sharp practice and I have drawn it to the attention of the Director of Consumer Affairs. I also intend to establish whether these levies have been paid by any of the people who supply tyres to the State and, if so, I will look for the money.

It is important to deal with this problem on a partnership basis but if the desired co-operation is not forthcoming I will not hesitate in bringing forward regulations with a view to tightening controls in this area. I share the concerns expressed here today and I am determined that proper controls and management systems for waste tyres are put in place as early as possible.

Educational Disadvantage.

Mr. Browne: I welcome the Minister to the House although I regret the absence of a Minister

from the Department of Education and Science. I do not blame Deputy Roche for that and I am aware that the Minister for Education and Science is taking Priority Questions.

One child in every 166 is thought to suffer from autism or to be in the so-called autistic spectrum. Previously this figure was put at four or five per 10,000. In Carlow, a dedicated group of parents whose children have been diagnosed as suffering from autism, formed a group three years ago. Most had their children tested privately because had they waited for the public system there would have been a long delay.

It is an understatement to say this group has received no State assistance. It has been treated with contempt, as have I in connection with this issue. I have here a copy of the fax I sent to the office of the Minister for Education and Science on 13 October 2004 seeking a meeting with either the Minister or her officials. The group of parents had succeeded in obtaining a free site for a school in the centre of Carlow town in Askea, kindly given by the parish priest. The purpose of the meeting was to see how to progress this to the next step.

Between sending the fax and now I have been lied to and been misinformed. I have been assured of having a meeting and have told the parents that they would have a meeting too but three and a half months later no progress has been made.

Last Monday I was guaranteed a telephone call from the Minister's office about this but received none. I am blue in the face ringing the Department to ask for a meeting. I was told a letter had been sent saying that the Minister could not meet me. The letter has not arrived. I waited three and a half months and wasted my time and, more important, the time of this group to be told that we could not meet the Minister.

They have a prime site in Askea church which is an ideal location for a school and the parents want to know what they should do next. Has the Government learned nothing from the Jamie Sinnott case? It is ironic to think that the Disability Bill is going through the other House when the Department is treating me and these parents with such contempt.

I contacted one of the parents recently and apologised profusely to her because I feel I let the group down badly by not delivering for them. As I am being treated so badly, she wondered what hope she and other members of the group have. That is shameful and should not be allowed to happen.

I hope the Minister's reply will not quote national development plans, etc. I want definite answers. All we seek immediately is a meeting with the officials to take this to the next phase. I understand the Minister for Education and Science is very busy. Before we know it next September will have come around and another school year will be lost.

The children who suffer from autism in Carlow deserve the same opportunities as those in other parts of the country. In Cork and Kildare there are sapling schools which specialise in this area and we in Carlow should not be treated any differently. We have wasted three and a half months and it is time for action. It is regrettable that I had to put this down as a matter on the Adjournment.

Mr. Roche: The Minister for Education and Science is unavailable as she has been in the other House. I can understand the frustration of the Senator if correspondence has not been dealt with appropriately and I am sure this would not have the support of the Minister for Education and Science, who is known in both Houses as a person of exemplary courtesy and concern, particularly on issues relating to children. I will bring the concerns of the Senator to her attention.

A number of children with autism are currently being catered for in integrated settings in mainstream schools with relevant supports or in St. Laserian's special school in Carlow. A number of autistic children are travelling to schools outside the area and school transport is being provided for these children by the Department of Education and Science. Other children with autism awaiting suitable school placements are in receipt of home tuition grants, on an interim basis.

The Department of Education and Science has, however, been aware for some time of the necessity to develop additional educational provision for autistic children in the area and, in this context, the preference is to provide school-based autism provision through the establishment of special classes attached to existing primary schools. Following a submission to the Department from a local parents' representative group, the Carlow Autism Awareness Network, regarding educational provision for their autistic children, efforts have been made by officials in the Department to source a suitable primary school in Carlow that would be prepared to host the establishment of one or more special autism classes. In this regard, consultations began with the board of management of a school in the Carlow area in regard to a proposal to set up a class in the school. Following lengthy discussions, the school authorities confirmed that they were not in a position to set up such a class at present.

The Department then wrote to patrons of the Catholic and Church of Ireland schools, and also to the development officer of the Educate Together schools, outlining to them the request from parents in Carlow. They were asked if they were aware of any of the schools under their patronage that may be interested in setting up special educational facilities for children with autism. Further assessment of two other possible host schools in the area, including meetings with the relevant schools authorities, took place. Efforts in this regard are continuing. To this

[Mr. Roche.]

effect, officials from the Department will be in contact with all of the relevant parties in the coming weeks to consider the most appropriate way forward to progress the development of additional educational provision for autistic pupils in County Carlow.

I hope this clarifies the position for the Senator. I will bring his comments regarding the inappropriate manner in which correspondence was treated to the Minister's attention.

Mr. Browne: I thank the Minister for his reply and I hope he conveys my sense of frustration to the Minister for Education and Science. The Minister, Deputy Roche, referred to lengthy dis-

cussions taking place in regard to setting up a class in a mainstream school. It is worth noting that two schools were approached. One was not in a position to facilitate the suggestion because it was due to undergo major renovation work, which it indicated to the Department. For some reason, the Department did not register this reply. Months passed and a vacuum was created. While I do not expect the Minister to reply now, this affair is not one of the better examples of how the Department of Education and Science should work. I look forward to contact being made with the parents in the near future.

The Seanad adjourned at 4.55 p.m. until 2.30 p.m. on Tuesday, 8 February 2005.