

Vol. 179
No. 17



**Tuesday,
22 March 2005**

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TU AIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Tuesday, 22 March 2005.

[illegible]

SEANAD ÉIREANN

*Dé Máirt, 22 Márta 2005.
Tuesday, 22 March 2005.*

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

*Paidir.
Prayer.*

Business of Seanad.

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

The need for the Minister for Education and Science to indicate when the major Elphin community college, Elphin, County Roscommon, will commence.

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

The need for the Minister for Justice, Equality and Law Reform to make reciprocal arrangements with the authorities in Northern Ireland in order to enable the PSNI to collect fines for speeding offences and other breaches of road traffic legislation by northern drivers in the Republic and for the Garda Síochána to collect similar fines incurred by southern drivers while driving in Northern Ireland.

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

The need for the Minister for Education and Science to respond positively to a request from County Cork VEC to provide proper playing facilities at Davis College, Mallow, County Cork.

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

The need for the Minister for Justice, Equality and Law Reform to explain the prohibition on a Nigerian woman, a qualified nurse, from engaging in full-time paid employment.

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

The need for the Tánaiste and Minister for Health and Children to indicate, in respect of St. Brendan's Hospital, Loughrea, County Galway, the position regarding the plans submitted to her Department to advance to the

next stage in order that overcrowding and health and safety issues are complied with at this hospital for the elderly.

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

The need for the Minister for Justice, Equality and Law Reform to give an update on the case of Olunkunle Eluhanla and the urgent need for compassionate consideration of his situation to permit him to return to Ireland to complete his leaving certificate studies.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Leyden, Higgins and Bradford and they will be taken at the conclusion of business. Senators Bannon, Ulick Burke and Tuffy may give notice on another day of the matters they wish to raise.

Death of Former Member: Expressions of Sympathy.

Ms O'Rourke: Two former Senators have passed away but we will not have expressions of sympathy on the death of the second until after his funeral.

I express my sympathy on the death of a strong and committed Fine Gael Senator who was the Leader of this House for a period, Mr. Michael J. O'Higgins. I am aware that the party opposite will have many fine things to say about him but I would like to commend and appreciate the strong way he represented people over a number of years. He was a member of the O'Higgins family, a very well known and distinguished family, many of whom went into politics and all of whom distinguished themselves, as did Michael J. O'Higgins. His uncle was Kevin O'Higgins and his father, Kevin O'Higgins's brother, was a medical doctor who imbued in his sons his dedication to the Fine Gael cause.

When they were young men, Michael and Tom O'Higgins — the latter a presidential candidate — were members of what were then known as the Blueshirts. Michael said he would always be proud to wear the blueshirt again if the need arose. I admire the way he said that so openly. Michael represented a Dáil constituency which also boasted Seán MacBride and Robert Briscoe as Deputies. Afterwards he was nominated to the Seanad. When inter-party talks began early in 1973 following Fianna Fáil's sudden decision to go to the country, O'Higgins, who was then a Senator, was involved in the drawing up of a common programme which helped to bring Fine Gael back to power for the first time since 1957. In 1973, Michael was also director of elections for Fine Gael. He was extremely active, busy and committed.

Michael was regarded as an excellent Leader of this House. When Fianna Fáil returned to Government in 1977, he retired from politics, as did his wife, Deputy Brigid Hogan-O'Higgins. Apparently they had a happy and fecund married

[Ms O'Rourke.]

life. They had nine children, none of whom became involved in national politics. Perhaps they became involved at local level. Michael and Brigid were a husband and wife team in Leinster House for a number of years. They raised a large family and were involved in farming.

Michael's death represents a real break with the past era for the Fine Gael Party because he was one of its seminal figures. His family was very involved in the party's foundation. He took a very strong line on issues in the Seanad. When Mary Robinson introduced her then controversial Bill, he was well able to put forward his point of view and debate it strongly. I meant to read that debate to get a flavour of it. His passing, and all the memories it evokes, will be very poignant for the Fine Gael Party. The example Michael set in this and the other House will serve as a headline for the Fine Gael Party for many years to come. He was a committed and devoted public servant and represented the people and this House in a fine manner. We extend our sympathy to his family and wish for the words of Members of Seanad Éireann to be passed on to them.

Mr. B. Hayes: Like the Leader, I express sympathy on behalf of my party to the O'Higgins family on the death of Michael O'Higgins. He was an outstanding parliamentarian, a devoted member of Fine Gael for all of his life and someone who gave of his best to public service in this country.

There are two features that mark the great contribution of the O'Higgins family to public life, the first of which is public service. Members of the family were never involved in public life for the money or to gain anything for themselves. They were a comfortable family and could simply have followed their own career paths. Michael was a well respected solicitor. The O'Higgins family had a great sense of public service to the country, which dated from the foundation of the State in the early 1920s. They also had a great sense of the rule of law. They believed that majority rule should prevail and that the parliamentary democracy established in this country in the early 1920s had to be nurtured, monitored and protected by those with the mandate of the people. This applied to all of the many O'Higgins politicians in our party. These two seminal features were part and parcel of the parliamentary career of Michael O'Higgins.

I did not know Michael O'Higgins but I knew his children very well. Hilary, who lives in my area, has helped our party and is a committed Fine Gael supporter. I attended school with Michael's three sons — Brian, Cahir and Mark — and got to know them very well. Those great features of public service and support for Irish parliamentary democracy exists throughout his entire family. Both he and Brigid imbued these in their children, together with a love of country and our democracy — for which his uncle gave his life in 1927. He laid down his life for his coun-

try to ensure peace would come to Ireland and to bring about the end of the Civil War.

As the Leader said, Michael O'Higgins came from a prominent political dynasty. His uncle was the great Kevin O'Higgins and he was the son of Dr. T. F. O'Higgins and the brother of Tom O'Higgins. It was an amazing occasion in 1948 when three of them, two brothers and one father, were elected to the Lower House. Another amazing feat, which is rare in Irish politics, was that Michael and his wife — Brigid Hogan-O'Higgins, who also came from a strong political dynasty and whose father, Patrick Hogan, was the State's first Minister for Agriculture — both served as Members of the Oireachtas at the same time. It must have been extremely difficult for them to raise a family in such circumstances.

We salute Michael O'Higgins's memory and say to his family, and his wife in particular, that they lived with a great Irish politician and a man who served his country well. It is also important to note that he had a happy and long retirement. As the Leader said, Michael left this House in 1977, having served as Leader of the House from 1973 to 1977. It was a fulfilling retirement of over 28 years. He died at the tender age of 87. He was able to enjoy the land, his family and his grandchildren into a ripe old age. That does not always happen in Irish politics. When people from all parties give up their life in politics after so many years, they often cannot enjoy their retirement and pass away early. On behalf of my party, I salute his memory and say to the members of his family that they have everything to be proud of in someone who served his country and his party well.

Mr. O'Toole: Those of us on the Independent benches wish to be associated with the condolences offered by the Leader of the House and the Leader of the Opposition. While none of us on these benches served with former Senator O'Higgins it is easy for us, as the Leader of the Opposition said, to salute him and honour the commitment he and his family have given. It is ironic that he should die in the week that there was such a poor turnout in a democratic by-election given the manner in which he and his family, and families on both sides of the House during that period, gave their lives to establish a working safe democracy.

Former Senator O'Higgins decided, with his brother, to pursue a life of public representation despite threats against his family and the assassination of his uncle. This is the commitment to a young State that was required in order to give it legs, autonomy and independence. We offer our condolences to Michael's family and express our thanks for the many years of public service he and generations of his family have given.

Mr. Ryan: Growing up as I did in a staunchly Fianna Fáil household in Athy, County Kildare, only eight miles from Stradbally where the O'Higgins were well rooted——

Mr. Dooley: The Senator lost his way.

An Cathaoirleach: We are paying tributes.

Mr. Ryan: —one could not but be aware of the family's place in Irish politics, even if my awareness of its members' immensity was sometimes ascertained through fairly colourful descriptions of them. That was the nature of politics then and is probably still the case. The contribution of that family to Irish politics was immense. Former Senator O'Higgins was one of a family which made an enormous contribution. Before he retired I was aware of his significance as a figure in Irish politics when he was Leader of the House and before that I was aware of him as a member of a family that had contributed a great deal to Irish politics. There is an element here of a dynasty beginning to be left behind by time. A number of figures in the O'Higgins family contributed in the period from 1920 to 1932-3 to the cementing of democracy on both sides of the political divide and the willingness to abandon violence and accept democratic change. All members of the O'Higgins family in every generation contributed to this end. We in the Labour Party wish to be associated with the tributes to Michael J. O'Higgins. Ar dheis Dé go raibh a anam.

Mr. Dardis: On behalf of the Progressive Democrats I wish to be associated with the tributes to the memory of the late Michael J. O'Higgins. The contribution of the O'Higgins family to the State in politics and the law going back to the Irish Parliamentary Party in the House of Commons is remarkable, amounting to more than a century of continuity. I did not know Mr. O'Higgins well but I knew his brother, Tom, who could entertain us royally in the Members' bar and had many tales worth listening to. Being elected in 1948, together with his father and brother, must have been a matter of great pride for Michael. There are some echoes with our Leader's family history also in the more recent past.

That Michael's wife was a Deputy and that he carried on, almost uninterrupted in both Houses, for 30 years was a major achievement and contribution to political life. Michael was born in Crookstown, County Kildare, and would have been, as Senator Ryan mentioned, widely spoken about over an extended period. I also knew Michael as a good fisherman. People from the west and anybody who fishes the great lakes there would be aware of that.

There is a powerful lesson for us in the life of Michael O'Higgins and his family. It is not the first time we have mentioned it in the House and it has a modern relevance — in the face of assassination they committed themselves to the road of democracy.

I wish to extend our sympathy to Michael's wife and family.

Mr. U. Burke: I wish to be associated with the expressions of sympathy and tributes to the late Michael O'Higgins. He was a man of great integ-

ity and an unassuming person with firm and consistent political views. Like many other politicians of his time, his political outlook was strongly influenced by the faith and philosophy of Christianity. Reference has been made to the fact that Michael and his family have served this country well, from the time of his late uncle, Kevin O'Higgins in 1927, up to the present. I hope that Michael's passing is only a break in the representation at national level which, hopefully, the family will provide again.

Michael O'Higgins served on Dublin Corporation for ten years. He served both in Dáil Éireann and in Seanad Éireann. Three members of the family have represented Dáil constituencies. His wife, Brigid, represented western constituencies. The family have therefore represented a greater part of Ireland over the years than any other political dynasty.

Michael retired to live in the west of Ireland. As Senator Dardis said, Michael would have been seen over the years on the river or at the lakeside, enjoying his pastimes of shooting and fishing. During his time as Leader of this House one of his colleagues said in 1973 that Michael O'Higgins would have thought it sufficient to give his electorate its reward through dedicated parliamentary service. That is the essence of Michael and his life as a politician. Those were different times. He believed his dedicated representation and his commitment to politics would have been sufficient to represent them.

He made many and varied contributions to debates in this House. One contribution made on 3 July 1974 is appropriate in the current climate. It was on a motion on the situation in Northern Ireland during which Michael said:

Everyone would accept that if coincidental with the setting up of the Executive in the North there had been a cessation of violence, there would not be any shadow or question of doubt about the success of the Executive and that we would have known in a comparatively short time, within six months of the setting up of the Executive, that we could all feel, North and South of the Border, that the direction of this country, North and South, was set on a path where there would be a spirit of co-operation, or partnership and above all a degree of peace in this country that we have not seen for some time. I do not say it was the only cause of the failure but I think an important cause of the failure was the fact that the violence continued and that that degree of support which it was necessary for all to give on the setting up of the Executive was withheld by those who indulged in violence.

It is significant that the parallel between then and now still exists. I wish to extend our deepest sympathy to his wife, Brigid, to his daughters, Maeve, Irene, Hilary and Deirdre and to his sons, Michael, Mark, Brian and Cahir.

Mr. Kitt: I wish to join in the tributes to the late Senator Michael O'Higgins. He was an outstanding politician who came from a very dis-

[Mr. Kitt.]

tinguished political family. I had the honour to serve with his wife, Brigid Hogan-O'Higgins, when she was a Member of the Dáil, on the then innovative committee on wildlife in 1976.

The family tradition of public service was demonstrated during the Asian tsunami disaster after Christmas, when Michael's daughter Maeve remained on in the affected region to help the survivors. The O'Higgins family has shown great commitment to public service in many different parts of the country.

To Brigid and her family, I extend my sincere sympathy. Ar dheis láimh Dé go raibh a anam dílis.

An Cathaoirleach: I also join in the tributes to the late Michael J. O'Higgins, former Deputy, Senator and Leader of the House. He was a member of prominent political dynasty. The O'Higgins name has long been associated with politics. Along with his brother and father, they created a record when all three were elected to the Dáil at the same election. He and his wife created another record by being the only husband and wife team in the Dáil. It has been stated that the O'Higgins family served the State as parliamentarians and members of the legal profession. However, they also served the medical profession with great distinction. Michael's brother, Dr. Niall B. O'Higgins, was RMS at St. Joseph's Hospital in Limerick for 20 years. Dr. O'Higgins was an eminent physician who is still spoken of highly in the county.

I convey my sympathies to Michael's widow and family.

Members rose.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Finance Bill 2005 — Second Stage to be taken on the conclusion of the Order of Business and to conclude not later than 6.30 p.m., with the contributions of spokespersons not to exceed 15 minutes, those of other Senators not to exceed ten minutes and the Minister to be called upon to reply not later than ten minutes before the conclusion of Second Stage; and No. 2, Veterinary Practice Bill 2004 — Committee Stage to be taken at 6.30 p.m. until 9 p.m.

Mr. B. Hayes: It is great to see Senator Kate Walsh back in the House. I congratulate her and all candidates on their performances in the recent by-elections. I will not say anything about the results as I am sure the Government has its own analysis as to what went wrong. It is safe to say, however, that makeover made no difference.

The Minister for Justice, Equality and Law Reform stated earlier that he will consider amending the Criminal Justice Bill 2004 to give extra protection to emergency service workers, particularly those in the frontline — gardai,

nurses, doctors and firefighters — who are obliged to deal on a daily basis with threats, assaults and other acts of violence while performing their duties. The House has a responsibility to provide protection to these workers who work in difficult circumstances and continually put their lives on the line for this country. I would like the Leader to obtain from the Minister a commitment to introduce an amendment on Committee Stage when the Bill comes to the House.

Like many others in this House the image of St. Patrick's Day last week for me was the image of the McCartney sisters in Washington meeting the US President and other congressional leaders on Capitol Hill. As they came home from the campaign they took to the United States of America, it was appalling to see, daubed on the walls in the Short Strand area of Belfast, the slogan: "Whatever you say, say nothing." If ever there was an example of courage and of people who simply want the truth and justice for their murdered brother it is the example of the McCartney sisters. They should not be diverted or put off by the kind of scurrilous campaign some elements in our society are directing against them. They have a simple task, namely, to fight for justice for their brother who was murdered in the most appalling circumstances. There is consensus and a unified view in this House and the same is virtually true in the other House, which supports them in their campaign to get justice for their brother. These are people who have shown great courage against adversity. They have stood up to the "mafia" elements that are prevalent in Northern Ireland and in this jurisdiction. We should support them in their good fight for justice.

Mr. O'Toole: While looking at the monitor during the course of the expressions of sympathy for Michael O'Higgins, it struck me that people like him who served so long and so loyally in this House including as Leader should be entitled to retain the title of Senator, as I previously said on the occasion of the retirement of former Senator Des Hanafin. We would all be honoured by being associated with people who gave such loyal service. Whereas it is fine to refer to Mr. Michael J. O'Higgins, recording our appreciation and condolences brings to mind that such people should be recognised long after leaving here. People who have given that kind of service would add much to political life by retaining the title they had while serving in this House. We should consider this matter seriously. It is not a title of nobility and no constitutional change would be required. I make a habit of referring to Des Hanafin as "Senator" when I meet him and I always refer to every former Taoiseach as "Taoiseach". An Taoiseach is the current Taoiseach and any former holder of the office should be addressed as Taoiseach. This is one of the few aspects of the American system which I admire.

Many people of my age grew up in a culture where the counter of every corner shop had a donation box seeking to help the education of children in Africa. Added to that was the iconic imagery of African schoolchildren playing hurling or Gaelic football under the watchful eye of an Irish Christian Brother or priest in Africa. Having been rooted in that culture and background it is very hard to accept the sight of an African-Irish schoolboy in an Irish school uniform being exiled to a country where he has no protection, family or support.

Mr. Ryan: Hear, hear.

Mr. O'Toole: This is the issue that bothers me. I do not say this as any personal criticism of the Minister for Justice, Equality and Law Reform. I have defended him and I do not believe him to be racist nor do I believe many of the things that have been said about him. However, there is a time for flexibility and this is one such time. When I spoke on the Immigration Bill, I said there would be times when we would need to stand together and state it was right that people be turned back or be kept in the country. This is one of those times. I say to the Leader, as a teacher herself, that three months before the leaving certificate examination is not the time to expel a child from a school, never mind expelling one from the country. We should revisit the issue and ask that flexibility be brought to bear. As a teacher, public representative and citizen of the country, it is impossible to accept this was what we had in mind. The Minister for Justice, Equality and Law Reform said when putting through the legislation that he would be open and flexible on the issue of children born after the implementation of the Supreme Court decision. He has honoured that commitment and I accept this issue is outside the bounds of what we sought on that occasion. However, this situation indicates why flexibility is necessary. Will the Leader ask the Minister to reinvestigate this matter and show some flexibility in this regard?

My image of St. Patrick's Day is somewhat different from that presented by Senator Brian Hayes. The holiday has become a drink-fest and should be revisited. The St. Patrick's Day festivals and parades in large cities should be adjourned for several years. We should discover whether we are capable of enjoying ourselves by having a few drinks in our local pub or in our homes. It does us no good to create focal points in city centres which facilitate the type of activity we have discussed in this House on three occasions during the past year. I am not saying this from a purist's point of view. I am not a person who drinks moderately and I have gone over the limit far too often. However, I come from a cultural background in which it was considered a useful quality to be able to hold one's drink rather than falling down drunk.

Mr. Ryan: It is worth noting that not only are the McCartney sisters seeking justice but have already prevented three murders through their refusal to accept the route offered to them by the Provisional IRA. They have given an example to many through their ability to see the difference between justice and revenge, a distinction some are unable to make. Their behaviour is a salutary lesson to many.

This House must have a debate about our attitude to immigrants and immigration. We have all heard about the Turkish building company and its ill-treatment of migrant workers. The matter of this company's treatment of its workforce was brought to my attention when it was building a major road in Cork. On raising the issue informally with a senior official in the Department of Enterprise, Trade and Employment, I was assured everything was in order. It is disturbing to discover that a formal investigation by the Department has found this was not the case. I am concerned to have been told there was no problem in that Turkish workers were not being paid as much as Irish building workers but that the company was operating within Irish labour law.

It is disturbing that the Department of Enterprise, Trade and Employment did nothing about these workers until a complaint was received. How are those whose only language is Turkish, Polish or Lithuanian, for example, to make a complaint to a Department in which the officials speak, at best, two languages? It is difficult enough to make a complaint to most Departments as Gaeilge not to mention attempting to do so in any other language.

My view of the Department of Justice, Equality and Law Reform is not as benign as that expressed by Senator O'Toole but I will restrain my comments. The record of the Department is not great in regard to the treatment of immigrants. It objected to any Jewish immigration in the 1940s and we now know it objected to the reception of Chilean refugees in the 1970s. This attitude seems to follow a pattern. How is the integrity of our immigration and asylum system threatened by allowing, on humanitarian grounds, a young man of 18 years to stay in the country rather than deporting him without money and identification papers? If a young Irish person were afforded such treatment by any other state, we would scream that it was a brutal and uncivilised country.

Mr. Mooney: That is happening every month in the United States.

Mr. Ryan: I have not seen a single Irish person deported to conditions anything like those that exist for that 18 year old in Lagos. I do not wish anybody else to undergo such treatment.

I am certain on one point. Despite all the disagreements I had with him, the previous Minister for Justice, Equality and Law Reform, Deputy O'Donoghue, would not have taken this action. Notwithstanding his limitations, the previous Minister has a compassionate heart and would not allow this to happen.

[Mr. Ryan.]

The EU is apparently proposing to end its embargo on selling arms to China. I have raised this issue previously in the House and would like the House to have a serious debate on it. We aspire to be the House in which European issues are debated. The ending of the embargo is a considerable issue. It has trade and global political implications and, above all, ethical and moral implications. A decision should not be made by Government alone without reference to the Oireachtas.

Mr. Scanlon: Will the Leader consider a debate on the draft guidelines for sustainable rural housing? Many issues in this regard should be debated and teased out. I have reservations about some of the guidelines, particularly a draft regulation stipulating that one must agree to an occupancy clause for seven years. This is being implemented across the country, although not in every county. That one cannot dispose of a property subject to the clause within seven years interferes with one's constitutional right. We need to debate this issue. Families get planning permission and move into their homes but, for different reasons, they sometimes have to sell them. A family might get bigger, thus forcing it to move on. If one changes one's job one may have to move to another location, and if one loses one's job, one may not be able to afford to keep one's home. These issues require serious debate.

Mr. Higgins: I concur wholeheartedly with the comments of Senators O'Toole and Ryan on the issue of asylum seekers, particularly in respect of the young 18 year old who was deported over night back to a country where he has no roots, despite the fact that he is deemed to be of Nigerian origin.

Last week there was a celebration of Ireland and Irishness all over the world. The main celebrants were the millions of Irish people and their descendants who were not able to earn a living in this country and who were thus forced to emigrate.

Ms White: Hear, hear.

Mr. Higgins: These are the people who are now rightly lobbying the political stalwarts in the United States on behalf of the undocumented Irish. There is a strong ongoing lobby in respect of legalising the status of young undocumented Irish people. There is considerable doublethink in respect of Ireland, our thinking, racism, coloured people and asylum.

I agree wholeheartedly with Senator Ryan. I tangled for four years and drew the sword out of the scabbard every day as spokesman on justice while Deputy O'Donoghue was Minister for Justice, Equality and Law Reform. I genuinely believe he would not have done to the young man in question what has been done by the present Minister for Justice, Equality and Law Reform,

Deputy McDowell. I know the Minister has a job to do and that he must impose the law but the one underpinning assurance he gave us was that he would use his discretion. If ever there was a case of discretion not being used, it is that of the deportation of this young man. We need to have a debate urgently.

Mr. Dooley: I support the call by Senator O'Toole for consideration to be given to the retention of titles associated with this and the other House. Throughout the United States, a Member's image and title are certainly retained long after he or she ceases to be a Member of either House. There is a precedent in this country in that members of the Army retain their titles after their retirement. We should consider this and maybe the Leader will do so in the near future.

Mr. Quinn: Will the Leader consider a debate on the publication of the Competition Authority's annual report for 2004? I am delighted it has been issued this March. As Members will know, I have tabled amendments to various Bills setting up authorities stipulating that those authorities publish their annual reports within three months after the year to which reports pertain. The amendments are regularly considered but the period is adjusted to six months. The Competition Authority's report has been published within three months.

Consider the words of the chairman of the Competition Authority on pages 3 and 4 of the report which state: "Few if any of the restrictions on competition that the Authority has identified would survive the type of Regulatory Impact Analysis now envisaged in the "Regulating Better" paper produced in 2004 by the Dept of An Taoiseach." We have an obligation to demand that an impact analysis be carried out on all legislation that comes before us. We have asked unsuccessfully for this on a number of previous occasions. Occasionally, we have passed legislation for one purpose without recognising the impact it had on other areas and which could be quite devastating to other aspects of the economy. A debate on the issue in the near future would be useful.

I also wish to comment on the EU constitutional referendum that we are due to hold, although the Government has not yet decided when. However, something happened this week which served as a reminder, namely, the Stability and Growth Pact conditions that were laid down for the benefit of France and Germany have been waived or reduced considerably. It makes a mockery of having such a pact if, as soon as a country encounters difficulties, as have France and Germany, it is immediately reconsidered.

Mr. Ross: Hear, hear.

Mr. Quinn: The reason is that it is doubtful whether France will vote in favour. It now

appears that even the Netherlands may not vote in favour of the constitutional treaty. Senator Maurice Hayes has done a marvellous job at the Forum for Europe to ensure that the constitutional treaty and what we hope to achieve from it is explained. However, we must also ensure that others do not find ways of avoiding their responsibilities.

Ms White: We are all aware that Ireland is one of the richest countries in Europe. However, I find it hard to reconcile this with the fact that last Friday evening and all day on Saturday, teachers from Scoil Treasa Naofa on Donore Avenue in the Liberties were packing bags for shoppers in Crumlin shopping centre to raise money for art supplies for their pupils. It is deplorable that teachers in a school in a seriously disadvantaged area of the city must give up their free time to raise money for supplies. The Leader should raise this matter urgently with the Minister for Education and Science.

Mr. B. Hayes: Hear, hear.

Mr. Bannon: I wish to join with my colleagues in calling for more compassion and flexibility with regard to the deportation of this student and others. The Minister should review some of the cases where young students are being deported. It is hypocritical of the Government to carry on in this fashion when one sees the Taoiseach and the Minister for Foreign Affairs going to America and looking for special rights and green cards for Irish people.

An Cathaoirleach: Many other Senators are offering to contribute and this is——

Mr. Bannon: At the same time, people are being deported. This is actually happening——

Mr. Mooney: It is outrageous that the Senator could make such a comparison. He is playing politics and should tell that to the emigrants.

(Interruptions).

An Cathaoirleach: There are many other contributors. Does the Senator have——

Mr. Bannon: On another issue, the missing persons helpline——

Mr. Dardis: The Senator should go back to Longford.

An Cathaoirleach: Order, please. Senator Bannon should be allowed speak without interruptions.

Mr. Bannon: It is an important and vital service that helps to trace many of the 2,000 people who are lost each year. Only last week, we heard that the same Minister for Justice, Equality and Law Reform is cutting the funding for this helpline. This is disgraceful and shameful and warrants a

debate. I ask the Minister to come before this House to debate the issue before cutting the funding for this important national service.

Dr. Mansergh: I wish to express concern about the scale of the job losses being proposed by Bank of Ireland at the same time it announces record profits. As a customer of Bank of Ireland for some 40 years, I naturally have concerns for the people who have helped and served me. I deplore the macho management style which seems to measure success by the number of people that can be got rid of or fired. I would be more impressed if there was going to be an similar 10% cut in share options, salaries and other benefits at the very top of the bank.

Mr. Ryan: Hear, hear.

Dr. Mansergh: We live in a partnership culture and this kind of measure should not be proposed without some consultation.

Like most Members, I would hesitate to interfere unduly in the affairs of a private company. However, even private companies have social responsibilities.

Dr. Henry: I join Senators O'Toole, Ryan and Higgins in expressing concern about the deportation of the young Nigerian boy three months before he was due to sit the leaving certificate. Will the Leader express our concern to the Minister for Justice, Equality and Law Reform and request that he allow the boy to return? I ask this for two reasons, the first of which relates to the boy's welfare. It would be of great benefit to him to have the leaving certificate qualification if he is again deported to Nigeria. The second reason relates to the fact that we continually urge children to remain in school and complete their examinations. What sort of example are we giving to them if, three months before it is due to commence, we are depriving this boy of the opportunity to sit the examination? I am sure the Minister would consider the boy's case in a more favourable light if this was explained to him.

Mr. Mooney: It is a reflection of the compassion this House shows that so many Members have expressed real concern about the plight of this young man. However, this is not the first case of its kind and sadly it will not be the last. It would be useful if the Leader of the House asked the Minister to clarify, as a matter of urgency, the circumstances under which this deportation took place. Many of us have been involved with these unfortunate cases and are aware that for too long the Department of Justice, Equality and Law Reform has used a veil of silence whenever issues of this sort have been raised. The exact reasons for a deportation are never discovered and, instead, chapter and verse are quoted to anyone seeking answers.

Senator Bannon's linking of the valuable work representatives of the Government, irrespective

[Mr. Mooney.]
of whichever party is in power, do during St. Patrick's week with our legitimate concerns about the undocumented Irish and the sad plight of a Nigerian boy was taking political comment too far.

Mr. Bannon: Senator Mooney is being hypocritical.

Mr. Browne: One of the Government Senators admitted Ireland is one of the richest countries in the EU. However, it has the second highest class size in Europe. I have no doubt that we will hear much hypocrisy next weekend from Government Senators and Deputies as they visit the teacher unions' conferences.

An Cathaoirleach: Does Senator Browne have a question for the Leader?

Mr. Browne: They will nod their heads, agree with the delegates and yet do nothing afterwards.

An Cathaoirleach: Does Senator Browne have a question for the Leader?

Mr. Browne: The Leader should invite the Minister for Education and Science to come before the House following the recess in order that we might engage in a proper debate about class sizes and funding. I agree with Senator White about schools being forced to fund-raise. I recently heard about a school in Mayo which has four teachers and which is expected to raise in excess of €100,000 in order to obtain a new school building.

Will the Leader also arrange a debate on ComReg following the recess? There are many interesting aspects to the debate on ComReg in terms of issues such as mobile phone masts, regulation, etc. In particular, there is now a plan to introduce postal codes for the Dublin area. This plan should be extended nationwide. The ComReg report offers plenty of food for thought and it would be useful if we could have a debate on that topic.

Mr. Ross: I welcome Senator Mooney's comments. He has broken the silence on the Government benches regarding the unfortunate plight of the 19 year old Nigerian boy. It is important that a message goes out from the House that this is a humanitarian issue. The Minister for Justice, Equality and Law Reform can throw rules and bureaucracy at us in respect of this matter from whatever angle he chooses. However, from any moral standpoint, the decision to send a boy with these qualifications and ambitions who is about to sit his leaving certificate back home to a regime with questionable democratic principles is unjustifiable. I do not know what kind of a future awaits the boy here but it would be much brighter than his future in Nigeria.

The second issue I wish to address is that raised by Senator Mansergh about the banks. I com-

pletely agree with what he said. It is time the House examined the activities of banks, particularly when they are slashing and burning and cutting people's jobs willy-nilly. It is a good idea to reflect on why this happened. We are all to blame for allowing the banks to run a cartel for many decades.

Mr. Ryan: Hear hear.

Ms O'Rourke: It is not a cartel now.

Mr. Ross: Costs must now be cut due to international and global pressures on the banks but the people paying the price are never at the top, as Senator Mansergh rightly said. Two groups will pay the price for the mismanagement and exploitation by the banks over the years. One comprises their hard-working and loyal employees who were taken on board as a result of the banks developing a slush fund, sitting on the top of the Celtic tiger and running a cosy little arrangement between them. However, that arrangement cannot continue because of international pressures and it is the good people working in the banks and customers, the second group, who will pay the price.

Mr. J. Phelan: I agree with the Senators who spoke about the difficulties witnessed on our streets on St. Patrick's Day. It is now time to have a debate in this House and elsewhere on ways through which we can reclaim our national day from the scenes that have become all too prevalent in recent years. There are examples of this throughout the country, particularly in Dublin, with incidents such as those that occurred on the DART and in other areas. It would be opportune to initiate a debate to examine what could be done in future.

Will the Leader arrange a debate on the structures of the Health Service Executive at the earliest possible opportunity? One of the Government's commitments when it was elected in 2002 was to shake up the health services but it has not done so. The health boards have been abolished but their underlying structures and officials are still in place, leading to extra levels of bureaucracy in the HSE. There are hospitals in which administrators are falling over one another but there are wings and wards in those hospitals without sufficient doctors and nurses to man them. It is important to debate this urgent matter.

Mr. McCarthy: I support the Senators who raised the issue of the Nigerian student and the manner in which he was deported. I will quote a comment he made to *The Irish Times* on 21 March 2005 when he was contacted in Lagos:

I had nowhere to go. When I was walking around I ran into some gangsters, who thought I had money on me. I was attacked and mugged. My clothes were torn, I was starving and I had no medication for the injuries I had sustained.

This is appalling. That an Irish Minister is responsible for deporting this 18 year old is unforgivable and I will join the protest outside this House on 23 March to add my support to those campaigning for him.

Mr. U. Burke: It seems that the Minister for Education and Science, Deputy Hanafin, is making reasonable efforts to reform the assessment for higher education grants but that her endeavours are being stifled by officials within the Department of Social and Family Affairs. They refuse to carry out an assessment similar to that for social welfare recipients. It is time the Minister stood firm. All too often the Minister for Finance has dictated policy in education but this is a new departure with regard to the application of the means test. There is an urgent need for reform if equity in access to these grants is to be had. As a former Minister for Education, the Leader will understand the need for this reform. Will she request that the Minister for Education and Science announce her intentions in one of the Houses of the Oireachtas before we read about them in the press?

Ms O'Rourke: Senator Brian Hayes raised the matter of the proposed amendment to the Criminal Justice Bill to ensure that staff in frontline services will be given greater protection than is the case at present. I will convey his views to the Minister. The Senator also suggested that we should stand in unity with the McCartney sisters against thuggery. All sectors of politics have shown good faith in respect of that family. I hope their valiant stand will yield results.

Senator O'Toole suggested that the title of Senator be formally be retained when Members leave the service of the House. He specified that this should apply to Senators of substance. I do not know who would be responsible for deciding that.

Mr. Ryan: It could apply to anybody with 20 years service.

Ms O'Rourke: It is a convention but it is not so described. I understand people still do it but it is not stated that this should be the case. It is a fair point. The Senator also referred to the Irish student who was returned to Lagos three months before sitting the leaving certificate. I cannot understand that. Ignoring the humanitarian aspect of this case, one would want him, on academic grounds, to complete his studies and leave with his certificate, which would be valid wherever he went. I will seek to see the Minister this afternoon in order to convey to him the combined views of Members.

Several Members referred to excessive drinking on St. Patrick's Day, which occurred everywhere and not just in Dublin. We have debated that topic on three occasions. If the parades were stopped, people would drink indoors rather than outdoors.

Senator Ryan raised the issue of firms from other countries which are not paying people proper wages. I brought this matter to the attention of the Department of Enterprise, Trade and Employment two or three years ago. I was informed that no complaints had been received, to which I replied that I wished to make one. How can people who speak different languages be expected to understand the complexities of the rules that apply here?

Senator Ryan also referred to the deportation to Lagos and made clear that former Minister for Justice, Equality and Law Reform, Deputy O'Donoghue, would not have allowed such a situation to develop. The Senator also mentioned the EU ending the embargo on arms, a matter that was previously raised by Senator Mooney. It is time for a debate on this issue.

Senator Scanlon mentioned the draft guidelines on rural housing, particularly in terms of seven-year occupancy agreements. Circumstances can change in seven years for someone who obtained planning permission. A death could occur, circumstances might change or the requirements of children might come into play. We will endeavour to have a debate on that matter.

Senator Jim Higgins also referred to the deportation of that young man and said that he had unsheathed his sword from its scabbard against Deputy O'Donoghue. I thought he had unsheathed it against me.

Mr. Higgins: That was an earlier era.

Mr. B. Hayes: An earlier battle.

Ms O'Rourke: Senator Dooley also suggested that people should be allowed to retain the title of Senator. That title would fit nicely on him when he leaves the service of the House.

Mr. Dooley: It would also fit nicely on the Leader.

Mr. B. Hayes: Is Senator Dooley planning to retire?

(Interruptions).

Ms O'Rourke: The Senator could be referred to as "Senator-Minister Dooley" if his political career advances further.

Senator Quinn referred to the Competition Authority's annual report for 2004 and stated that impact analyses should be carried out on all items of legislation, in terms of how it might affect businesses or employees, before they are passed. We will seek a debate on that matter.

The Senator also referred to the Stability and Growth Pact. I was in Cabinet when that pact was the bible and when there was no deviation from its terms. It suited Ministers for Finance, and rightly so, to quote from the pact. Now, however, because France and Germany are cribbing, the provisions of the pact are apparently going to be relaxed. The unification of Germany is one of

[Ms O'Rourke.]

their reasons for this but that event occurred a long time ago. France and Italy are also seeking that the terms of the pact be relaxed to some degree. The Cathaoirleach is seeking a meeting of the Committee on Procedure and Privileges at which we can discuss how to accommodate the many suggestions relating to European participation.

Senator Mary White asked why teachers are packing bags in supermarkets to make money for their schools, particularly as Ireland is such a rich country. I have come across this in the area I represent. I congratulate the Senator for raising the matter. If she is as successful in highlighting it as she has been in respect of the child care issue, she will really have made an impact.

Senator Bannon asked for more compassion for emigrants. He also referred to the missing persons helpline. I understand, from newspaper reports, that the Garda authorities are of the view that it might be better if they were to follow up leads. I do not believe it is a matter of the Minister stating that something should be cut.

Mr. Bannon: The Minister for Justice, Equality and Law Reform is cutting €50,000 that was provided.

An Leas-Cathaoirleach: The Leader, without interruption.

Ms O'Rourke: I congratulate the Senator Bannon on his appearance on radio last night. I notice he did not stand up for me. The Senator did not say a word.

A Senator: There is little of that type of thing in this business.

Ms O'Rourke: The area Senator Bannon represents is in the middle of the constituency.

An Leas-Cathaoirleach: The Leader is inviting trouble.

Ms O'Rourke: I am inviting trouble — big trouble.

Mr. Mooney: The Leader was mentioned on the radio programme in question.

Ms O'Rourke: I was mentioned early on. I was going to contact the programme to inform those involved that I knew the reason I was sacked and to outline it for them.

Mr. Bannon: Spill the beans.

Mr. Mooney: They were afraid of the Leader.

Ms O'Rourke: Senator Mansergh referred to the proposed job losses at the Bank of Ireland. The Senator made the point that although it is a private company, it has social responsibilities. I was annoyed when I heard the chief executive of

Bank of Ireland waffling this morning. One could imagine the boys in the club congratulating him. One can imagine him thinking that what he did would increase the bank's share price. However, he merely did it for effect. Why is the bank reducing its staff when it made €1.5 billion? I cannot understand the reasoning involved. The bank will lose its best staff and in my view the CEO will regret his decision in a year or two. There will be a complete regression. The bank was involved in a cartel but it now wants to get ahead of that cartel. How is that done? People are sacked and there is a policy of burning and plundering. There is a Latin word, *vastare*, which means "to lay waste", and that is what the bank is doing.

Senators Henry and Mooney also referred to the plight of the young Nigerian student and the circumstances of his deportation. The best way to express our sympathy is to meet the relevant people — these include a family from Athlone with young children — when they visit the Houses tomorrow. Senator Browne sought debates, following the recess, on class sizes and ComReg.

Senator Ross referred to the humanitarian issue of the young man to whom other Members referred. The Senator also requested a debate on the banks. In that context, I would like to know what is the point of massive staff redundancies.

Mr. Mooney: They talked this morning about a 60 cent increase in the share price.

Ms O'Rourke: The price went down yesterday.

Mr. Mooney: That is what it will cost the workers — a 60 cent increase.

Ms O'Rourke: Senator John Paul Phelan spoke about excess drinking. He also said the structure of the health service has not changed despite its change of name to the Health Service Executive.

Senator McCarthy spoke about the Nigerian student whose telling description of what happened to him when he landed in Lagos was quoted. In addition to being a humanitarian issue, this is wrong in intellectual and academic terms.

Senator Ulick Burke spoke about the Minister for Education and Science, Deputy Hanafin, reforming the third level eligibility criteria. He hopes that the Department of Social and Family Affairs will not intervene in that.

Order of Business agreed to.

Finance Bill 2005 [Certified Money Bill]: Second Stage.

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

Minister of State at the Department of Finance (Mr. Parlon): The Finance Bill implements the tax changes announced in the budget and provides for a range of other measures. In particular, the Bill includes measures confirming the budget day income tax package which concentrated

available resources on those at the lower income levels and on elderly people. This Finance Bill will support the progress of our economy and prepare the ground for further improvement in living standards. It signals this Government's ongoing commitment to sound budgetary management and reflects its commitment to ensuring that the tax system plays a positive role in supporting the country's economic development.

This year the Bill runs to 150 sections and six Schedules, of which I will outline the main provisions, starting with the focal points. The Bill includes proposals designed to remove all those on the minimum wage from the tax net, thereby delivering on a key taxation commitment of the Government; confirm the cut in stamp duty for first-time buyers of second-hand residential property to help new buyers onto the property ladder; give effect to the other tax reliefs and tax reductions announced in the budget, give greater powers to the Revenue Commissioners in pursuing major tax evaders and those who facilitate tax evasion; update tax law to cater for new international accounting standards applicable to companies, thus keeping up our competitive edge; amend or extend several tax reliefs in some important areas, such as pensions, foster care, farming and international financial services; and upgrade tax administration to the benefit of taxpayers, especially in the PAYE area.

The Bill will close off several tax avoidance schemes some of which are quite aggressive in sheltering the income of certain high earners. This Bill also proceeds against the background of a major revision of tax reliefs under way on foot of the Minister for Finance's budget announcement. There is, therefore, likely to be significant new information available the next time we consider a Finance Bill, contributing to a major debate about the costs, benefits and equity issues arising in that context. There are many areas in which major changes this year would have been premature. This year's Bill is substantial.

Sections 2 to 5 of the Bill implement the various income tax reductions and reliefs announced in the budget. Section 2 increases the standard rate band by €1,400 per year for all earners. As a result, a single person on the average industrial wage will pay 14% less tax. There are also increases in the band for single and widowed parents. Altogether, some 52,000 taxpayers are taken off the higher rate of tax. Section 3 increases the entry point to taxation to just above the value of the minimum wage annualised. Thus, for a single PAYE person, the first €14,250 per annum, or €247 per week, of earnings is tax free.

Section 4 increases the age exemption limits by €1,000 for a single person and €2,000 for a married couple which stand at €16,500 and €33,000, respectively. Other income tax changes, combined with this, will remove more than 66,000 income earners from the tax net, including 4,700 elderly people.

These measures provide evidence of the Government's commitment to keep down taxes

on wages and protect the real value of incomes for pensioners on low income. Over the past ten years the numbers of those in the tax system who pay no tax at all has increased significantly from approximately 331,800 to approximately 656,500 this year.

Recent data from the OECD show that for the average production worker, Ireland has the lowest tax wedge — that is, income tax plus employee and employer PRSI as a proportion of gross wages plus employers' PRSI — in the European Union, and one of the lowest in the OECD.

Furthermore, for the single worker on the average production wage in Ireland, the average tax rate was the third lowest after Korea and Mexico, of the 30 countries studied. It was the lowest of the 19 EU member states surveyed. A married one-earner couple with two children on the average production wage in Ireland in 2004 received more money in cash transfers from the State than they paid out in income tax and social security contributions. Only Luxembourg is in the same league as Ireland in this respect and the OECD figures do not take account of the further improvements made in this year's budget. This is good news for the economy and for workers, who over recent years have seen average tax rates fall and have kept more of what they earned in their pockets.

Section 6 increases the relief for individuals, for 2005 and subsequent years, for rent paid for private rented accommodation that is their sole or main residence. Sections 7 to 10 are provisions for benefit in kind. Section 7 revises the method of valuing land for benefit-in-kind purposes where it is provided by employers to employees. Section 8 adds commuter ferries in the State to the list of passenger services for which employer-provided travel passes are exempt from taxation as a benefit in kind.

Section 9 confirms that the charge to tax in respect of the benefit in kind to an employee from an employer-provided preferential loan, applies for each year in which there is a balance outstanding on the loan. Section 10 provides an exemption from benefit in kind for security provided to a director or employee by the employer where there is a credible and serious threat to the personal security of the director or employee which arises wholly or mainly from his or her employment.

Section 11 exempts foster care payments from tax and, in line with international practice, section 12 provides for the exemption from tax of foreign service allowances paid to State employees. Sections 13 to 20 deal with various aspects of income tax — share options, employee share ownership trusts, tax paid by company directors, chargeable persons under self-assessment, professional services withholding tax, taxation of lump sums and the tax on certain deposit interest. Some of these tighten up requirements in certain areas and others reduce the tax imposition on the taxpayer in particular cases.

[Mr. Parlon.]

Section 21 brings our pension tax rules into line with EU law by removing any possible discrimination between pension providers in the State and pension institutions from another member state. Sections 22 to 26 deal with putting the PAYE system on-line to enhance the level of service for the taxpayers in question which is a major upgrade of the tax administration system. This will enable the PAYE sector to file returns and avail electronically of a range of self-service options for their tax affairs, including requests for reviews of tax paid. It will also allow for self-service options via an automated telephone system dealing with ordering forms and leaflets and claiming certain tax credits.

Chapter 4 of this part of the Bill deals with income tax, corporation tax and capital gains tax reliefs. Sections 27 and 36 deal with business expansion schemes and film relief respectively, and formally incorporate into statute law several changes required by the European Commission when granting State aid approval to these schemes last year.

Section 28 amends the tax relief terms for heritage buildings and gardens by strengthening the requirement for reasonable public access and the effective advertising of public opening hours.

Sections 29 to 32 extend the farm relief for pollution control, provide for time extensions to stock relief schemes and provide for income-averaging for tax purposes of certain Feoga scheme payments made in 2005.

Section 33 allows a number of outstanding applications for capital allowances in respect of third level education buildings received before 31 December 2004 to be examined for the purposes of this tax relief without any change to the overall termination date of 31 July 2006. Section 34 clarifies and extends the definition of hotel for the purpose of capital allowances.

Section 37 is an important anti-avoidance measure to ensure that foreign-based limited partnerships cannot be used by certain high earners to reduce significantly their income tax bills. Section 38 reduces the period from three years to two years for charities to become eligible for tax relief on donations. Section 39 is a measure to combat the re-packaging of distributions of income as capital gains so as to attract the lower CGT rate of 20%, instead of the top income tax rate of 42%.

Section 40 is a technical amendment dealing with funds administered by the Courts Service that are included in the "gross roll-up" taxation regime for investment undertakings, which was introduced in the Finance Act 2000.

Section 41 deals with an issue in regard to the unequal tax treatment that may arise for certain overseas life assurance companies doing business in Ireland, compared with Irish assurance companies doing business in the State. Section 42 is a provision to ensure that life assurance companies cannot avoid the exit tax on gains made by investors by simply rolling these over into further

investment products. This section is subject to a commencement order to allow time for discussions to take place with the industry on the details of the implementation of the section in regard to the various life insurance policies involved.

Section 43 also closes a loophole on the use of losses on offshore funds. Section 45 ensures that the ring-fence on the use of losses for tax purposes in leasing contracts is not circumvented in certain cases. Section 44 provides for the tax treatment of a proposed new type of investment vehicle — a common contractual fund, CCF. This is a measure which will facilitate our funds industry. The tax treatment will be subject to certain conditions and safeguards.

Section 46 amends the rules on the application of encashment tax on certain foreign dividend and interest cheques cleared by retail banks in the State. Section 47 exempts certain non-taxable entities, such as personal retirement savings accounts and tax exempt unit trusts, from the application of dividend withholding tax. This will avoid the need for those bodies to reclaim tax from the Revenue Commissioners in respect of dividends paid by Irish companies, thereby eliminating an unnecessary circular flow of cash.

Section 48 makes some important changes in tax law to accommodate the move by companies in 2005 to the new international financial reporting standards. Company law requires that, from 1 January 2005, all companies listed on a stock exchange must prepare their consolidated or group financial statements in accordance international financial reporting standards, IFRS, instead of, as in our case, Irish generally accepted accounting practice, GAAP. The individual accounts of companies may also be prepared in accordance with IFRS. However, once a company moves to IFRS, it will be required to use it as the norm for the future. Under Irish tax law, the starting point for calculating the taxable trading income of a company is the profit of the company according to its accounts.

Section 48 provides that where a company prepares its individual company accounts on the basis of IFRS, such accounts will be used as the starting point for calculation of taxable trading profits. This section goes into some detail on the rules to be applied in respect of the specific tax treatment in a number of areas such as unrealised financial gains and losses, share-based payments, research and development, interest and labour costs included in capital assets and transitional rules for the switch from Irish GAAP to IFRS, including rules relating to bad debt provisions. The changes, while technical, are important in determining the tax liability of individuals and groups of companies.

Section 49 provides for a number of amendments to the charges provision such as deductibility for interest paid by a company on loans taken out with lenders in other EU member states. Sections 50 and 51 apply the benefit of certain EU directives on taxation of interest and roy-

alty payments and the parent-subsidiary directive to Switzerland following an EU agreement last year.

Section 52 amends the current provision that certain payments between companies that are members of a group may be made without deduction of tax provided that certain conditions are met. The amendment relaxes the condition, in certain circumstances, that both the paying company and the receiving company must be resident in the State.

Section 53 amends the existing provision dealing with the calculation of manufacturing relief. The amendment will ensure that the correct amount of relief is given to companies in all cases, as problems had arisen with the calculation of the relief following the introduction in 2001 of the new regime for ring-fenced charges and losses.

Section 54 amends the taxation regime introduced last year for headquarters and holding companies in Ireland in regard to the valuation of certain shareholdings in such companies. This will satisfy the requirements of the European Commission's clearance of the scheme as not being a state-aid.

Section 55 deletes section 686 of the Taxes Consolidation Act 1997, which was introduced to provide an effective reduction in corporation tax to 25% in respect of certain petroleum income. That provision was introduced in 1992, when the standard rate of corporation tax was higher than 25%. Since 1 January 2000, a flat rate of corporation tax of 25% applies to all income from petroleum activities and section 686 has become redundant.

Section 56 relates to capital gains tax and deals with the 15% CGT withholding tax by the purchaser of certain assets valued over £500,000. Section 58 provides for an exemption from CGT for trustees of tax exempt pension schemes. These are the main direct tax changes in the Bill.

I will now deal with excise and VAT, where, as the House knows, the only change made by Government to the rates on budget night, was the increase in the farmers flat rate addition. Consequently, the provisions in the Bill deal more generally with excise and VAT law and with measures to counter evasion and avoidance in these areas.

Sections 59 to 63 deal with alcohol products tax, APT, and the investigation and pursuit of offences. Most notably, section 62 allows a court to temporarily close a premises or club involved in selling illicit alcohol. The previous penalty of full closure was not being applied as courts appear to feel it too draconian. Section 63 provides for the 50% APT reduction on microbreweries announced in the budget, which has been widely welcomed.

Sections 64 to 70 relate to petrol, diesel, LPG, fuel oil and coal. Section 64 provides for minimal increases in mineral oil tax on LPG and fuel oil arising from the EU energy tax directive. It also provides for new differentiated rates for sulphur-free petrol and diesel. It provides for an EU

energy tax on coal but as most types of coal usage, including domestic use, are exempted, the effect of this change will be minimal. The small excise increases will come into effect on 1 April, while the provisions applying to coal and sulphur-free fuels will come into effect by commencement order, most likely in July.

Sections 71 to 86 consolidate and modernise the excise law on tobacco products, which is contained mainly in a 1977 Act. The provisions do not introduce any new duties or any other significant changes into the operation of tobacco tax law.

Sections 87 to 97 relate to other aspects of the excise system. The provisions are mainly of a technical nature. Section 97 extends the 50% VRT rate reduction on hybrid vehicles to 31 December 2006. This relief was due to end on 31 December 2004 but there are particular environmental reasons, connected with lowering emissions, that we should continue to encourage the wider use of hybrid petrol-electric engines in more vehicles.

Sections 98 to 113 contain a number of important revisions to the VAT tax code. These deal with several anti-avoidance measures relating, *inter alia*, to VAT on leases and the sale of property in section 100. As we have become more vigilant in closing off loopholes in direct tax areas, attention has switched to finding ways of saving tax through creative interpretations of VAT law. VAT now brings in £11 billion, or 30%, of tax revenue each year. Consequently, the gains and losses from tax planning can be significant. VAT law is often complex and is open to interpretation. The European Court of Justice sometimes rules in an unexpected way. There are legitimate issues of difference in how Revenue and tax advisers feel that some of the law applies. That is fair enough in so far as it goes but it is also important for the State to protect the revenue base. For that reason, the VAT changes here focus on clarifying the law, sometimes in favour of the State and other times in favour of the taxpayer, as in the case of the exemption from VAT of student accommodation.

Sections 114 to 129 refer to stamp duty. Section 115 deals with particulars which must be notified to Revenue concerning the liability of an instrument to stamp duty and the penalties for failure to notify.

Section 116 is an anti-avoidance amendment which redefines the current provision for the calculation of *ad valorem* stamp duty so that it is payable in respect of the value of the property conveyed. The amendment applies to instruments executed on or after 2 March 2005. Section 117 combats the avoidance of duty by splitting transfers of property into more than one conveyance.

Sections 119 and 120 deal with stamp duty exemption on land acquired by young trained farmers and requires that if any of the land is disposed of within five years, a proportionate claw-back of the relief will apply where the proceeds

4 o'clock

[Mr. Parlon.]

are not fully reinvested. Section 121 sets out the provisions that will apply to the measure announced in the budget whereby stamp duty on an exchange of farm land between two farmers for the purpose of consolidating each farmer's holding will only be charged on the difference in the values of the lands concerned.

Sections 122 and 123 extend the stamp duty relief on certain stock borrowing and on sale and repurchase transactions to assist liquidity on stock exchanges. Section 124 is an amendment to give a stamp duty exemption to conveyances or transfers of units in a common contractual fund and to replace certain references to collective investment undertakings to reflect more up to date definitions in the Taxes Consolidation Act 1997.

Section 125 effects a technical change to replace certain references to collective investment undertakings in the Stamp Duty Consolidation Act to reflect more up to date definitions in the Taxes Consolidation Act 1997. Section 126 confirms the stamp duty reduction for first-time purchasers of second-hand residential property. This measure, which came into effect on budget day, will continue to free up the market to the benefit of first-time purchasers, which was the intention.

Section 127 reduces companies capital duty on the issuing of share capital from 1% to 0.5% for transactions after budget day, 2 December last. This will help maintain our position as an attractive location for companies.

Section 128 exempts financial cards, such as credit cards and ATM cards, from double stamp duty where these cards are being switched from one provider to another. This change will help competition in the market.

Section 129 corrects a drafting error in the Stamp Duties Consolidation Act 1999 with regard to the definition of "neglect" for the purposes of inquiries or raising of assessments by Revenue.

Section 131 amends the information to be included in the affidavit required for Revenue purposes in respect of the estate of a deceased person. The amendment reflects the changes made in the Finance Act 2000 in regard to residence as the basis for capital acquisitions tax on foreign property instead of domicile as it was up to then. At present a person can provide for inheritance tax liabilities by insuring against them and the proceeds of such policies, called section 60 policies, are themselves free of inheritance tax where they are used to pay the CAT liability.

Section 133 extends this relief to situations where such a policy is taken out to meet the tax liability that may arise on the inheritance of an approved retirement fund by a child aged 21 years or over.

Section 134 amends the CAT provision which grants an exemption to units of certain collective funds comprised in a gift or inheritance. This amendment extends the exemption to units of a

new investment vehicle known as a common contractual fund.

Sections 135 and 136 deal with the clawback of gift or inheritance tax relief on agricultural and business assets where the farm or business is sold within the time limits set out in the legislation. The sections clarify that any relief granted will be clawed back to the extent that the proceeds of a sale of the land or business are not fully reinvested in farm or business property. The purpose of these reliefs was to encourage the retention of family farms and businesses and the changes proposed are in line with that rationale.

Section 137 under CAT grants a credit for foreign tax similar to estate duty, gift or inheritance tax against Irish gift or inheritance tax where a double taxation treaty does not exist between us and the country concerned.

The final part of any Finance Bill is often the one that attracts most attention as it deals with the actual collection of tax and the powers of the Revenue to enforce the State's valid claim on the taxpayer. It seems this is also the case this year. Sections 138 and 139, however, limit Revenue's powers with regard to PAYE and relevant contracts tax on payments to subcontractors by requiring that Revenue cannot enter a private dwelling to inspect books and records in connection with these taxes unless it has either the consent of the occupier or a court warrant. This is the position already under the law on other taxes and the Revenue powers group last year recommended this safeguard be extended to PAYE and relevant contracts tax, RCT. I am happy to propose to do so to the House.

Section 140 is new and empowers the Revenue Commissioners to sample the information, other than medical records, held by a life assurance company in respect of a class or classes of policies and their policyholders. This new power, which is modelled, in part, on powers given to the Revenue Commissioners regarding DIRT in the Finance Act 1999, will enable Revenue to investigate whether certain life assurance products are or have been used to shelter untaxed income.

Section 141 reduces the maximum penalty in the case of fraud from 200% of the tax undercharge to 100% which is the normal limit used by Revenue in such cases. This reduction, which was recommended by the Revenue powers group, affects undercharges of tax after the passing of the Bill. Historical cases are not affected.

Section 142 contains new aiding and abetting provisions which will add to the armoury of the Revenue Commissioners in dealing with tax evasion and its facilitators. The main reason I have brought forward these provisions is that the existing provisions do not deal comprehensively with the actions of a person who facilitates another person to evade tax. Under the current provision it is an offence to "knowingly aid and abet another person to knowingly or wilfully make an incorrect tax return". To be guilty of such an offence a person would have to be shown to have assisted a taxpayer in filling in a false tax return.

I am seeking to address the narrowness of this “aiding and abetting” offence and also to ensure that there is a comprehensive specification of the offence of tax evasion in the law.

Section 142, therefore, creates new offences of being knowingly concerned in the fraudulent evasion of tax or being knowingly concerned in, or being reckless as to whether or not one is concerned in, facilitating the fraudulent evasion of tax by another. This section defines the key concepts of “fraudulent evasion of tax”, “facilitating” such evasion and being “reckless” as to whether or not one is facilitating such evasion. This section also provides that where an offence is committed by a body corporate, any director, officer or manager who consented, connived or approved of the commission of the offence or was reckless as to whether an offence was being committed, is also deemed to be guilty of the offence concerned. These new provisions will considerably strengthen the hand of the Revenue Commissioners in dealing with tax evasion.

Section 143 proposes to increase the threshold for publication of certain settlements in the list of tax defaulters from €12,700, the euro equivalent of £10,000, set in 1983, to €30,000 and to provide for the indexation of this amount every five years by reference to the consumer price index. Both the Revenue powers group and the Law Reform Commission recommended an increase in the current €12,700 threshold for the publication of the list of tax defaulters. The current threshold was set in 1983 at £10,000 and has not changed since. The Revenue powers group recommended a threshold of €50,000 and the Law Reform Commission suggested €25,000, both indexable for the future. The Government has decided to accept the case for an increase and €30,000 seems a reasonable level. This new threshold will apply only to tax liabilities incurred on or after 1 January 2005. It will not apply to any tax due before 2005 even if the settlement or adjudication is made on or after 1 January 2005.

Section 144 makes a number of changes to the legislation that was introduced last year to implement the EU Savings Directive. It is amended to take account of the decision by ECOFIN to change the date of application of the directive from 1 January 2005 to 1 July 2005.

Section 145 proposes to reduce the rate of interest on certain overdue tax from 1 April 2005 from approximately 11.75% per annum to just under 10% per annum. The reduction in the interest rate will not apply to PAYE, RCT, professional services withholding tax, DIRT, other withholding or exit taxes or to VAT or excise. The reduction will apply to one's own overdue tax for which one is personally liable and not to the paying over of fiduciary taxes collected from others on the State's behalf.

Section 146 is an amendment of a technical nature which will improve the continuation of court proceedings where there is a new Collector General by allowing that proceedings may be continued by the new Collector General in the name

of the former Collector General. Persons against whom proceedings are pending will be informed that the proceedings are being continued on this basis.

The remaining sections in the Bill, sections 147 to 150, are standard provisions or minor and technical amendments.

This Finance Bill, in conjunction with changes announced in the budget, demonstrates the continued commitment of this Government to use the tax system to expand our economy, reward work and alleviate the burden on taxpayers, especially those on lower pay.

Since coming to office, the Government has striven to ensure that Ireland has a tax system that is fair and equitable as well as one that meets the challenges of the competitive global economy in which we find ourselves. Our approach to tax policy has been to reward work, encourage enterprise and underpin the competitiveness that has been a keystone of our remarkable economic performance in recent years. Independent commentators recognise our success in this regard.

In its latest annual report on taxation and wages, the OECD points out that the tax burden on Irish workers has fallen faster here than anywhere else in the developed world. For example, it states that the tax and PRSI bill on an average industrial worker has almost halved since 1996. The success of the economic policies pursued by the Government is evident across a number of economic indicators. From 1997 to 2004, Irish GDP has grown at an average rate of over 7.5%, compared to an average of just over 2% in the EU. The fruits of this economic success have been put to good use and have benefited people the length and breadth of the country. Since 1997, more than 400,000 new jobs have been created and unemployment has been reduced from over 10% to historically low levels. The prospects for continued economic growth in 2005 are good, with the Central Bank, in its latest quarterly bulletin, forecasting a growth figure of 5.25% for 2005, in line with the assessment made by my Department in the budget.

The European Commission also notes our strong growth and sound public finances in its commentary on Ireland's Stability and Growth Pact 2005 to 2007 and commends our solid progress in adhering to spending targets, advancing structural reform and the relatively favourable position with regard to the long-term sustainability of our public finances.

I hope Senators have benefited from this elaboration of the measures in the Bill. I look forward to the debate and I commend the Bill to the Seanad.

Mr. J. Phelan: I welcome the Minister of State, Deputy Parlon, who usually deals with most of the financial issues discussed in this House. I cannot say I welcome the contents of the Finance Bill. Like the budget, it is a missed opportunity and a damp squib. It is probably more noteworthy for what it does not contain rather than

[Mr. J. Phelan.]

what it does contain. Some of the changes announced on budget day and contained in the Finance Bill, particularly in regard to first-time buyers, are becoming more outdated as time passes.

I was struck by one of the comments made by the Minister of State to the effect that the tax and PRSI bill on the average industrial worker had almost halved since 1996. He is correct in saying that income tax has decreased dramatically. He conveniently forgot, however, to point out that indirect taxation in the same period has increased dramatically, with the result that, since 1997, an average Irish household is paying over €8,000 more per annum in taxation than heretofore. He used the reference year of 1997, which has become synonymous with this arrogant Government. It appears time suddenly began in 1997. However, those who use that year as a reference always fail to point out that significant increases have taken place in other charges across the board. I acknowledge that improvements have been made in income tax and there was a need for them. However, one cannot be taken without the other. I urge the Government to adopt a more global view when discussing issues of taxation.

On budget day I welcomed the announcement in respect of stamp duty for first-time buyers, which is a step in the right direction. The phrase "too little too late" comes to mind when one takes into consideration even this year's projected increases in property prices in the city and throughout the country. The limit of €317,000 on a property, particularly in the environs and city of Dublin, is low.

Mr. Parlon: There is more to the country than Dublin.

Mr. J. Phelan: I know perfectly well there is more to the country than Dublin, particularly as I represent a large part of the country that is outside Dublin. We must take a global view and property prices have increased significantly in the eight years during which Fianna Fáil and the Progressive Democrats have been in office since 1997. However, the Minister of State did not include that in his remarks on the various developments that have occurred since 1997.

One of the myths constantly articulated by the Government is that it is a low tax and low spend Administration. Public spending has increased by more than 130% during the eight years in which the Government has been in office. If one was to mention that to any member of the public, the burning question on their lips would be "Where are the improvements?" The health service is creaking at the seams. There are major problems in accident and emergency units, about which we heard last night from the Irish Nurses Organisation, despite the ten point plan announced by the Tánaiste and Minister for Health and Children, Deputy Harney. There are chronic problems in the area of special education. I appreciate

that the Minister for Education and Science, Deputy Hanafin, is examining that area but the Government has had eight years in which to examine it and has done little in terms of solving the problem.

Following the drubbing the Government parties received in the by-elections, there has been reference to the child care area. It appears the Government will become newly committed to increasing availability and reducing the cost of child care for many families throughout the country. I will believe it when it happens. The Government has spouted those same terms for the past seven or eight years. Several debates on that important issue have taken place in this House recently but there is little evidence of how the Government proposes to implement change.

The former Minister for Finance, Mr. McCreevy, appeared to go down the road of promoting the children's allowance as a means of tackling the child care problem. Almost everybody with whom I speak on this issue agrees that children's allowance is not the mechanism which should be used to resolve the difficulties in the child care area. A new and fresh approach would be welcome. I hope the rumblings we have heard recently will lead to an improvement in that area.

An issue I have raised with the Minister of State, Deputy Parlon, on a previous occasion is that of roll-over relief. Other Senators and I attended several meetings recently with those affected by the purchase of land for new motorways. At a meeting last night I spoke with a farmer who is losing ten acres. He put it well when he said that the Government is robbing two acres of his land. He will be paid for ten acres but will have to pay capital gains tax because the roll-over relief has been abolished. This man had no intention of selling land and has never sold a site for development. He is interested in developing his own farming enterprise. Ten acres is being taken from him. In effect, the Government is stealing two acres. That is unacceptable. It is unacceptable that any individual who loses a business or residence would be out of pocket because these changes, which are welcome and necessary, are being put in place. I ask the Minister of State, who knows much about this issue and whose heart is in the right place, to use his influence in the Department of Finance to ensure a change is adopted in that area, which will be even more important in the next few years.

An area which was mentioned indirectly is that of biofuels. In my constituency we have had the recent announcement of the closure of the sugar factory in Carlow. There is a considerable body of opinion that suggests sugar beet is a viable biofuel and should be included in the exemptions for such fuels. This should be investigated as a matter of urgency in light of the changes that will take place in the European sugar policy, which is currently under negotiation. I call on the Ministers for Finance and Agriculture and Food to investigate that issue.

The Minister for Finance has made some changes to the tax code in the Finance Bill but has done nothing to address the three fundamental issues of principal concern. He has done nothing to address the issue of repayment of PAYE workers who are owed millions of euro in overpaid taxes. This issue was highlighted by my party colleagues in the past number of months. He has done nothing to introduce a cap on allowances which allow a small number of individuals to pay no tax because they can avail of these different reliefs. He has done nothing to bring forward a genuine reform of the tax code which has long been promised but which still has not been delivered.

The Finance Bill cements decisions on the tax code which have resulted in increased taxation from €36 billion in 2002, when this Government was re-elected, to €47 billion in 2005. Despite a revenue bonanza the Minister has refused to compensate taxpayers for the impact of inflation. The aggregate cost to the Exchequer of tax concessions in 2005 comes to just €250 million which is less than 2% of the tax bonanza reaped over the period since the last general election in 2002. If the Bill is passed, the Minister will require people on the average industrial wage to pay tax at the rate of 48% of their income; to pay an annual tax on the use of their car accumulating to €2,500 and to pay 24% tax on their spending on ordinary living expenses.

Ireland may be a low-tax country when it comes to direct income tax but it is certainly not a low-tax country when one considers the level of indirect taxation levelled at the PAYE sector. One must question why the Minister has not introduced a cap to prevent any individual from accumulating the huge range of tax reliefs which results in a zero tax contribution from some very wealthy individuals. The conversion of this Government to a more caring agenda has made no mark on the Finance Bill. The need for support for child care has been ignored once again. The relief in stamp duty, although welcome, has already been overtaken by rising prices in the second-hand housing market. The gross inequity of pension relief has been ignored. The Bill merely scratches the surface of the important issue of overpayment of taxes by PAYE workers. Efforts to close tax loopholes and to pin responsibility on financial advisers for aiding and abetting tax evasion are welcome. However, merely adding new weapons to the armoury of the Revenue Commissioners is not the end of the matter; these are powers that must be seen to be used.

We are informed that a serious package of tax reform must await a further review of the tax code. Reviews under the stewardship of this Government have become a refuge for indecision and inactivity. I cite the example of the health service to show where reviews have led to indecision and inactivity. We must wait another 12 months to see if this Minister can kick the habit of the rest of his colleagues.

Like the budget which preceded it, the Finance Bill avoids confronting the really big issues in the public finances. Why are significant levels of increased public spending and taxation achieving so little in the delivery of public services? These are issues which the Minister of State, Deputy Parlon, did not refer to in his opening remarks. Since 1997, Fianna Fáil and the Progressive Democrats have more than doubled the amount of taxes raised, from €21.5 billion in 1997 to €44.5 billion this year, forcing every household to pay almost €9,000 in extra taxes. What can be seen for this extra money raised?

Fianna Fáil and the Progressive Democrats have increased spending on hospitals by €2.2 billion and yet only 500 extra hospital beds have been opened in the eight years of office of this Government. Annual attendances at accident and emergency departments have fallen by 33,000 since this Government came into office in 1997. Annual spending on the medical card service has doubled since 1997, yet fewer people have medical cards. People on the minimum wage do not qualify for a medical card.

The failure to budget properly for major transport projects has resulted in overruns of over €4 billion and yet there is no accountability in any Department to explain how such ridiculous overspends have occurred in the provision of vital infrastructural projects. Since 1997 there has been an increase of 3,500 in hospital staff but only 400 of this number are nursing staff; most of the rest are administrative staff. As I said on the Order of Business, hospital administrators are falling over themselves while wards and hospital wings cannot be manned because of a shortage of medical and nursing staff. Thousands of extra administrators have been recruited into the different arms of the health service.

The Government increased spending on the criminal justice system by €500 million since 1997, yet detection rates have fallen in that period by 6%. Drugs seizures are down by 43%. The issue of public order offences was raised on the Order of Business this afternoon. Such offences have increased by 94%. The incidence of assaults causing harm has increased by almost 600% since 1997. The Government has increased spending on second-level education by €1 billion, yet 17% of students still fail to sit the leaving certificate, including the young man who was deported. The Government has increased annual spending on primary education by over €1 billion, yet drop-out rates in primary education are up. We are all familiar with the difficulties that exist in the area of special education.

At a time when the Government is proclaiming that policing is its priority, there has still been no sign of the 2,000 extra gardaí promised at the time of the last general election.

Mr. Parlon: They are in Templemore and they are on their way.

Mr. J. Phelan: We have not seen them yet. I will believe it when they are on the streets of Birr and Kilkenny.

Mr. Parlon: They will be out in six months.

Mr. J. Phelan: We have heard these promises before.

The Government has implemented a process of penalising those who leave social welfare and take up work by cutting their rent subsidy from 94% to zero. It has raised taxes of €3,500 million annually from the housing market, yet it is very difficult for the average young person. I find myself in this category because I do not own a house but I am thinking of buying one. I am paid a lot more than the average 26 year old and I find it difficult to buy a house. I do not know how most of them do it.

In the midst of the backslapping which usually occurs on financial issues in this House, there are serious questions which require answers. While the Government is conducting its review of the different tax relief schemes, I urge the Minister of State to ask the Department to consider the promotion of tax relief for the provision of transport. Tax reliefs have applied in the construction industry in recent years and they have had a significant effect on that industry. It is time they were taken out of that sector because they have become a problem rather than being part of a solution. Tax reliefs should be targeted at transport which is the area of most need.

Dr. Mansergh: I welcome the Minister of State and his official. This is one of the less controversial Finance Bills because the budget very unusually imposed no new taxation and this was very welcome.

This Bill underpins what continues to be a very strong economy. I do not think any of us should start taking for granted a strong economy or indeed the political conditions and the confidence that lead to it.

I refer to an index published by a German economic consultancy at the end of last year. It divided countries into three categories, namely, unendangered, or a danger-free zone, a warning zone and an alarm zone. This being a German consultancy firm, its point was directed more at the German economy. It placed Germany at the highest degree of alarm while Ireland was top of the danger-free zone, ahead of the United States, with 111 points.

This fact is reflected in our employment performance. According to the latest figures, employment is up by 65,000 in the 12 months to the last quarter of 2004, an increase of 1,250 per week. It is even more striking when one examines the labour force figures for April 1994. I am not making a particular point by taking this year. However, then the unemployment rate stood at 14.7% while in June to August 2004 it stood at 4.7%. Since then, it has been further reduced to 4.2%. In April 1994 the long-term unemployment

rate stood at 9%, while now it stands at 1.4%. These are major achievements, to which the tax system we operate has made a contribution.

While I do not subscribe to the notion that taxation is the sole key to the success of the Celtic tiger economy mark II, it certainly is relevant to it. *The Sunday Times*, 2 January 2005, stated that average employment costs in Ireland are now significantly lower than in Britain. Take home pay is exactly the same as the UK equivalent, even though people are paid more there. Similarly, low-income workers are among the best paid compared with other EU states. *The Irish Examiner* of 10 March 2005 stated, "Families in Ireland with two children where the breadwinner earns two thirds of the average wage of €18,194 take home €24,188, 120% of their wages." Ireland is the least expensive country for employers, which is a relevant consideration. In many of our European partner states, it costs an enormous amount more to employ a worker over and above the wage.

Our tax system is well-calibrated of which yearly revenue buoyancy is a good indication. Exchequer returns are up 14% in the first two months of 2005, enabling us to sustain a substantial increase in expenditure. There is quite a gap between the preliminary Book of Estimates and the post-budget Book of Estimates. While the provisional book placed gross current spending to increase by 6%, the post-budget book placed it at 10%. On the capital side it was even more, from 4% to 12%. However, I do accept spending is necessary.

In the past 24 hours, interesting developments have occurred with the agreement by ECOFIN to revamp the Stability and Growth Pact. There is no point in having rules and laws that are regularly and systematically flouted. It is better to revise the rules. While not the morally perfect way of doing it, it is pragmatic. The primary instigators of the revision are France and Germany, both of which are having great difficulties in complying with the pact. However, there is some benefit for Ireland in that it relaxes the requirement, particularly as we are a low debt country, to balance the budget, particularly when we have a significant infrastructural deficit.

Regardless of what Ministers say, I deprecate Ireland's claim to be the second richest EU member state. It is not so, as this claim is based on a statistical GDP measurement. We may produce the second highest level of wealth but we do not keep it. If it was measured by GNP, Ireland would be more in the middle ranking. People also rightly point to deficiencies in services and infrastructure when this claim is made. We must be realistic of where we stand, instead of being boastful.

Through my accountant, I have personal experience of the revenue on-line service system. When dealing with one's own tax affairs, it is always painful to write cheques to the Revenue. However, I admit the on-line system is easy to use and efficient.

The Finance Bill tightens the clause concerning those helping to collude or connive in tax evasion which is proper order. Accountants need to be conscious of the lines they should not overstep. It is also important for the tax authorities to vigorously pursue past tax evasion. It is not just a question of collecting tax from those individuals but, more importantly, it must deter individuals from engaging in evasion, removing the idea that one can do so with impunity.

There was much debate in the Lower House on tax breaks, a perennial favourite with the media. All Members agree the need to examine unnecessary tax breaks that narrow the tax base, reduce revenue and sometimes have undesirable effects in encouraging investment in particular activities that do not need such encouragement. On the other hand, there are a large number of pretty wealthy people in the State, a fact not frequently alluded to. It is more desirable that these individuals make a substantial amount of investment in this State rather than in, say, Portugal, Italy or Croatia. While it may not be morally ideal, it may be pragmatic to introduce incentives in certain instances if one wants money to be spent in the State on certain projects. In such cases, socially desirable ways of directing this investment must be found. The legislation covering financial services is usually technical and the challenge is to balance having proper regulation preventing scandals or abuse that would affect our reputation with keeping the regulation reasonably light and flexible so that it does not impede or discourage activity.

Through a cousin I have a small interest in section 28, which deals with heritage properties. To maintain public support it is important that this scheme is not abused and that proper access is allowed.

I refer to some points raised by Senator John Paul Phelan. Of course total tax revenue has increased substantially and people are now paying more tax in absolute terms than they used to. This is because of buoyancy and growth in the economy and much higher incomes. While I appreciate the argument was constructed for him, it is intellectually dishonest to talk about people spending more on tax when this represents a much lower proportion of their income. Only a very slight increase in indirect taxation has taken place and we have had highly visible improvements in infrastructure. Many schools have been rebuilt and refurbished. Much more remains to be done. A considerable amount of money has gone into special education. The Senator might have attended INTO meetings in recent days as I have done. One of the points made is that most of the spending on education has gone into special education. While fewer people have medical cards this is because people are much better off.

The child care issue must be reconsidered. While child benefit was very low and has now been brought to a much better level, it does not represent the panacea in this area. I am glad the Minister for Social and Family Affairs has said

this matter is now being seriously considered. I agree with what Senator John Paul Phelan said about tax relief on transport. I would like to see more extensive use of our rail freight system. In most countries, including Britain, some subsidy is given to rail freight. We should consider the matter, as our rail network is not adequately used during night hours for freight purposes.

Mr. Quinn: I welcome the Minister of State to the House. Much of what he said in his contribution is welcome, particularly his reference to the Bill closing off many tax avoidance schemes some of which are quite aggressive in sheltering the income of some high earners. Nobody will disagree with that. However, I have a problem with the area of child care as mentioned by Senators John Paul Phelan and Mansergh. The world is changing. In many families both partners are now working. Two relatively young women who work in my company told me that although they work in a company that runs a supermarket, they only spend a quarter of their income in the supermarket because of their way of life. In both cases their husbands also work. They refer to themselves as "CTT" customers. When I asked what this meant I was told it referred to someone who could not cook, had not time to cook and was too tired to cook at the end of the day. They pointed out that this Bill ensured that if they buy something hot in the supermarket they must pay VAT. Buying something cold and cooking it at home incurs no tax. I am aware I have a vested interest, which I declare, but this is the sort of ridiculous provision that should be avoided if we do not want to be regarded as being petty.

This Bill was hailed as a new departure for the Government. It was supposed to be the first step towards creating a more balanced approach, allowing more room for social inclusion measures as opposed to the exclusive emphasis on tax cutting that we saw in previous years. It is this aspect of the budget and the Bill that I would like to address. While I welcome the new emphasis on social inclusion, I have reservations about the best way to achieve the results, which we all desire. We need to look beyond merely increasing the amount of social welfare payments. While I do not oppose such increases in themselves, I oppose the assumption that they address the underlying problem. I believe Oxfam used the slogan: "Give a man a fish and you feed him for a day; teach a man to fish and you feed him for life." Social welfare payments are like giving someone a fish. Social welfare increases address the symptoms, not the problem itself. To do that we need a more targeted approach, and I see very little sign of that approach in the Bill before us.

We should attack two aspects of the problem in particular, unemployment and educational disadvantage. I am sure Senator Ryan will also touch upon this point. Both matters go to the heart of the social inclusion problem. Neither can be solved by merely increasing State handouts. I am a member of a NESF working group on

[Mr. Quinn.]

unemployment. Whenever I tell people that, I am usually met with incredulity that such a body exists as they believe unemployment is a thing of the past. As we have the lowest unemployment rate in the EU they believe the problem is now skills shortage rather than unemployment. Unemployment is still very much a problem, about which we are doing very little. With a workforce rapidly approaching 2 million, an unemployment rate of 4% involves many thousands of people. Even when we exclude people who are not genuinely unemployed — for example criminals or those who make a living from the black economy — we are still left with a sizeable number of Irish citizens who cannot get a job. These people tend to be concentrated in certain areas, so that today we still have communities where the rate of unemployment is very high, some of it going back two or even three generations. Islands of poverty exist in our overall sea of affluence.

While we can relieve that poverty to some extent by increasing social welfare benefits, in doing so we do nothing to attack the basic underlying problem, which can only be addressed by having a job. Only by getting these people into employment — I nearly said getting them back into employment, but for many of them the reality is that they have never had jobs — can the basic problem be addressed for once and for all. Why can they not get work, when employers up and down the country are crying out about labour shortages? Our new affluence has shown us that we can have unemployment at the same time as a labour shortage. The main reason such people cannot get jobs is because they lack the skills or aptitudes a job requires. They are repeatedly passed over because they do not have the skills, experience or sometimes even the basic motivation that an employer will look for.

While this fact has radically changed the nature of our unemployment problem, we have not yet fully adjusted to the change. In the old days, we could define our unemployment problem simply in terms of a shortage of jobs. At that time, creating more jobs was seen as the beginning and the end of the issue. That is no longer the case. The challenge now is to equip our unemployed people with the skills and the aptitudes that will enable them to take a place in the jobs market. Despite all the lip service we have paid in the past to retraining, the hard truth is that we are not very good at this task. We are still thrashing around in search of effective ways of training unemployed people for work.

It is clear that any successful approach will be expensive. Each unemployed person must be treated as an individual case, not just another person in a queue. As important as skills training is the motivational aspect, which should involve counselling to help build the recipient's self-esteem and foster confidence that the world of work has something to offer.

An effective approach to the problem of unemployment will focus not so much on increasing

social welfare payments, but on massively increasing our investment in training and motivating people who are out of work. If this is not done, we are effectively writing off tens of thousands of our fellow citizens. However greedy the Celtic tiger has made us, we have not reached the point where we are ready to do that.

Educational disadvantage is strongly linked to unemployment. This issue has not been tackled effectively and there is no change in this regard in the Bill. Such failure means we are creating the unemployed of tomorrow. However heartless it is to write off unemployed adults, it is particularly iniquitous to condemn some of our children to a future life of unemployment and poverty. We boast our education system is open to all but that is true only in a superficial sense. A sizeable proportion of our children are already educationally disadvantaged on the day they begin their schooling.

Furthermore, the system serves to increase rather than alleviate that disadvantage. It is mainly children who enter the system disadvantaged who encounter literacy and numeracy problems at a later stage. As a consequence, the doors to further learning are closed against them. It is little wonder so many of them become disillusioned with their school experience, as evidenced in poor attendance rates and high drop-out rates. It is mainly disadvantaged children who make up those thousands who fail to make the transition from primary to secondary school every year. Of those who survive, many fail either to take the junior certificate or to pass beyond it. Finally, it is mainly those children who start out disadvantaged who are numbered among the truly shocking figure of 20% of 17 year olds who do not take or pass the leaving certificate.

For as long as we allow this to continue, we condemn our nation to having a hard core of unemployed adults, not because there are no jobs for them but because they cannot match up to the jobs that exist. This is not a situation applicable to only a few but to many thousands, year after year. How can we square this situation with the affluence of our Celtic tiger society? We simply cannot do so. However, we refuse to address this problem properly, perhaps because the sheer scale and cost of the necessary action frightens us.

Since we first acknowledged the existence of this problem, we have thrown small amounts of money at it through a succession of pilot schemes of one type or another. However, we have always lacked a simple, joined-up vision which recognises this as a problem that must be solved, whatever it takes. The Government's wish to reinvent itself as a new, caring Administration is something we all applaud. However, if it is to have any real results on the ground, what is needed is a targeted approach to two of the most intractable problems that lie at the heart of social exclusion, unemployment and educational disadvantage.

I hope future budgets and finance Bills will address both these issues more realistically. This

Bill does not adequately attempt to do so. If enough of us can concentrate our efforts in this regard, we may hope to influence future budgets.

Ms Ormonde: Having examined the Bill in detail, I wish to comment on the changes contained in its provisions. This debate gives us an opportunity to tease out the proposals on areas such as taxation and expenditure policies. I begin by welcoming the Minister for Finance's commitment to reform the presentation of the budget. I have been in this House for some time but continue to feel apprehensive and uncertain in understanding the budgetary process. Despite possessing a degree in commerce, I have difficulty in deciphering the language conveyed to me through the Civil Service. This is no reflection on the officials involved but merely an expression of the desirability of providing information in layman's terms. In this regard, I welcome the Minister's proposal to set out a different type of presentation in future budgets. Such a process of simplification will ensure that we, as public representatives, will be able to explain changing policies and proposals to voters.

This is an important Bill which is based on a healthy economy and oversees various changes that are taking place and will affect future development in areas about which we are anxious. Since 1997, there has been a reduction in income tax from 28% to 20% and a reduction in corporation tax from 36% to 12%. Whenever I visit continental Europe, I am asked about the formula for Ireland's development as a model economy. We are doing well in many regards but we are our own worst critics. Begrudgery is evident in the attitude of those who dispute our achievements and point to a lack of emphasis on a particular area.

This is all part of politics. I try to be constructive rather than destructive but I am the first to point out when things are not being done right. However, I do not like being criticised when the correct approach is taken. Politics is not about fair play but it is a concept I support. Senator Quinn understands my point that this approach must be borne in mind.

The reduction in stamp duty for first-time buyers of second-hand homes is a significant change about which I have already received positive feedback. Another welcome change is the updating of tax law to bring it into line with international accounting standards and stimulate competitiveness. Changes to tax reliefs on pensions, foster care, share options and international financial services are also welcome. The Bill also provides for the upgrade of tax administration to provide all citizens with a better understanding of how the tax system works by, for example, providing information through the Internet.

The provision of on-line service facilities represents a great step forward in terms of catering for younger people. However, there are many who cannot access the Internet or are not comfortable doing so. A woman told me about

her experience of telephoning Bord Gáis during which she was instructed to press various keys for different services. A person who is unable or reluctant to use the Internet should not have to deal with this type of gobbledegook on attempting to make a telephone inquiry in regard to a tax issue. I welcome that some two thirds of the population will be able to access this facility but those unable or reluctant to use it, particularly the elderly, should not be isolated through an excessive focus on on-line services.

The Minister has pledged to tackle the issue of tax avoidance and evasion. That is to be welcomed considering the number of wealthy people — we all know them — who have the skills to knock the system, thereby reducing their tax obligations. I am glad the Minister will find a way to close this loophole.

The cut in stamp duty for first-time buyers of second-hand houses means that those who want to buy second-hand houses can now do so. They may now be able to afford to buy them in areas in which it would not have been possible for them to buy heretofore. The provision allows young couples to move into estates with a more elderly population, thereby creating a social mix.

It is only two or three weeks ago that I was canvassing in a few big estates. I began at 2 p.m. and was lucky to have met ten people by 5.30 p.m. The change to the stamp duty rates will bring the soul back to such communities. Anything that changes the concept of society in this way is welcome. I am referring, for example, to giving young people an opportunity to buy second-hand houses and live close to their grannies.

Let us consider the issue of child care. Will the Minister consider an allowance for relatives to look after children so they will not be taken from their home environment and placed in crèches with a factory-like environment? I would hate it if young people found themselves in this position. I would like to see the concept I advocate developed. Perhaps the child care system can be developed around it.

I agree with Senator Quinn on public spending, which has been increased significantly. Over €49 billion is to be spent on health, education and social welfare. This is a great commitment on the part of the Government. While I welcome this fact, it is very important that we have value for money. It is important to scrutinise how money is spent and to examine the role of Departments in this regard. I have often stated that one should give people a fishing rod rather than a fish. In other words, we should teach people how to do the job.

It is very important that we do not throw money at the problem any more. There are considerable sums of money available and there are still blackspots. Senator Quinn referred to them in respect of disadvantaged areas. We must consider how best we can use available funding in the primary and secondary education sectors to

[Ms Ormonde.]

help those who cannot help themselves. It is not so much a question of throwing money at the problem, because this does not solve it, but of how we go about solving it. Will the Minister of State bear this in mind? He has acknowledged in his speech that he intends to scrutinise how Departments are spending their money. It is a question of value for money.

Senator Quinn also spoke about skills shortages. There is not enough co-ordination between the Department of Enterprise, Trade and Employment and the Department of Education and Science in terms of skills training. Further co-ordination would be of assistance in areas with a skills shortage. Will the Minister of State bear this in mind?

This Bill is a start and an indication of the Government's commitment. We should use tax provisions to complement economic development. We should be aware that there are still quality of life issues to be addressed. They are only small issues and we can address them. Let us get it right in the year available to us.

Mr. Ryan: Cuirim fáilte roimh an Aire Stáit. To dispose of an issue raised by Senator Quinn, one of the great achievements of a succession of Governments, dating back to the early 1990s or perhaps even further, is that we now have 1.8 million people at work given that perhaps half that number were at work not more than ten years ago. Some of these people were in jobs that seemed to have no future. I do not want to take away from that achievement. There is considerable reason to be glad about this statistic and to take some pride in what this country has done.

Dr. Mansergh: The figure is now 1.9 million.

Mr. Ryan: The Senator is very helpful.

Acting Chairman (Mr. Mooney): I was thinking the same myself.

Mr. Ryan: The Senator is usually telling me that my figures are too high. For a change, it is nice to have him tell me they are too low.

Acting Chairman: The thought did flit across my mind. I am glad the Senator has put it on the record.

Mr. Ryan: The growth in the economy is inherently very good. The problems we have encountered, including those regarding which I take a very different view than the Government, are the problems of success and how we manage it. The success was achieved the hard way.

Given all the talk about how the country suddenly took off economically, it is intriguing to note the questions that were asked in this regard. Some asked if it took off because of the low level of tax. It probably did. Others asked if it was because of our unique geographical position or because Ireland was the only underdeveloped

English-speaking country in the northern hemisphere. It was also asked whether our educational investment was responsible. However, I have never heard anyone suggest at any time during our economic growth, that it might have been because of the vigorous enterprising nature of our private enterprise. Private enterprise in Ireland discovered enterprise after the boom, not before it. The State's investment and foreign direct investment drove the boom and private enterprise cashed in. Some discovered enterprise when it landed at their feet. I have not heard a single commentator suggest that there was a thrusting bunch of entrepreneurs of the kind one would find in places such as Hong Kong, China, Malaysia or Singapore. We did not have them. When our entrepreneurs whinge, I feel compelled to remind them of this fact. They are beneficiaries of a boom and not the creators thereof.

I am glad that Senator Quinn implied that the question of unemployment should not be allowed to be abandoned. Unemployment levels are uneven throughout the country. In certain regions, the unemployment level, in percentage terms, is still not far from being in double figures. There are areas within those regions where unemployment levels are most assuredly in double figures. Why is this the case? That is a very good question. It is because of a combination of a lack of skills, a lack of confidence and a lack of willingness to intervene actively on behalf of the unemployed.

We should not allow a lack of skills to become an issue preventing any adult from getting work. To use arbitrary figures, anybody over 20 who is unemployed for more than six months should immediately be allowed to assume he or she can use unemployment benefit to fund his or her way through a training or education scheme of his or her choice. The last thing we want is to use a welfare system meant to enable people to become self-reliant to become a way of life for them. If we impose conditions regarding availability for work and the need to be seeking employment actively, which run contrary to people's opportunities to improve their skills, we are guaranteeing that those people will live a life of dependency. Most people believe a life of dependency is bad. No one should be on long-term unemployment anymore, particularly as there are no issues relating to unemployment or labour market flexibility to justify that being the case. Within the ranks of the long-term unemployed, there are people who will never manage in a competitive market economy. The community employment schemes were not designed for them but as a way of dealing with mass unemployment. They should now be used to ensure that no one will be idle in their adult years. Only daft left or right-wing ideologies would suggest it is good to prevent people from being trained. Training must be both continuous and unconditional. The Government's decision to cut back on the vocational training and opportunities scheme was disastrous.

It is worth considering the issue of taxation in this House, particularly as Members here are occasionally more detached from the crudities of politics. Taxation is a strange matter. The old libertarian view is that it is theft. During the 1980s, some of the more strident critics of the state of the country came close to this view. For example, a well-known individual appeared on "The Late Late Show" and ostentatiously folded his £20 note in two and then in four and asserted that what remained was all that was left of his freedom. He claimed that the State was taking 75% of GDP at the time. Like many other critics, he was exaggerating. The definition of freedom as being what one does not pay in tax may be a wonderful idea but is also a load of rubbish. One cannot have a civilised society without a reasonable level of taxation and we are at the bottom end of reasonableness in respect of this issue.

A serious debate is needed about where the balance lies. Under this Government, we charged off in a direction which produced all the features to which the Minister of State referred and with which the OECD and the IMF will be delighted. If Paul Wolfowitz becomes head of the World Bank, it will also be delighted with them. However, we have been left with issues of success rather than of failure in this area. Formulaic replies from the Department of Finance, which has been conditioned by 70 years of failure, do not represent a response to success.

I will not dwell on the huge gaps in the health service. However, I will specifically highlight the policy decision not to allow the income limit for medical cards to rise with wages and prosperity. A deliberate decision was taken that we would not measure eligibility for medical cards by the criteria of modern affluent Ireland. I will not debate with Senator Mansergh as to whether Ireland is the second, fifth or seventh wealthiest country in the world. There is no doubt, however, that it is extremely wealthy and that it has one of the highest incomes in the world. Wealth is a more complicated measure. A decision was taken, however, that our new wealth would not be used as an index, even though the price of services for those without medical cards increased in line with the economy's growth. Understandably, doctors do not wish their standard of living to be the same as that which obtained in the 1990s and we decided that people could afford that service.

We have made similar decisions in a number of areas. I refer here to the increase in registration fees for college and increases in service charges. These measures reflect the decision that we chose to have a wonderful low tax economy. In effect, if one is obliged to pay to dispose of one's refuse or to ensure oneself against the need to deal with the vicissitudes of our public health services, one is paying a form of tax. However, in the ideological view of the Department of Finance, the OECD and the IMF, this is not the case so we are deemed to have a low tax economy. Many of these services are so essential that paying for them is nothing other than taxation.

We have decided to omit services and as a result are encountering crises. The health crisis is well-known and the crisis in education is becoming visible. I do not know how it was possible for individuals to stand back and watch the boom in house-building since the early 1990s without realising that people would live in those houses and that many of them would have children who would need to go to school. There are vast areas around Dublin where the need for schools and health services was left out of the equation. In my city, Cork, thousands of houses were built on estates around Douglas, the traffic from which feeds on to what, ten years ago, was a country lane. Nobody thought of putting in place either the public or private transport infrastructure to facilitate this development. Although we should be glad to have these problems of success, the fact that we never addressed, planned for or thought about them shows that we have failed.

The greatest issue of all is the question of family-friendly work. I am reluctant to speak about child care. The relationship between home and work was transformed by our prosperity. I am concerned about the huge numbers of couples, some of whom choose while others are compelled, to go to work. The question arises as to whether we will ensure that they can have children if they so wish or if they must make dreadful choices such as paying a mortgage for ten years before they can think about starting a family. That is not what we want. The question of how we propose to integrate work and family in a way that provides quality supports for our young population is fundamental. We have danced around this issue for seven or eight years but there is no cheap way of doing it. It is simply a question of who should pay for it. At present, individuals pay enormous sums of money for child care and it is uncivilised to make young families on limited incomes do so. It makes a mockery of low taxation to say otherwise.

I draw the Minister of State's attention to a most extraordinary, if minor, anomaly in the tax code. We allow charitable donations to be claimed against tax so that if one makes a donation to a charity, the latter receives the tax one would have paid, in addition to one's donation. However, this is only true if one is exclusively on PAYE. If any of one's income is attributable to self-employment, the tax break goes not to the charity but to the taxpayer. Why is that the case? When someone who is self-employed pays €1,000 to the Simon Community, he or she, not the charity, gets the tax break. However, if someone on PAYE makes a donation in the same amount, the tax break goes to the charity. That makes no sense. I ask the Minister of State to establish, formally or informally, what rational basis exists to allow this situation to continue.

Mr. Kenneally: I welcome the Minister of State. I also welcome the opportunity to contribute to the debate on the Finance Bill 2005. I compliment

[Mr. Kenneally.]

the Minister for Finance, Deputy Cowen, on the way he is putting his stamp on his new portfolio and the means by which he is going about his work. His style obviously contrasts with that of his predecessor, Charlie McCreevy, whom I also compliment. He held the post of Minister for Finance for approximately eight years and we should never forget that much of our present prosperity, to which many speakers today have alluded, resulted from the way he ran our affairs. One legacy he has left behind relates to the issue of pensions. He set about tackling the major difficulty in the area of pensions and, to a large extent, resolved the problem. His achievement in this area should never be forgotten.

The largest part of any Finance Bill or budget is the way that income tax affects citizens. Income tax and excise duties are the matters that exercise most people's minds when they look at the measures that are being put forward. It is amazing to hear some people complain about the current levels of income tax. I remember a time when the income tax rate was 65% and people paid 6% or 7% PRSI in addition to that; we are now down to 20% and 42%. I looked at a recent OECD report that showed that of the 30 developed countries surveyed, Ireland was the third lowest in terms of income tax. That gives the lie to anyone who says we are overtaxed. Married people and single parents do particularly well because there is less taken in income tax from that sector than the amount paid in child benefit and one parent family payment. That is an extraordinary fact of which I was not aware until I read the OECD report. While this might suggest that single people carry the can for married people and single parents, that is not the case. The average take from single people in tax and PRSI is just 16%. They have the fourth lowest burden in the OECD.

One of the problems facing us is the high cost of child care here compared with other countries. Senator Ryan alluded to this problem as well and said there is no easy answer to it. There is no easy answer but huge advances have been made in the area of child care over recent years with the equal opportunity child care programme, a considerable amount of money has been invested and quite a number of announcements were made recently in this regard.

Since 1996, the tax and PRSI burden on the average industrial worker has almost halved. That is a significant achievement. There is a clear connection between lower taxes and job creation as we have created 500,000 more jobs since 1996. I am a great believer in lower taxation because it puts more money in the economy, which ultimately that creates more jobs. Some would say that our tax rates are too low and that taxation should be increased to perhaps fund areas in education or health. If people were asked whether they would be prepared to pay an extra 1% or 2% to fund certain areas, they would say yes. However, it would be a different matter when

they actually have to pay that 1% or 2%. We have a very low tax regime and we should not forget that.

There has been much debate about alcohol-related problems in this country. We have taken a fairly sensible approach to the matter. The price of alcohol products in our bars has soared over the last number of years and this is not because the Exchequer has increased excise duties. For many years, nothing went on alcohol at all. The publicans and the breweries have been laying it on year after year. The gross profit rate publicans are now returning is far greater than when I was an accountant a number of years ago. There has been a change in society as well. We have been following continental trends. We tend to do that in many areas and we are now doing it in the area of our drinks culture. More people are drinking at home.

Ten or 15 years ago, a large number of people would have said they would never dream of drinking at home. Part of the reason more people are drinking at home is the high cost of drinks in pubs and nightclubs. There are outrageous charges in nightclubs and late night bars, which I hear about from some of my own children. I accept these businesses have huge insurance costs, which could be debated another day. As a result of high costs in pubs and nightclubs, young people are staying at home and going out much later. It is very simplistic to blame everything on the smoking ban. I noticed a drift away from pubs and nightclubs before the smoking ban was introduced. Some bar men and publicans will vouch for this decline in business. The smoking ban did affect bar trade but not to the extent that is being claimed. Our policy on excise duties has been very sound.

I would like to see a reduction in VAT. The possibility of reducing VAT to approximately 17% was debated a number of years ago, 17% being more or less the European norm. I tended to disagree with the previous Minister for Finance on the issue of VAT. Mr. McCreevy did not believe in reducing VAT rates. He reduced the higher rate of VAT from 21% to 20% when he was under a certain amount of pressure one year. The figure was increased to 21% the following year as he was not convinced that lowering the top rate of VAT was the right thing to do. Obviously, the Exchequer would have lost revenue as a result of a reduction. My concerns about VAT levels are that indirect taxes by their very nature are inflationary. I am worried about the possibility of inflation increasing. We have got everything more or less right so we must be careful that we do not fuel inflation. However, we cannot have lower rates of taxation, changes in stamp duty and lower corporation tax and then have low VAT levels into the bargain. A degree of judgment is involved. Thankfully, the Government has never tried to put tax on clothes and food, which the Opposition parties tried to do in the past and paid very severely for it. We have

never contemplated such a move and I do not think we ever will.

Mr. Browne: There is tax on food.

Mr. Kenneally: There is no tax on food in supermarkets.

Mr. Browne: There is tax on food in restaurants.

Mr. Kenneally: VAT on food in restaurants is a different issue, which I will now discuss. There is no VAT on food sold in supermarkets. I accept there is 12% tax on food in restaurants and this is an issue that could perhaps be examined. We all know, particularly since the introduction of the euro, that it is much easier to compare prices when one goes abroad than it was before. Restaurant meals are much cheaper in the rest of Europe than they are here. I do not know whether this is because of the VAT rate here. I do not know if it would make a significant difference but we should examine this as we are starting to suffer in the area of tourism because we are seen as a high-cost destination. It would be useful if a survey on the level of profits in restaurants in Ireland could be carried out as I am not aware of any.

The introduction of the SSIA was a very innovative approach by the former Minister, which encouraged people to save. Many people had never been in the habit of saving. I am worried about the lack of replacements for the SSIA when the scheme comes to an end. The lack of a replacement for the SSIA scheme might fuel inflation. I do not know whether the Minister intends to introduce any changes in 2006. Obviously it will not happen in the Finance Act 2005.

This issue should be examined as I am afraid there are inherent dangers present at the same time that so much money is coming into the economy.

Mr. Browne: I had forgotten that Deputy Parlon is in the Department of Finance. I thought he may have been in the Departments of Agriculture and Food or Transport after listening to him recently. We hear more from him about rail depots and other issues than we do about finance and one would think at times he is in the Opposition rather than the Government.

Mr. Parlon: I represent my constituency.

Mr. Browne: I welcome the Minister of State in his guise as the Minister of State of the Department of Finance.

Acting Chairman: The Minister is a man of many parts.

Mr. Browne: The Government wishes us to believe that everything is perfect but this is not the case, as was indicated recently in the Meath

and Kildare North by-elections. The people are not happy. I canvassed in Kildare North, which is a snapshot of what we will all face in our own constituencies soon. Nearly all constituencies have large urban areas and many displaced people. For example, there are many people from Dublin now living in Carlow who are forced to travel long distances every day to leave their children in crèches. I encountered one case where the parents leave Carlow for Dublin with their children at 6.30 a.m., drop the children off there at their grandparents' and pick them up in the evening. As legislators, we must ask whether this is the quality of life people must put up with. I do not think it is. This Government is accountable for this debacle, a message it received loud and clear in the recent by-elections while its members were canvassing.

More than half of all taxpayers will pay the top rate of tax next year and the removal of the minimum wage earners from the tax net will be reversed when the hourly rate increases in the following year. It is the bottom line that taxpayers are caught no matter what they do. It is a crazy scenario that the top income earners in the country do not pay any tax and avail themselves of the tax incentive schemes. This leads to great inequality.

Tax reliefs were introduced by the Fine Gaelled Government in the 1980s. The idea was to encourage the development or redevelopment of areas but the mistake we made was keeping the reliefs for too long. Some of the tax reliefs have been abused as a result. I do not doubt that many of the tax reliefs have stimulated growth in locations and benefited towns and rural areas. However, when I visited Ballina on Sunday, 20 March 2005 I was struck by the difference in the level of development in towns and villages in that area in comparison with the south east, for example. The west requires incentives to get going, as many of its areas have not changed in 20 years compared with booming towns such as Carlow, thanks to tax relief.

Unfortunately, some of the developments that began under these tax relief schemes will cause major problems in the future, particularly monstrosities of apartment blocks and section 50s that will allow people with seven or eight properties to evade taxes. While the reliefs were good to begin with, they were not monitored effectively and will possibly create a monster that we may yet regret. It is important to point out that the economy was performing very poorly when Fine Gael introduced these reliefs in the 1980s.

Senator Kenneally is correct in stating the arrival of the euro has opened our eyes. It is easy to carry out a direct comparison when we go abroad, especially in the European Union. The price of eating in a restaurant abroad cannot be compared with the price of eating in a restaurant in Ireland. The same is the case for shopping. People are now beginning to realise that there is a certain amount of rip-off in society. Fine Gael launched its campaign with *www.ripoff.ie* which

[Mr. Browne.]

has been tremendously successful and has received thousands of Internet hits. This is proof that the public feels it is being ripped off and is not getting value for money. Apart from most people paying the top rate of tax on their salaries, 45% of the price of a basic commodity such as a home is tax. People are lumbered with paying their mortgages for 30 or 40 years. The reality is that only when they reach their 60s or 70s do they have enough money.

A friend of mine who visited the United Arab Emirates recently told me she could buy a top of the range Ford Mondeo for €7,500 there. I am not sure what the price in Ireland is but I suspect it would be approximately €25,000. We are being crippled no matter where we turn. There are high VAT levels, high taxes, numerous indirect taxes and being a motorist is practically a crime because one is hit——

Mr. Parlon: Has the Senator examined this year's sales figures? They have increased significantly because——

Mr. Browne: That is correct but the Minister of State must accept——

Mr. Parlon:——people can well afford to buy vehicles.

An Cathaoirleach: Senator Browne, without interruption.

Mr. Browne: One must wonder. Motorists are being nailed at every opportunity. First, there is a large VRT figure when buying a car. Second, there are significant insurance costs. Third, there is motor tax. Last, the Government is forcing——

Dr. Mansergh: Senator Browne is——

Mr. Parlon: Most cars——

An Cathaoirleach: Senator Browne without interruption.

Mr. Browne: The Government is in favour of tolling without a return of investment for the public. There is tolling in France but there is no motor tax there. We have both here. Whether it likes it or not, the Government must accept that motorists are being clobbered. Homes and cars are basic commodities and not extravagancies but people are crippled on a weekly basis because of them. The Government recently criticised the cost of petrol but it did not admit that nearly half of the price of a litre of petrol is tax. It is important to point out that motorists are being nailed in every sense of the word.

I welcome the Minister of State because he has been mentioned at every Fine Gael meeting in Carlow-Kilkenny for the past number of years. As the Minister of State is aware, a new motorway will be built between Kilkullen and Waterford. Many farmers will lose their land through

compulsory purchase orders. Senator John Paul Phelan will agree with me that the Government's decision to charge capital gains tax on people who lost their lands to CPOs has been raised at every Fine Gael meeting in Carlow-Kilkenny. The Minister of State fought for this campaign when he was the president of the IFA but has turned his back on the farmers and landowners involved now that he is in Government.

Mr. Parlon: They received a fair price for their lands. Not many complain about that.

Mr. Browne: Does the Minister of State agree that people whose lands are compulsorily purchased against their wishes should not be liable for tax? For example, dairy farmers who decide to invest their money in other lands after their livelihood has been destroyed should not have such a penalty imposed on them. It is grossly unfair and does no one any service.

The Government finally woke up to people's housing concerns on stamp duties. Unfortunately, it is introducing a threshold level of €317,000. I would enjoy travelling around Dublin with the Minister and his officials for a week to try to see what can be bought for that amount. We would all be shocked as the answer is very little. If one reads the property supplement in any weekly newspaper one will see that most prices are over that level. The threshold is too low.

Mr. Parlon: There are six houses for sale for €190,000 in my home village of Coolderry.

Mr. Browne: With all due respect, comparing a rural village in County Offaly with Dublin——

Mr. Parlon: A balance must be found somewhere.

Mr. Browne: I am referring to Dublin prices. If the Minister of State can find me an apartment or house in Dublin for €317,000 I will accept that I am wrong but he will not be able to do so——

Mr. Parlon: I will have to take the Senator up on that.

Mr. Browne:——unless he goes far out of the city.

An Cathaoirleach: Allow Senator Browne to conclude without interruption.

Mr. Browne: A councillor in Kilkenny continuously raises with me the issue of the changes the Government has made to benefit-in-kind. This has impacted severely on employees. Employers who wish to reward long-serving and loyal employees are now having their hands tied behind their backs. The Government should examine this issue again. Employers should be rewarded and not penalised for initiatives such as paying their employees' VHI expenses and so on.

It is a mistake on the Government's part that it has not included tax breaks for public hospitals. Deputy Bruton raised this matter in the Dáil and, to be fair, the Minister for Finance agreed to examine it. I read an interesting article about obesity levels in Ireland. Someone questioned whether we should have tax breaks for gym membership. Perhaps this would be worth examining.

Although there were many welcome measures in the recent parental leave Bill, one disappointing aspect was that people who take time off work will be unpaid. This may be acceptable for middle-class people, but someone on the minimum wage or a lone parent would not be able to manage. The Government has missed opportunities to help ordinary people in this Finance Bill.

Mr. Mooney: The Finance Bill debate provides an opportunity to examine the broad strokes of macro-economic policies, but I am tempted to respond to Senator Browne's contribution about the car-driving population. It is quite extraordinary that we have one of the highest car tax rates in the world, but it seems not to bother people——

Mr. Browne: We have no public transport. If one——

Mr. Mooney: ——in this economy.

Mr. Browne: ——is in Offaly, how does one get to Dublin?

Mr. Parlon: By bicycle.

Dr. Mansergh: Trevor Sargent does it.

An Cathaoirleach: Senator Mooney, without interruption.

Mr. Mooney: Now that there is movement on the Stability and Growth Pact and the straitjacket imposed on this economy over the past few years is loosened, perhaps the €1.5 billion available for essential infrastructural development will go towards a more developed integrated public transport system. I am a strong supporter of public transport. My late father grew up in a bar, aptly called The Railway Bar. We had a narrow gauge railway running through Drumshanbo and my children keep asking me why the railway was taken away. They do not understand now and 30 years ago we did not understand either. With the money in our economy, I hope there will be a greater emphasis on rail and bus transport, especially in expanding the commuter belt on the east coast.

We should have accelerated the building of motorways years ago. At least there is movement now. The Cathaoirleach will testify to the amazing changes and real progress in terms of road development one sees when visiting parts of the country one has not visited for years. The Government has responsibility to develop a rail

transport system on the east coast and other areas where there has been rapid expansion of the commuter belt such as Galway, Limerick and Cork. The infrastructure exists in some places. I urge an immediate decision on the western rail corridor. There have been many surveys and debates and spokespersons are hopeful that it will happen. The Tuam-Galway rail link is crying out for development. The changes taking place are extraordinary.

During the by-election in Meath it became apparent that the imminent decision to extend the rail network to Dunboyne does not go far enough. The line should go all the way to Navan. I appreciate that the Taoiseach has said these things cannot be pulled out of the air through magic. It is time for the link from Dublin airport to the city centre. A decision must be taken on this. Perhaps there were technical reasons this did not happen, or perhaps the Stability and Growth Pact had to be adhered to, given the large amounts of money involved. I hope there will be a greater emphasis on the development of rail and bus links, where there is an obvious need for them and no great technical impediment.

The Finance Bill 2005 is very detailed and one could speak at length on any section. Section 12 relates to an exemption the Minister has introduced, in consultation with the Minister for Foreign Affairs, on allowances for those working abroad. This is a convention in other European countries. It is interesting in light of a decision taken at the annual conference of the Association of Garda Sergeants and Inspectors. The rank and file have decided not to implement closer co-operation between the Police Service of Northern Ireland and the Garda Síochána due to "safety concerns". This relates to joint patrols in each other's territory. Today, RTE crime correspondent Paul Reynolds interpreted the decision as cloaking the real issue, which is money. If this is the case, it is very sad.

The esteem the Garda Síochána now enjoys is the highest it has ever been in the life of this young democracy as a result of its involvement in investigating bank robberies, money laundering and other dimensions of the peace process. We all know friends and family in the Garda Síochána. The aspiration to be paid is perfectly legitimate, but to suggest safety concerns are preventing greater co-operation between the police forces, drives hard at the heart of what this peace process is about. Closer police co-operation is at the heart of co-operation between North and South. All of these measures will lead to what we, as republicans, want to see — a united Ireland, achieved by consent. I raise this in the context of section 12 of the Finance Bill 2005. In the same report, it was revealed that the allowances would be very generous if joint co-operation existed.

In the last budget there was a time limit on tax incentives. This affects my county, Leitrim, as the tax incentive scheme has been very successful, with certain qualifications. The closing date for the receipt of applications was 31 December, and

[Mr. Mooney.]

those building houses in Leitrim, Longford, north Roscommon, east Sligo and west Cavan have until June 2006 to complete those buildings. If there is any delay not caused by the developers or builders, which will lead to missing the deadline next June, I hope the Minister will be flexible.

Senator Ryan referred to the success of the Irish economy. In view of the loosening of the Stability and Growth Pact restrictions and the continuing growth in our economy — 5% being forecast for next year — I hope we will no longer talk about the problems of success. I am proud to be part of a Fianna Fáil Party that has managed this economy well since 1997. Let us move on from that, and start delivering essential services for which people are crying out, as witnessed by those canvassing in the recent by-elections.

I applaud the Government's recent initiative on child care and look forward to hearing its details. The initiative shows that this is a caring, compassionate Government. I hope we will hear no more about the problems of success. Let us now address the solutions so we can have a more balanced and equitable society.

Dr. Henry: I welcome the Minister of State to the House. I will not take up too much of his time by praising him for all the great things he did because many Senators have heaped praise on him.

I was pleased to see the improvements in payments and conditions for foster care. There is a serious shortage of foster parents and it is extremely important that we make it appear sufficiently attractive for people to take in children who for various reasons need the care of the State. It is preferable that they be cared for within a family situation than in an institution or, as has regrettably happened too often, within an acute paediatric hospital, which is a terrible waste of resources.

There are other items I wish had been included in the Bill, some of which my medical colleagues thought were promised. One is tax relief on improvements to primary health care facilities. Many general practitioners have run practices on their own for years but the Department of Health and Children encourages group practice, bringing in extra paramedical staff, upgrading practices with practice nurses, counsellors, psychologists and so forth. This entails upgrading premises.

Many general practitioners thought this Bill would cover these improvements but it does not do so. This will lead to private companies setting up institutes which they hire out to primary health care practitioners which is a bad way to proceed. The Irish Medical Organisation has encouraged doctors to set up their own companies and co-operate with their colleagues. I hope the Minister of State will do something about this situation as soon as possible.

The other serious issue is that the Bill does not extend the tax relief on the establishment of

private hospitals to those which cater for the mentally ill. There are many mentally ill people for whom it is necessary to cater but for whom there is a shortage of beds. Some people running institutions for people with a mental illness have tried to upgrade them and put them on greenfield sites but they cannot avail of tax relief. This is a pity because we must face the fact that people with a mental illness need as much care as those with a physical illness. As the age profile increases the number of those suffering from Alzheimer's disease will increase.

Senator White realises that child care is an important electoral issue. When will the Department of Finance realise this? For years, ever since I discovered it, I have cited the policy in France whereby one can get vouchers to the value of between €5,000 and €7,000 to employ people within the home. One buys the vouchers tax free and uses them to pay people who work in the home, for example, people providing child care, elder care, a gardener for one's garden, even for piano lessons or maths grinds for children. This brings many people in the black economy into the white or grey economy, which yields a tax benefit.

I hope this receives serious consideration when the issue of child care is addressed because it seems to have worked well in France for years and could be a method for making tax credits available here.

Mr. Leyden: I welcome the Minister of State, Deputy Parlon, to the House to debate the Finance Bill 2005. I commend the Minister for Finance, Deputy Cowen, for introducing this groundbreaking Bill. The Finance Bill gives effect to various changes announced in the budget, as well as introducing new measures. Among those previously announced are provisions which have the effect of taking minimum wage earners earning €7 an hour out of the tax net and reducing stamp duty for first-time buyers which will benefit many young employees. The Minister of State has spoken in detail on these proposals.

The Finance Bill 2005 contains several measures to amend and extend the tax system. One of the most important of these is the removal of those on the minimum wage from the tax net, which is a major breakthrough. The Government is working hard to counteract the destructive interaction of tax and social welfare and its corrosive effect on the motivation of the workforce. The removal of tax on minimum wages will encourage thousands of people back into the workplace.

The Bill will be a symbol of fairness and decency for all those on the minimum wage. The cut in stamp duty for first-time buyers will allow thousands of young people jump onto the property ladder for the first time. The provision of a more stringent policy on tax evaders allows for a fair balance between those who comply with and those who evade tax obligations. It punishes the evaders and rewards the compliant.

I commend the Minister for Finance and the Minister of State for initiating the facility to complete PAYE returns electronically. The Bill provides for these taxpayers to complete returns online and to avail of various self-service options for dealing with their tax affairs, including requests for reviews of liability, and an automated telephone system for ordering forms and leaflets and claiming certain tax credits. This innovative scheme is already in force, thanks to the Minister and the Minister of State.

I recently received an e-mail, presumably from Bank of Ireland, which I ignored, stating that there is a major loophole in the State's special savings incentive account scheme. This was highlighted in yesterday's *Evening Herald*. The e-mail stated, "The Government bonus given to investors in the Special Savings Incentive Accounts (SSIAs) could be lost if they fail to fill out a disclosure notice three months before their savings term ends." It added that holders of special savings incentive accounts could lose up to €5,000 when the scheme matures if they do not meet the Revenue Commissioners' guidelines. It also stated, "By incurring a 23 pc tax on both principal and interest, it would be as if they never got the 20 pc government top-up on their contributions."

The public's fears about this should be allayed. There is a scaremongering tactic afoot which makes it appear that the Government is tricking people out of their money. I hope the Minister of State and his officials can clarify this issue. Account holders are required to submit a form to the Department prior to the ending of the scheme and this should be clarified because anyone who has invested in this scheme expects his or her reward and should receive it. The benefit of the scheme should not be lost through this kind of red tape. I hope the Minister of State and his officials will examine this issue.

I am pleased that the Minister for Social and Family Affairs is providing that the returns on these accounts will not have implications for social welfare recipients. The e-mail, sent to many people, including all Oireachtas Members, raises serious concerns in this regard. I hope the Minister of State will consider this when he is preparing for Committee Stage of this Bill.

We accept that applications for planning permission under the upper Shannon tax incentive scheme had to be lodged at the end of December

2004. Bona fide planning applications had to be lodged with county councils by the end of December 2004. However, the Minister of State should consider the completion date coming up to the beginning of 2006 *vis-à-vis* the Finance Bill. In many areas, people could not avail of the scheme because the infrastructure was not in place. It would be worthwhile if the Minister of State and the Minister, Deputy Cowen, considered later in 2005 and early 2006 a further extension of at least one year. This would allow for the completion of projects which were granted planning permission at the end of 2004.

Local authority certification indicated that the infrastructure was not in place at the time to allow for the development to proceed. A number of small sewerage schemes have not yet been completed. I do not think the Minister of State's constituency availed of the upper Shannon scheme but it benefited from other tax incentive schemes such as urban renewal schemes. These will also be affected because the closure date is similar to that of the Shannon tax incentive scheme. I ask the Minister of State to consider sympathetically this issue. I am aware that there is a tendency to continue extending dates, which is frustrating for Departments. However, an upper limit will arise and the Minister should consider this issue.

Will the Minister of State indicate when he expects to receive the next report of the decentralisation committee? It is regrettable that the chairman, Mr. Flynn, decided to resign because he was making an excellent contribution to the committee. I hope his unfortunate resignation will not give rise to unnecessary delays in this regard. It is important that decentralisation to towns like Roscommon, where the Land Registry is proposing to locate, goes ahead, that the site will be acquired and the planning application will proceed. I hope the Minister of State or his colleague will visit Roscommon in the not too distant future to open the new offices where both Ministers dug the foundation stone in 2002. The building is now practically completed to an extremely high standard and I compliment the Office of Public Works and the architectural firms involved in the work.

The building is located on the grounds of the old Convent of Mercy secondary school in Roscommon. I recently inspected the building from the outside and it is being completed to the highest possible standard. It will be of major benefit to the town of Roscommon. For the first time, all the offices of the State are sited in one location. It is a one-stop-shop. The staff of the Departments of Agriculture and Food, Social and Family Affairs, and other Departments, the driving test centre and the public are being provided with extremely good conditions. I hope the Minister of State will visit the area in the not too distant future to inspect the work he and the Minister, Deputy Cowen, commenced by approving the project.

The design and development of the new State buildings by the Office of Public Works are to the highest possible standard. Aesthetically they fit in very well with the old convent grounds, much to the delight of the public in Roscommon, some of whom were concerned about the location in the beginning. The Minister of State's Department will be in consultation with the local authority in Roscommon to ensure there is proper traffic management leading to a free flow of traffic because the project is located beside the Convent of Mercy secondary school. As the school has more than 600 pupils, sometimes there is traffic congestion in the area in the morning.

[Mr. Leyden.]

The Minister of State might consider the refund of VAT for tourists, which is a very attractive scheme. However, I wonder if the returns justify the scheme from a tourism point of view? While I am aware that the return of this VAT to individuals results in an increase of exports from Ireland, the scheme is not reciprocated in the United States of America. I am not saying the scheme should be discontinued, but all such schemes should be reviewed to ensure they benefit the economy.

I commend the Bill to the House and thank the Minister of State for his excellent speech on Second Stage. Thank you, a Chathaoirleach, for giving me an opportunity to speak on the Bill.

Minister of State at the Department of Finance (Mr. Parlon): I thank all the Senators who contributed to the debate today and I will reply to some of the key points made. Listening to Senator Phelan, it appeared we were living in different countries in terms of the gloomy picture he painted.

Mr. J. Phelan: I was not gloomy.

Mr. Parlon: I hope the Senator has not fallen into an air of doom and gloom following last Sunday's hurling defeat.

Senator Phelan suggested that we are exaggerating the degree to which the Government has decreased the tax burden on the economy, which I reject. As I said already, sections 2 to 5 of the Bill give effect to the various increases in the personal tax reliefs announced in the budget. The effect of these measures is that more than 66,000 taxpayers, including 4,700 elderly people, are removed from the tax net. After budget 2005, the total number of income earners outside the tax net stands at an estimated 656,500, which is 34.4% of all income earners. This compares with 380,400, or just 25.5% of income earners in 1997.

In addition, average tax rates have fallen for all categories of taxpayers. After the budget, the average tax rate per person on the average industrial wage will be more than 10% lower than it was in 1997. That is less than 17% as compared with more than 27% in 1997. In 2005, a person on the average industrial wage will see his or her pay increase by more than €11,000, while the tax bill has decreased by €200 per annum compared with 1997. Given a €11,000 increase in pay, and a €200 decrease in tax, I do not know how Senator Phelan can suggest that tax rates have increased.

Mr. J. Phelan: Direct tax has decreased but indirect charges have increased.

An Cathaoirleach: The Minister of State without interruption.

Mr. Parlon: That does not stand up. The data indicates that in 2004 Ireland had the lowest average tax rate among EU member states surveyed and the third lowest in the OECD for a single

person on the average industrial wage. Furthermore, for the average industrial worker who is married with two children, with a carer in the home, Ireland has the lowest average tax rate in the entire OECD when cash transfers are taken into account.

As regards the point the Senator made about the yields from indirect taxation, VAT rates have not increased significantly since the Government took office. The standard rate is still 21%. The increased yield reflects the state of the economy and the massive increases in consumer spending as a result. Cars are a case in point. Despite the high taxation, there is not a house in the country that does not have two, three or even more cars in the yard.

I agree with Senators Mansergh and Ryan that the taxation regime, both in regard to personal income tax and business tax, played a significant role in the success of the economy in recent years, and it will continue to be significant. Having a low income tax wedge is vitally important to employment. Low costs make it easier for companies to take on additional employees, which is an important element of Ireland's competitive edge.

A number of Senators raised the issue of tax relief on child care. It is important to recognise what the Government has already done in this regard. Over the past number of years, the Government considered carefully the whole area of child care and will continue to do so. The Government decided that as a matter of policy child benefit will be the main instrument through which support will be provided for parents with children. The Government has increased child benefit by substantial amounts since coming into office in 1997. Since 1997, overall expenditure on child benefit has increased by 279%. This compares with an increase in the consumer price index over that period of just 31%.

One of the key drivers of costs in respect of child care has been the limited number of formal child care places available. In addition, the delivery of quality child care is of necessity expensive because it is a labour intensive service which is frequently required by parents for ten or more hours per day. The equal opportunities child care programme funds capital development for increased places, supports staffing costs for facilities, targets disadvantaged areas and improves child care quality.

The capital envelope for the planned programme of continued investment in child care facilities over the next five years, from 2005 to 2009, will be €313 million and this is expected to create approximately 17,000 places, which represents some 3,400 places per annum for each of the next five years. The EOCP allocation for 2005 provides €83.4 million, of which €43.8 million is current and €39.6 million will be provided in capital funding.

I was recently in Portarlington and Claragh which have received €1.4 million and €1.1 million, respectively, in grants for community child care,

which will certainly provide a substantial service in those areas.

In effect, this all constitutes new spending since 1997. Prior to that, the only equivalent provision was a pilot scheme which ran from 1994 until 1997 at a total cost of €1.6 million. The Government has also undertaken measures to favour the supply of child care by providing 100% capital allowances available in year one for expenditure on the construction, refurbishment or extension of child care premises which meet the required standards of the Child Care Act 1991. There is also relief from benefit-in-kind taxation for free or subsidised child care provided by employers. Taken together, these represent substantial measures to assist with the cost of child care.

Senator Ormonde referred to a number of provisions including the exemption from taxation of foster care payments. This welcome measure will help to underpin a very important element of the strategy for children in the care of the State where the policy is to provide such children with a family experience in so far as is possible.

Senator Phelan made a point with regard to changes in stamp duty rates for first-time buyers of second-hand houses leading to an increase in house prices. The new exemption threshold of €317,500 is above what a first-time buyer pays for a second-hand house anywhere in the State.

Mr. J. Phelan: It is not.

Mr. Parlon: If Senator Browne wants some direction as to——

Mr. J. Phelan: There are certainly parts of this city where——

Mr. Parlon: If Senator Browne wants to know where he might find an apartment in Dublin for less than €317,500 I would be delighted to offer him some advice. Such second-hand houses are available in the property pages of any newspaper. This provision has been genuinely effective in helping buyers take their first step on the property ladder.

The issue of roll-over relief was also raised, particularly with regard to people who have disposed of property under a compulsory purchase order. The deal in which I was personally involved with the Government in a previous role is very fair to farmers in terms of the actual value they receive for their holding and the compensation they receive for severance, etc. Changes were made afterwards but, in terms of roll-over relief, it made sense when capital gains tax was at 48% and above. However, the rates were reduced to 20% in the 1998 budget, and it was announced in the 2003 budget that no roll-over relief would be allowed for any purpose on gains arising from disposables on or after 4 December 2002. The abolition of this relief is in accordance with the overall taxation policy of widening the tax base to keep direct tax rates low.

Mr. J. Phelan: Is it in accordance with the Minister's policy?

Mr. Parlon: The Senator will not find a tax rate anywhere in Europe lower than 21%. It is logical to tax capital gains where they are realised, and this change brings capital gains tax in line with other areas.

Mr. J. Phelan: It is disgraceful.

Mr. Parlon: Reference was also made to the Government doing nothing with regard to capping relief on taxes. A major review of tax schemes was announced in the budget, and this review will be completed in time for the inclusion of appropriate proposals in the 2006 budget. The review will evaluate the impact and operation of such schemes, including their economic and social benefits for the different locations and sectors involved in the wider community. In addition, the review will examine the degree to which these schemes allow high-income earners to reduce their tax liability.

External consultants will review certain tax incentive schemes and two consultancy studies are envisaged. One will examine area-based incentives, namely, urban, town and rural renewal and living over the shop schemes. The second study will examine other incentive schemes, namely, those covering multi-storey car parks, park and ride facilities, student accommodation, buildings in use for third level education purposes, hotels, holiday cottages, nursing homes, private hospitals, sports injury clinics, child care facilities and the countrywide refurbishment scheme.

In addition to the consultancy studies, a separate public consultation process was advertised on 8 January 2005 seeking submissions on measures that could be introduced to balance the benefit of such relief with the extent to which they are used by high earners to reduce their tax bill. The deadline for submissions is 31 March 2005. We are undertaking the review to determine what we can learn from past experience, what we do if we were starting again and whether we would look to bring about further change given the current level of economic development. This is important and Senator Leyden asked questions with regard to the issue of VAT recovery for tourists. These are areas which we must also examine.

Senator Phelan also raised the question of overpayments by PAYE taxpayers. He certainly was in a very negative mood today.

Mr. J. Phelan: I was not, I was very positive.

Mr. Parlon: There is no policy of deliberately over-collecting tax. Revenue administers the law fairly and reasonably and consistently seeks to collect no more than the correct amount of tax. There is no crock of gold in unclaimed repayments for PAYE taxpayers as has been suggested in some quarters. For the 2003 tax year, 287, 258

[Mr. Parlon.]

PAYE taxpayers, which represents 17% of the total PAYE taxpayer base of 1.6 million, have so far made claims or requested reviews of their tax position. Of those reviews, 8% were underpayments, 17% resulted in no change and 75% resulted in repayments being made. No repayment was due to one in four of those requesting reviews and one third of those to whom no repayment was due had, in fact, underpaid.

Some €185 million has already been repaid and this figure could eventually rise to approximately €306 million. These figures should be considered in the context of the total 2003 PAYE revenue of €7.2 billion. Repayments of 2003 tax, which have yet to be made but which will be made as soon as claims are received from the taxpayers concerned, amount to less than 2% of PAYE receipts. Where a taxpayer has overpaid tax for a year under PAYE, he or she is in the best position to know. Indeed, in many instances the taxpayer would be the only person that would know there has been an overpayment.

This Bill includes provisions which allow for an extension of on-line Revenue services to PAYE taxpayers in the latter part of this year. PAYE taxpayers will be offered an on-line facility to electronically file their returns and claim repayments, as well as a range of other self-service options with regard to the management of their tax affairs. This will significantly improve the level of service to the PAYE customer and will speed up the identification and payment of claims where any overpayments have occurred.

Senator Ryan referred to the donation scheme and how it operates. The arrangements for allowing tax relief on donations depend on whether the donor is a PAYE taxpayer, an individual on self-assessment or a company. For a PAYE taxpayer, the relief is given on a grossed-up basis to the approved body rather than by way of a separate claim for tax relief by the donor. For example, if an individual who pays income tax at the higher rate of 42% gives a donation of €580 to an approved body, the body will be deemed to have received €1,000 less tax of €420. The approved body, namely, the charity, will therefore be able to claim a refund of €420 from Revenue at the end of the tax year. Similarly, if a taxpayer on the standard rate makes a donation of €800 to an approved body, the body will be able to claim a refund of €200 from Revenue at the end of the year.

In the case of a donation made by an individual who pays on a self-assessment basis, the individual claims the relief and there is no grossing-up arrangement. Companies claim deductions for donations as if they were a trading expense. The system as it applies to the self-assessed taxpayer is designed to ensure that the incentive to make donations to worthy causes is maximised. The availability of the relief as a deduction serves to increase the amount that such payers can donate. If a self-assessed taxpayer donates €1,000, the value of relief to him or her is €420 if he or she

is paying tax at the top rate, and €200 if he or she pays at the standard rate. The donation scheme is extremely generous in that the relief is granted at the taxpayer's marginal rate of tax and there is no upper limit on what can be donated.

I hope I have covered all points raised during this debate, which has been conducted in the best traditions of this House. Senators can rest assured that their comments have been noted and points raised can be pursued further on Committee Stage. I thank all Senators for their contributions.

Senator Leyden raised a few points and I would be delighted to go to Roscommon to open the fabulous new decentralised offices there. The next decentralisation report is a matter for the committee. I note the Senator's comments about the chairman who has moved on. That is not slowing up in any way delivery on decentralisation. I look forward to making some positive announcements on that issue in the near future.

Mr. Leyden: What is the position with SSIsAs?

An Cathaoirleach: The Minister of State without interruption, please.

Mr. Parlon: That is an issue I will take up with the Department. I am not familiar with it. With those comments I thank Senators who contributed to the debate.

Question put and agreed to.

An Cathaoirleach: When is it proposed to take Committee Stage?

Mr. Leyden: Tomorrow.

Committee Stage ordered for Wednesday, 23 March 2005.

Sitting suspended at 18.22 and resumed at 18.30.

Veterinary Practice Bill 2004: Committee Stage.

An Leas-Chathaoirleach: I welcome the Minister for Agriculture and Food to the House.

Section 1 agreed to.

SECTION 2.

An Leas-Chathaoirleach: Amendments Nos. 36, 38 to 41, inclusive, 74, 94, 108, 109 and 135, are related and may be discussed with amendment No. 1.

Government amendment No. 1:

In page 9, subsection (1), between lines 28 and 29, to insert the following:

“ ‘approved’ in relation to a programme of education or further education has the meaning given to it by *section 62*.”

Minister for Agriculture and Food (Mary Coughlan): I wish to draw to the attention of the

House my proposal to insert a reference to the word “approved” in the general definitions contained in section 2 of the Bill. This is purely a textual amendment which arises directly as a consequence of the amendment I propose to insert in section 56 to deal with practice by trainee veterinary practitioners and trainee veterinary nurses. The insertion in section 2 merely provides a necessary cross-reference to the definition of what constitutes an approved programme of education in section 62.

I will deal with the substantive amendment to section 56 at the appropriate time. I also propose to make related amendments in a number of other sections, namely, sections 43(2), 45(2) and 45(8), 62, 80(1), 96(2) and 97(2), as well as in Schedule 3, paragraph 8. The purpose of each of these amendments is simply to align the language used in the Bill when describing courses of education or further education so that different terms are not used to describe the same item.

Amendment agreed to.

An Leas-Chathaoirleach: Amendment No. 2 is in the name of Senator Henry. Amendment No. 3 is an alternative amendment and may be taken with amendment No. 2, by agreement of the House. Is that agreed? Agreed.

Dr. Henry: I move amendment No. 2:

In page 10, subsection (1), line 12, to delete “the putting down of the animal” and substitute “the euthanasia of the animal in a humane manner”.

I propose this amendment because of concern about a certain looseness regarding the situation whereby an unqualified person could put an animal down. It was particularly felt by my veterinary colleagues who have been in contact with me that very inhumane methods could be used. It was suggested that an animal could be attacked with a slash hook. An unqualified person could be given licence as to the manner in which an animal could be put down. My veterinary colleagues favoured the word “euthanasia” as a substitute in this instance.

Mr. McCarthy: I support Senator Henry’s amendment, for obvious reasons, considering the amendments have been grouped. It is a reasonable request for the Minister to consider this proposal. The inclusion of the word “humane” is an important issue. We must be mindful of the implications of failing to examine this in the proper context and of perhaps allowing a situation to occur which the Minister would not intend. This amendment is proposed as a result of extensive lobbying by Veterinary Ireland.

Mr. Coonan: I also support Senator Henry’s amendment. Most farmers would be conscious of the fact that they have a particular affiliation with and sensitivity to animals. The term “putting down of an animal” should be used with care

because many people are affected by it. Only today the manner in which some animals are disposed of was highlighted in respect of what happens animals in the fox farming sector. It could neither be described as euthanasia nor as being put down. We do not wish this Bill to allow such practices to be tolerated in this country.

Mary Coughlan: Perhaps the Senator should go to the Dáil now to discuss fox farming as it was being discussed there this afternoon.

This is a totally different situation as the other is governed by an EU regulation. I acknowledge that Senators are sincere in their views. The definition of “emergency” is being inserted into the legislation to cater for practical situations which I am aware can arise when it is necessary to treat, and in some cases, put down, an animal before a vet is available. Such situations would include cases where animals were severely injured and suffering severe pain and distress. The definition of “emergency” is necessary to avoid farmers and others, who would act out of concern for the welfare of the animal, being criminalised due to the fact that the practice of veterinary medicine is being legally defined in precise terms for the first time in this legislation.

The definition cannot be seen in isolation from other sections in the Bill. I refer in particular to sections 56 and 60, which regulate how an unregistered person may act to deal with an emergency situation. I will propose two amendments to section 56, one of which mirrors an amendment tabled by Senator Henry which will provide for significant additional safeguards for the unfortunate animal involved.

I believe this amendment also addresses the essential concerns underpinning the amendment put forward by Senators McCarthy, Ryan, O’Meara, McDowell and Tuffy. The first amendment will stress that the primary issue is the welfare of the animal and the second will provide for a more realistic assessment of the timescale within which a vet would be available, by replacing the phrase, “immediately available” with, “available within a reasonable period of time”.

What I wish to say is that a person other than a vet, before deciding to put down an animal, would have to base his or her decision on the welfare of the animal. The means of putting down the animal might not in all cases be totally painless but would nonetheless avoid further suffering and therefore would be in the interest of the overall welfare of the animal.

Given the term “euthanasia” implies a painless death, it would not be appropriate to use it in these circumstances. I stress that this is an exceptional provision which could not be relied upon by non-vets as a cover. The emergency must be real and the welfare of the animal must be the primary consideration.

I regret, therefore, that I cannot accept amendments Nos. 2 and 3 which have been proposed regarding the definition of “emergency”. In the

[Mary Coughlan.]
proposals for section 56 I believe I will be able to address the concerns expressed by the Members.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

Mr. McCarthy: I move amendment No. 4:

In page 10, subsection (1), line 30, after “public”, where it secondly occurs, to insert “free or”.

The provision in section 2 does not specifically require the Veterinary Council of Ireland to charge a fee for making information available to the public. However, by using the term “if any”, it may seem appropriate to highlight the possibility of making information available for free rather than the current wording which puts the emphasis on a reasonable fee being charged.

Mary Coughlan: Several Members raised this issue on Second Stage. Senator McCarthy referred to the definition used in the Bill under which the Veterinary Council of Ireland is enabled to make documents available at a reasonable price, if any. The council is already enabled to waive a charge for a document which it publishes. The need for the amendment, therefore, does not arise because that flexibility has been allowed. Provision is made for publication by means of the Internet which will greatly facilitate public access to the council’s publications such as the *Veterinary Register*, annual reports, etc.

Amendment, by leave, withdrawn.

Dr. Henry: I move amendment No. 5:

In page 11, subsection (1), line 5, to delete “practitioner” and substitute “surgeon”.

To the general public, the word “practitioner” can mean an individual who is involved in the practice of veterinary medicine, whereas the Bill will cover far more than those individuals treating animals on the ground. For example, it will cover academics and those involved in the food industry. The age old name of “veterinary surgeon” is a better choice than “veterinary practitioner”.

Mr. McCarthy: I support Senator Henry’s comments. The original 1931 legislation is entitled the Veterinary Surgeons Act. The expression is in common usage which this amendment seeks to take into account. I am not asking the Minister to move mountains on this matter. It is simply being practical in how terminology is applied.

Mr. Coonan: The vet has always been known as the veterinary surgeon and it makes common sense to continue in that vein.

Mary Coughlan: I know this issue was discussed by the Senators and Veterinary Ireland. It is correct to state that it refers to the 1931 Act. On a

day-to-day basis, the term used is “vets” as opposed to “veterinary surgeons”. The common use of the word will never change. However, those in the profession now do more than surgery on a day-to-day basis. It is felt that the term “veterinary practitioner” would connect with the definition of veterinary practice, defined for the first time in section 54. This creates a flow between veterinary practitioner, veterinary practice and moving beyond the idea of being just a veterinary surgeon. On reflection, while there are common terms in use, the issue of veterinary practitioner goes beyond what was involved in the old terminology of veterinary surgeon.

Dr. Henry: While I will withdraw the amendment, I may table it on Report Stage as I am unsure of the UK legislation. Since the Good Friday Agreement, we have been urged to ensure terminology is in line with that in the UK. However, I am unsure if the term used is “veterinary surgeon”.

Mary Coughlan: The UK is reviewing its legislation.

Dr. Henry: That is fortunate for the Minister.

Mary Coughlan: Perhaps the UK will follow our terminology. There is also the American term “veterinarian” but we do not need to go down that road.

Dr. Henry: Yes, we do not need to go to those lengths.

Mr. McCarthy: This issue is worthy of re-examination on Report Stage. I urge the Minister to reflect on it until then.

Amendment, by leave, withdrawn.

Section 2, as amended, agreed to.

Section 3 agreed to.

SECTION 4.

Question proposed: “That section 4 stand part of the Bill.”

Dr. Henry: Section 4(2)(a) states “the Veterinary Surgeons (Annual Fees) Order 1997 (S.I. No. 131 of 1997) shall continue in force and may be amended or revoked as if made under section 34”. It is interesting that the term “veterinary surgeons” comes up in this part of the Bill. Does this allow the Veterinary Council of Ireland to set fees without a ministerial order?

Mary Coughlan: We have verification from the Attorney General’s office that the provision as drafted is clear in the legal terminology and will allow the council, when setting new fees, to rescind the 1997 order. The council will no longer return to the Minister to set fees.

Dr. Henry: I thank the Minister for clarifying this.

Question put and agreed to.

Sections 5 to 13, inclusive, agreed to.

SECTION 14.

Question proposed: That section 14 stand part of the Bill."

Mr. Dardis: On Second Stage, I raised the matter of the powers vested in the Minister for Agriculture and Food to give instructions to the Veterinary Council of Ireland. I realise it is confined to conferring additional powers. I have no difficulty with section 15 containing a provision for general policy directions, as it is appropriate that the Government should be able to do so. However, I am concerned that section 14 may empower the Minister to be involved in the day-to-day functions of the council.

Mary Coughlan: While I could be vindictive, which I have no intention of being, in assigning additional functions to the Veterinary Council of Ireland, the drafting of the provision is designed to avoid this by ensuring that, unless dictated by EU obligations, such additional functions must be connected with its functions as defined in section 13. I cannot involve myself in any extraneous dictats to the council outside the gamut of policy. I assure Senator Dardis, I have no intention of doing so either.

Mr. Dardis: I would never suggest this particular Minister would ever do anything of this nature. I am just concerned about her successors.

Dr. Henry: I support Senator Dardis on this matter. Naturally the Minister would never interfere in such a way but I am thinking of her successors.

Mary Coughlan: No other Minister would do so.

Question put and agreed to.

Section 15 agreed to.

SECTION 16.

Dr. Henry: I move amendment No. 6:

In page 15, subsection (1)(c), line 42, to delete "who is not eligible to be so registered, but".

A mode of thinking exists that the professions cannot be relied on to regulate themselves. However, it is somewhat harsh to rule a vet out of Veterinary Council membership if he or she is already heavily involved in an animal welfare organisation. If the head of the donkey sanctuary is also a vet, will the option of council member-

ship remain for him or her, if suitable for the post? I do not see why vets should be ruled out. I find they are very helpful respectable people who, unlike some doctors, do not feature on the latest list of tax defaulters. I cannot understand the logic behind this provision.

Mr. McCarthy: The lobby groups also raised this matter and Veterinary Ireland made a genuine point in claiming that the council had insufficient vets. This amendment is worthwhile and the Minister should actively consider it. While considerable discourse about this aspect of the Bill has taken place, it would be reasonable for the Minister to consider this proposal positively.

Mr. Quinn: I welcome the Minister. I have not spoken about this matter since Second Stage. I believe I understand the purpose of the provision. Obviously vets are represented on the council and the objective is to retain one member who is not a vet. The point made by Senator Henry is right. I was on the board of a State company at one time. When appointing the board the Minister asked if I had any suggestions. I said I just wanted the best people regardless of who they were. The Minister responded very well by making sure the best people were appointed and did not eliminate anybody based on particular criteria. Senator Henry has already been more eloquent than I could be. It would be a shame to disqualify somebody from this job because he or she was a vet. While the intention could be included, it should not be so strict as to disqualify a vet. The Minister should reconsider the matter.

Mary Coughlan: I am delighted to see the conversion of the Members of the House when it comes to vets. We have had a long discussion about the matter and I have met numerous representative bodies. My original proposal for the composition of the council was to broaden the membership of the Veterinary Council to reflect interests such as education, consumers, animal welfare and food safety as well as providing a balance between the veterinary practitioners and others. I considered the views expressed by Members on Second Stage and as a consequence I have increased by two the elected membership of veterinary practitioners to assist the council in performing its functions and to be available to participate in the committees as established by the council. This will result in increasing council membership from 17 to 19. This addressed the views and concerns expressed by Members of the House heretofore that the council had an inadequate number of vets. This can be justified by the increased workload of the council as well as the continued professional development and accreditation of veterinary nurses.

I do not propose to alter in other respects the balance provided for in my original proposals. I believe it is appropriate that the membership should include a nominee of the Minister for

[Mary Coughlan.]

Education and Science. Of the four people to be appointed by me, it is provided that one will be a veterinary practitioner and I see no need to increase this. I understand the proposal to in effect reserve a place for the dean of the veterinary faculty of UCD reflects the present actuality. We should not prescribe by legislation whom a body like UCD should choose in future as circumstances may change and it may not always be UCD that provides such education. Section 16(2)(a) recognises it would be inappropriate in such circumstances that the legislation would give automatic membership to the head of any one veterinary faculty over another. I have the option to specify one or more than one relevant body.

Members also asked about an additional place for a farming representative. Of the four people I will appoint to the restructured council at least one must represent the interests of those who avail of a veterinary service in the course of business, trade or profession and in such appointments I will consider farming interests. I have gone a long way towards addressing the concerns raised on Second Stage by having a critical mass of veterinary practitioners on the council and by having a balance between other stakeholders. I hope those elected and appointed will be the best people for the job, which is what we all want of the membership of any council, whether appointed or elected.

By excluding a vet from representing those who perform functions relating to animal welfare I can give an opportunity to others to participate on the council. Given the number of vets to be elected and appointed I believe the critical mass has been achieved. I would prefer to afford greater opportunity to those on the animal welfare side. Those elected may come from that area anyway as many people deal in that type of practice. It is a group for which I have much time. We have increased the funding to the animal welfare side in both mainstream farming and as it affects pets. I would prefer to see someone coming from that perspective as opposed to being a veterinary practitioner. I have done my utmost to ensure they are adequately represented on the council.

On Second Stage concern was expressed about continuity and the number of people elected. I will take into consideration the thrust of the views expressed by Members of the House, which represents a practical way of dealing with the issues. I appreciate where people are coming from. I feel I have been as fair as possible. I have met the organisations a number of times and they now seem to be relatively happy with the number of members on the council. I believe others are just as competent as a veterinary practitioner to reflect the animal welfare side. The vets elected or appointed may well also come from that perspective. I would like to give people a fairly wide opportunity to participate and define where the council goes.

Mr. Callanan: I support the Minister's proposal, with which we should agree. The Minister has spoken about someone who uses the service, probably from a rural area and perhaps with a farming background. I would like to see the broadest interpretation of animal welfare to be taken into consideration when making that appointment.

Dr. Henry: The purpose of my amendment was not to increase the critical mass of vets. I am grateful that the Minister has tabled her own amendment to do so. As Senator Quinn said, this person will be appointed by the Minister. While some excellent people without veterinary qualifications work in the animal welfare area, if the best person for the position was a registered veterinary practitioner he or she could not be chosen by the Minister. The Minister is not required to accept a person proposed by another body but has the power of appointment. My amendment would give the Minister the possibility of appointing a registered veterinary practitioner. As the Bill stands this could not be done. I am not attempting to increase the critical mass of vets, which has been increased from seven to nine by the Minister's amendment — I had only proposed ten to allow for negotiation.

It would be a mistake not to accept my amendment. The Food Safety Authority of Ireland is allowed to nominate and could decide to nominate a vet. The Director of Consumer Affairs could nominate a vet. However, as Senator Quinn said, if the best animal welfare person happens to be a vet, the Minister cannot appoint him or her.

Mary Coughlan: I do not agree that this provision is severely restrictive. There is nothing to say that a chairperson of the donkey sanctuary who is not a veterinary practitioner would be discommoded in this matter. We are not against veterinary practitioners being on the veterinary council. However, this provision adds to the wealth of the council by stipulating that one member should come from a different perspective. We should not have a situation where a Minister could suddenly decide that four vets should be nominated. In order to prevent this, we have provided for a specific group of nominees who are not veterinary practitioners.

I do not understand Members' difficulties in this regard. If the situation were turned around, there would be objections to the effect that these people reflect a certain sector of society and that those not at professional level have a contribution to make to the council and should not be excluded. One can make either argument. However, I contend that the richness of any council is not dependent on the participation of the professions. Joe Soap is just as entitled to be a member of the council as anybody else. I am allowing that opportunity so as to ensure we do not fall into the trap of simply having another veterinary practitioner.

7 o'clock

Mr. Dardis: I support the Minister in this matter. It is not analogous to compare this provision with those relating to, for example, the Food Safety Authority of Ireland, Bord Bia or Teagasc. In the case of those bodies, it is a reasonable requirement that board members should be veterinary practitioners. In this case, however, we are regulating the profession and it is not sensible to build in a majority of the profession on the board charged with its regulation.

This is not to say that members of the profession should not have a role. However, it is wrong that the profession should dominate the council to the extent that other legitimate interests would be disadvantaged. The Bill's provisions represent a reasonable balance in this regard. This situation is not the same as that in regard to bodies such as the Food Safety Authority of Ireland, where there is a genuine requirement that vets should be involved.

Mr. Quinn: I understand the Minister's intention is to ensure a balance in that the council should not consist only of vets. However, it is wrong to stipulate that the best person for the job cannot be a vet. The Minister observed that Joe Soap, even if he is not a vet, is entitled to be a member of the council. However, it seems a shame that he is not entitled to do so if he is a vet. Before Report Stage, will the Minister consider some means by which the desirability of ensuring balance is protected without excluding those who possess a veterinary qualification? The Minister has gone a long way towards achieving the correct balance, which is difficult to attain, and I acknowledge her intentions in this regard. However, the explicit stipulation that a person who may be the best choice for the job cannot take the seat if he or she is a vet seems to weaken the authority of the provision.

Dr. Henry: I support Senator Quinn. It seems I have not made myself clear in this matter. My argument is not that this person must be a vet. On the contrary, I will be delighted if the Minister chooses a non-veterinary person 999 times out of 1,000. However, it is unfortunate to exclude a candidate simply because he or she is a vet.

In reply to Senator Dardis, my point is that section 16(1)(f) imposes no such restriction in regard to the person appointed by the Food Safety Authority of Ireland. I do not dispute that vets must be appointed to the authority. Likewise, under section 16(1)(g), the person appointed by the Director of Consumer Affairs may also be a vet. The Minister is aware that I am always interested in consumer participation.

Mr. Dardis: What about patient participation?

Dr. Henry: There are certainly some clever dogs around.

This provision ties the hands of future Ministers in that the excellent candidate who is involved in running the donkey sanctuary, for

example, cannot be appointed to the council if he or she is a vet.

Mary Coughlan: Under section 16(1), the Minister has considerable scope in making appointments to the council. For example, under subsection (a), the appointee who is registered or is eligible to be registered under part 4 may be a veterinary practitioner. Subsection (b) provides that there must be two appointees who are not eligible to be registered but at least one of whom avails of veterinary services in the course of business, trade or profession, such as a farmer. Subsection (c) is the one relevant to this amendment and it stipulates that there must be one appointee who is not eligible to be registered but who performs functions relating to animal welfare. If I had not been so specific, we could end up with four vets being appointed.

Dr. Henry: That is a terrible thought.

Mary Coughlan: I appreciate Senator Henry's point but I am doing my best in this regard. The Senator argues that I am being over-prescriptive in setting out what the Minister can do. Members have argued for a more prescriptive approach on previous occasions so it may be a case of swings and roundabouts. The provision in subsection (c) is wide in that all veterinary practitioners are involved in the welfare of animals. This will always include veterinary practitioners if one does not exclude them.

Amendment, by leave, withdrawn.

Dr. Henry: I move amendment No. 7:

In page 16, lines 1 to 3, to delete paragraph (d).

This is an extraordinary amendment for a university Senator to table. Section 16(1)(e) provides for the appointment of two academics to the council. I am concerned that subsection (d) additionally provides for the appointment of a person who must be engaged in the provision of higher education. Veterinary medicine requires some academic input and is a very professional business. However, notwithstanding the increase in council membership to 19, the inclusion of three academics seems excessive. Some engaged in veterinary practice are concerned that academia should have such a strong influence. Furthermore, the person appointed under this subsection could be a vet which would mean that three members of the veterinary school could be on the council.

Mr. McCarthy: It is strange for a university Senator to propose such an amendment but I agree that the issue of academic representation is adequately covered in subsection (e). Subsection (d) provides for the appointment of "one person who is nominated for appointment as a member of the council by the Minister for Education and Science and is engaged in the provision of higher

[Mr. McCarthy.] education". Section (e) goes on to stipulate there must be "two persons who are nominated for such appointment by a relevant body or bodies specified by the Minister by order under *subsection (2)* or, where no body is specified, are nominated for appointment by the National University of Ireland". The amendment is self-explanatory and I ask the Minister to consider it. I am sure she will agree that subsection (e) ensures adequate academic representation on the council.

Mr. Dardis: Does the Minister suspect this may be a plot by a Trinity College Member to undermine the National University of Ireland?

Dr. Henry: The person appointed under the provision of subsection (d) could be from Trinity College.

Mary Coughlan: I will not speculate in this regard. Subsection (d) is perfectly pragmatic. The Minister for Education and Science provided €26 million for veterinary facilities in University College Dublin and is entitled to nominate an appointee to the council. One never knows when we may need that additional funding. Due recognition should be given to her and her Department, as a nominating body.

Did Senator McCarthy refer specifically to the dean?

Mr. McCarthy: That was in reference to a separate amendment. My amendment indicates that 16(1)(e) deals with the matter appropriately.

Mary Coughlan: There is a pragmatic political answer to the Senators' question.

Dr. Henry: Between now and Report Stage, I may lobby to change the amendment to state that the nominee must come from Trinity College, the veterinary school of which was taken from it virtually by force 25 years ago.

Mr. Dardis: We are now getting to the truth.

Amendment, by leave, withdrawn.

Mr. McCarthy: I move amendment No. 8:

In page 16, subsection (1)(e), lines 9 to 11, to delete subparagraphs (i) and (ii) and substitute:

"(i) one is the Dean of the Faculty of Veterinary Medicine at University College Dublin".

This amendment, if accepted, will ensure that the dean of the faculty of veterinary medicine at University College Dublin will continue to be a member of the council. I expect a pragmatic response to the amendment from the Minister.

Dr. Henry: That is the practice at present. The Minister would be putting into law what actually happens.

Mary Coughlan: That is the position. An opportunity may present itself at a later date in which another veterinary college may be available to us. We would be overly prescriptive if—

Dr. Henry: Trinity College should be restored. Will the Minister promise this?

Mary Coughlan: We might get an institute of technology. That would move things on. The aforementioned position reflects what is happening and it will be mirrored in the legislation. However, we must leave open the opportunity to appoint someone else if there is a change of circumstances in the country. Members will appreciate that it is a long time since this legislation was changed and we must allow for future developments.

Mr. Quinn: The Minister explained the position very well. Her explanation is probably acceptable. When I first read Senator McCarthy's amendment, I was inclined, particularly in my capacity as a National University of Ireland Senator, to support it. However, this legislation may be in place for a long period and it is, therefore, best to leave our options open. Section 16(1)(e) seems to cover what the amendment seeks to address.

Amendment, by leave, withdrawn.

Mr. Coonan: I move amendment No. 9:

In page 16, subsection (1), between lines 11 and 12, to insert the following new paragraph:

"(f) one person who is nominated for such appointment by the Minister for Agriculture and Food as being representative of persons with a farming interest;"

The Minister has dealt with this matter to some extent but I would like her to be even more specific. I accept her statement that she will place a member of the farming community with direct involvement in animal welfare on the council. By a member of the farming community, I refer specifically to a full-time member.

Some vets are farmers and I am concerned about this. If such a person were to be nominated, would he be excluded in view of what has been stated? Somebody with compassionate involvement with animals could also be on the council and this could include a representative of the farming community, although not necessarily a full-time farmer. The Minister needs to be specific because the members of the farming community are the chief people involved in animal welfare. It is their way of life and they are most concerned about it. That is not to say that the other groups are not concerned. I would like the Minister's assurance to be included in the legislation because I do not expect her to be Minister for Agriculture and Food forever.

Mr. Dardis: Senator Coonan has made a good point. Of course, we would have to amend the amendment by excluding specifically the members of the veterinary profession who are farmers. One could not have a farmer who is a vet as a member of the council.

It is a reasonable proposition. It is standard practice on many agricultural boards, including Bord Bia, to have the Minister nominate from a list, for example, rather than have the farming organisation make the nomination. It is important that the Minister have the discretion to make the selection. However, it is important that the main client base be represented. There are many precedents for this on agricultural boards.

I have previously drawn the Minister's attention to the Animal and Plant Health Association, which is the type of body that would have important views on this subject because it is obvious that the number of drugs being used in agriculture is increasing all the time. It would be important to be able to draw on the association's expertise and commercial insight. This is not really related to the substance of the amendment but, given that the Minister is to increase the number of persons on the council from seven to nine, there may be some scope to accommodate both positions. It is important not to let the council expand to the point where it becomes overly cumbersome and cannot do its job. A balance is to be struck and perhaps the Minister has struck it pretty well by way of her proposed amendment in this regard.

Mr. Bradford: I agree with Senator Dardis that we should not allow an endless expansion of the council. I am satisfied that the Minister plans to have limited expansion. I support Senator Coonan's amendment because the group most affected by the legislation, perhaps only in a minimal way, is the farming community. The signal we should send from the House is that we recognise that the farming community, more than any other sector, has traditionally had animal welfare at the core of its practice. We should try to ensure that it has a leading role in the new council.

I concede that the other nominees the Minister could choose could provide for strong representation from the farming community but it would be appropriate to specifically nominate a full-time farmer. The number of full-time farmers might be decreasing but there are still tens of thousands of them. I ask the Minister to send a strong signal of support to the farming community by making statutory provision for the membership on the council of a representative from that community.

Mr. Callanan: Senator Coonan's proposal is embodied in section 16(1)(b), which supports the Senator's proposal in that it refers to one who "avails of veterinary services". If farming is not a practice, profession, trade or business, I do not know what the bloody hell it is. I am not finding fault with the Senator's proposal, I am stating

that we all regard his proposal as embodied within section 16(1)(b).

Mary Coughlan: My interpretation is that farmers will be represented by way of a nomination by the Minister. I would prefer if my hands were not tied legislatively. If they were, I would have to stipulate "the farming organisations" rather than "a farmer", in which case I would have to increase the council's membership to facilitate the IFA, ICMSA, ICSA—

Mr. Coonan: The Minister would have to make a choice.

Mary Coughlan: —and the whole gamut. The first person who will not be making the choice will be me. If we were prescriptive and specified the farming organisations, we would have to provide an additional four, if not five, places on the council. That is how partnership works and that is why I would prefer it if the provision were not made on a legislative basis.

It is my intention to appoint a farmer. I would prefer if I was not tied by having to specify whether the farmer should be full-time or part-time because both are equally entitled to membership if they avail of veterinary services. However, a farmer will be appointed to the council because farmers are the people at the coalface who deal with service provision. They interface with the veterinary practitioners to a greater extent than any of us, unless some of the Senators are still involved with the farming fraternity.

I will not determine whether the farmer appointed will be full-time or part-time and I would prefer not to be forced to increase council membership to facilitate the lobby group in question, the vociferousness of which the Senators are aware. I do not know how we would nominate one person from four or five organisations. A partnership issue would arise, with which I would prefer not to have a problem. Instead of having an organisation, one could pick a farmer irrespective of whether he or she is associated with a particular organisation or none.

Mr. Coonan: Or party.

Mary Coughlan: Or whatever. If the Senator feels so passionately about the matter, he can send me some recommendations.

Mr. Coonan: I would like the Minister to be more specific in the legislation concerning this issue and I may reintroduce the amendment on Report Stage.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendments Nos. 11 and 12 are alternatives to amendment No. 10. If amendment No. 10 is agreed, amendments Nos. 11 and 12 cannot be moved. Amendment No. 13

[An Leas-Chathaoirleach.]
is related and amendments Nos. 10 to 13, inclusive, may be taken together by agreement.

Government amendment No. 10:

In page 16, subsection (1)(h), line 16, to delete “7 persons” and substitute “9 persons”.

Mary Coughlan: Molaim an rún. D’ardaíonn muid an méid daoine atá ar an chomhairle ó seacht go dtí naoi. Ag éisteacht le na Seanadóirí, i mo thuairimse, rinne mé gach iarracht go mbeidh mé ábalta tacaíocht a thabhairt dóibh. I mo thuairimse, when the Senator talks about compromise, perhaps we reach one on this issue.

Dr. Henry: I thank the Minister for her actions. For practical purposes, an increased number of vets is required. These people are working individuals and there are many committees to be serviced. I know from the Medical Council that grim delays occur because one cannot get enough medical members together on a sufficiently frequent basis. One must often rely on retired people to attempt much hard work.

Mr. McCarthy: The Minister stated on Second Stage that she would be willing to accept compromises in many areas and this reflects that in one of the more practical ones. The issue is not so much about figures as it is about having a broad base of knowledge. These people are practitioners involved at the coalface who will bring a greater variety of expertise to the council which is a move in the right direction.

Mr. Coonan: I also welcome the Minister’s decision to increase the numbers, a change sought by both sides of the House. She also proposes to achieve a balance in the numbers. When we originally sought the change, we were informed that it would have to be within the remit of a council of seven persons. We can accept that the number on the council has now risen to nine members, but the correct balance also needs to be addressed.

Mr. Callanan: I commend the Minister and her officials on this change. I can take some satisfaction from it as I appealed for common sense and a practical working approach during the Second Stage debate. As Senator Henry has stated, the work involved is spread over a relatively small number of people. I am especially glad that the Minister increased the figure to nine persons, as had been suggested.

Mr. Dardis: The Minister’s actions are to be welcomed and this is a good, practical approach. Although I realise that it is not covered by this section, which deals with people who are registered under Part 4, perhaps the Minister will comment on the matter of the Animal and Plant Health Association, APHA.

Mary Coughlan: I thank Senators who seem relatively happy with the amendment. I am sorry that I did not refer to APHA. I did not wish to include it in the legislation but it can be included under section 16 (1)(b).

Mr. Dardis: The association must lobby for this.

Mary Coughlan: It must do its job like everyone else.

Amendment agreed to.

Amendments Nos. 11 and 12 not moved.

Section 16, as amended, agreed to.

SECTION 17.

Government amendment No. 13:

In page 17, subsection (3)(a), line 1, to delete “7 persons” and substitute “9 persons”.

Amendment agreed to.

Government amendment No. 14:

In page 17, subsection (3)(a), line 3, to delete “be elected members of the Council under section 16(1)” and substitute “be chosen for appointment as members of the Council under section 16(1)(h)”.

Mary Coughlan: This is purely a textual change at the suggestion of the Attorney General.

Amendment agreed to.

Section 17, as amended, agreed to.

SECTION 18.

An Leas-Chathaoirleach: Amendments Nos. 16 to 18, inclusive, are related to amendment No. 15 and amendments Nos. 15 to 18, inclusive, may be taken together by agreement.

Government amendment No. 15:

In page 17, subsection (1)(a), line 14, after “rules” to insert “, not later than 3 months after the establishment day,”.

Mary Coughlan: I propose to make four textual amendments to sections 18(1) and (2) on the advice of the Attorney General. They involve transferring the three-month deadline for making rules for elections from subsection (2) to subsection (1) and making the consequential textual amendments. There is no substantive change involved.

Dr. Henry: This sort of advice should be given far more often in Bills. I congratulate the Minister and her officials on tabling the amendments.

Amendment agreed to.

Government amendment No. 16:

In page 17, subsection (1)(b), line 17, after “rules” to insert “, not later than 3 months after the establishment of the Register of Veterinary Nurses pursuant to *section 94*,”.

Amendment agreed to.

Government amendment No. 17:

In page 17, subsection (2)(a)(i), lines 22 and 23, to delete “which rules shall be made not later than 3 months after the establishment day”.

Amendment agreed to.

Government amendment No. 18:

In page 17, subsection (2)(a)(ii), lines 26 to 28, to delete “which rules shall be made not later than 3 months after the establishment of the Register of Veterinary Nurses pursuant to *section 94*”.

Amendment agreed to.

Section 18, as amended, agreed to.

SECTION 19.

An Leas-Chathaoirleach: Amendments Nos. 20 and 21, 80 and 87 are related to amendment No. 19. Amendment No. 21 is an alternative to amendment No. 20 and if amendment No. 20 is agreed, amendment No. 21 cannot be moved. The amendments may be discussed together by agreement.

Mr. McCarthy: I move amendment No. 19:

In page 18, subsection (2), line 27, after “day” to insert “, but half of the members of the Council who are the first members of the Council shall have a term of office of two years”

This amendment was tabled because the veterinary council recommended that while all members should serve four years, there should be a two year roll-over so that the entire membership of the council is not suddenly lost in a single change-over. It suggested that the 50% of elected members who polled highest would be elected for four years, the other 50% would be elected for two years and thereafter, there would be an election every two years for 50% of the places.

Dr. Henry: The Minister’s amendment reflects the current position under the 1988 regulations. I commend her on having put it in again. In practice, this has worked very well.

Mary Coughlan: I propose to provide for the points covered by amendment No. 19 from the Senators under the new subsection (3). I am also in a position to accept the substance of amendment No. 21 tabled by Senator Henry. I propose that a mechanism be inserted in section 19 to provide for the election, every two years, of alternatively four and five of the nine elected places for veterinary practitioners to the council. This will have the implication that four of the practitioners elected to the first council will serve for approximately two years rather than four. Thereafter, each group will serve a term of four years. This will address the concerns raised in the House.

Amendment, by leave, withdrawn.

Government amendment No. 20:

In page 18, lines 28 to 33, to delete subsection (3) and substitute the following new subsection:

“(3)(a) (i) The 5 members of the Council appointed under *section 18(5)*, who received the highest number of votes to be chosen for the appointment, shall hold office for the term beginning on the date of their appointment and expiring on the date that is 4 years from the establishment day.

(ii) The 4 members of the Council appointed under *section 18(5)* who received the lowest number of votes to be chosen for the appointment, shall hold office for a term that is 2 years less than the term referred to at *subparagraph (i)*.

(iii) Where 2 or more persons referred to at *subparagraphs (i)* and *(ii)* receive an equal number of votes to be chosen for appointment, it shall, if necessary, be determined by lot which of those persons shall hold office for the term referred to in *subparagraph (i)* and which for the term referred to in *subparagraph (ii)*.

(b) The member of the Council appointed under *section 18(8)* shall hold office for the term beginning on the day that he or she is appointed and expiring on the date that is 4 years from the establishment day.”.

Amendment agreed to.

Amendment No. 21 not moved.

Section 19, as amended, agreed to.

Sections 20 and 21 agreed to.

SECTION 22.

Government amendment No. 22:

In page 19, subsection (4)(a), line 40, to delete “Houses” and substitute “House”.

Mary Coughlan: I wish to draw Senators’ attention to an error in section 22, subsection (4), in

[Mary Coughlan.]
line 40. It is a reference to “Houses”, whereas the precedent indicates this should be in the singular.

Amendment agreed to.

Section 22, as amended, agreed to.

SECTION 23.

Mr. McCarthy: I move amendment No. 23:

“In page 20, subsection (9)(a), line 28, to delete “may” and substitute “shall”.”

This amendment has been tabled to many Bills in this House. The legislation requires a member of the council to carry out the functions of a registrar. It does not seem appropriate to give the council discretion not to appoint an acting registrar in the absence of the registrar. Where the registrar’s position is vacant or the registrar is ill, suspended or for whatever reason is unable to fulfil his or her duty, there should be a requirement to appoint an acting registrar. That section of the Bill needs a more definitive approach.

Mary Coughlan: Amendment No. 23 would make it mandatory for the Veterinary Council of Ireland to appoint an acting registrar in the circumstances described in subsection (9)(a). I fully recognise the importance of ensuring the office of the registrar of the council operates effectively at all times and that the affairs of the council are dealt with expeditiously. That said, the council must be afforded an appropriate degree of latitude to manage a range of day-to-day practical situations. For example, the registrar might be absent for a short period due to illness and it might not be necessary to formally appoint an acting registrar. I would like to draw Senators’ attention to section 23(5). Under this subsection, the council is enabled to establish arrangements to ensure that its affairs can be conducted during very short absences from the office of the registrar. The subsection provides that another member of staff may be duly authorised to deal with specified issues and it would be prudent for the council to have such arrangements in place in advance. On balance, the concerns underlying this amendment are adequately catered for with the Bill as drafted.

Mr. McCarthy: There might be a situation where someone might not consider it necessary to appoint an acting registrar. The registrar might be absent for a variety of reasons. What is proposed in the amendment would be a safer approach in terms of dealing with the absence of a registrar. It goes back to the use of the words “shall” and “may”. There should be a more binding responsibility or onus on the council whereby it is enabled under the Act to appoint an acting registrar. That would be a more business-like practice.

Dr. Henry: Senator McCarthy has put forward a good argument. It would be preferable if a time limit could be put on how long the council could go without a registrar. If a very powerful chairman has had a dispute with the registrar, the chairman may be pleased that he or she does not have to appoint an acting registrar. I am sure the Minister and her officials have discussed this issue carefully. Powerful people are often quite pleased to be able to run a show on their own. If a situation arose where there had been a dispute between the chairman and the registrar, a council that had been one year in operation could then go on for another three years without an acting registrar. A registrar can act as honest broker in these types of organisations if there is trouble between the council and its constituents.

Mr. Coonan: I support Senator McCarthy’s amendment. He is calling for a definite arrangement whereas the Bill tends to put the matter on the long finger. The Minister is aware of what happens if something is left on the long finger. It is better to be definite and positive about something than indefinite and indecisive.

Mr. Quinn: This amendment is very sensible and I urge the Minister to consider it.

Mary Coughlan: Since time immemorial, “may” and “shall” have been discussed. Some day we may bring it to finality.

Mr. McCarthy: We will or we might?

Mary Coughlan: We might because as Senator McCarthy knows I could be on the other side and table these types of amendments. I am trying not to be too prescriptive in the day-to-day running of the council. I agree there may be issues. We have a new registrar, who is a fine young lady, and hopefully things will go well. Under the legislation, it is not permissible for someone to hold an acting position for more than 12 months. Therefore, if someone is incapacitated and a replacement has been appointed in an acting capacity, that would have to be dealt with by the council within the 12-month period, whichever is shorter. I would hope that within the context of the council and because we will have such fine people on it, they would be able to deal with any type of issue that may arise. However, there will be a 12-month timeframe, which might address the concerns expressed by the Members of the House.

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

Mr. McCarthy: Considering the Minister’s reply in respect of our position, I think I will move the amendment on Report Stage. I ask the Minister to seriously reflect on the amendment. I accept the Minister’s point that we could discuss this issue indefinitely but it is a very important point. Since the Minister has gone so far with

regard to so many sections of this Act, it would be remiss of her not to seriously consider this amendment.

Amendment, by leave, withdrawn.

Section 23 agreed to.

Section 24 agreed to.

SECTION 25.

Question proposed: "That section 25 be deleted."

Dr. Henry: I am very glad that the Minister proposes to delete this section because the House is not a Government body. It is an independent authority.

Mr. McCarthy: There was a certain echo when the Acting Chairman said that the Minister, Senator Henry and the Labour Party have agreed on this section. I recognise the Minister's practicality with regard to this issue. To be fair to the Veterinary Council of Ireland, it has pointed out that deputy members are already provided for and the pensions scheme is approved by the Pensions Board. I thank the Minister for this amendment.

Question put and agreed to.

SECTION 26.

Mr. McCarthy: I move amendment No. 24:

In page 23, between lines 3 and 4, to insert the following new subsection:

"(4) Part I of the Third Schedule to the Freedom of Information Act 1997 is amended by the insertion of reference to this section."

This amendment is self-explanatory. We wish to see the Freedom of Information Act apply to the council and accordingly it is appropriate to make reference to this section in the Freedom of Information Act 1997. Whatever our views are about the manner in which the Freedom of Information Act has been weakened, it is important to table this amendment. This issue is important for the deliberations of the council and in terms of the consistent application of the Freedom of Information Act throughout the public sector.

Dr. Henry: I support Senator McCarthy's amendment.

Mary Coughlan: I have no difficulty in principle with the essence of amendment No. 24, which proposes to make the confidentiality clause provided for in section 26(1) subject to the provisions of the Freedom of Information Act. The amendment will not have any effect until the Freedom of Information Act is extended to embrace the Veterinary Council and, as Senators may be aware, the Minister for Finance intends

to bring forward legislation in the near future to extend the remit of the Freedom of Information Act to embrace a number of additional bodies, including the Veterinary Council of Ireland. In this context, consultations are ongoing between the Department of Agriculture and Food, the Department of Finance and the Attorney General as to the best legislative vehicle to address the subject matter of this amendment. I hope to be in a position to return to this matter on Report Stage.

Amendment, by leave, withdrawn.

Section 26 agreed to.

SECTION 27.

Acting Chairman: Amendment No. 26 is an alternative to amendment No. 25. If amendment No. 25 is agreed, amendment No. 26 cannot be moved.

Government amendment No. 25:

In page 24, between lines 5 and 6, to insert the following new subsections:

"(7) Where the Council is of opinion that a disclosure made under *subsection (1)*, or *paragraph (a)* of *section 28(1)*, is of sufficient importance to merit it, it shall consider furnishing details of the said disclosure in the next report prepared under *section 31*, following the disclosure.

(8) A member of the Council shall absent himself or herself from consideration, for the purposes of *subsection (7)*, of a disclosure that was made by him or her."

Mary Coughlan: I have carefully considered amendment No. 26 which proposes making public all disclosures of interests made by either members or staff of the council. We must be very careful to keep a balance between the legitimate rights to privacy of private citizens and the right of the public to know of issues which might affect the impartiality of a person on the council or a person employed by it. The most important objective is provide an environment in which disclosures will be made to the council itself so that it may act accordingly.

The public interest would not necessarily be better served by requiring the making public of all disclosures by members and staff of the council. Publishing such details could mitigate against disclosure. I propose an alternative approach through which the council would be charged with making a determination as to whether a disclosure is of sufficient importance to merit publication and, if so, to have that disclosure published in its next annual report. This strikes the correct balance and ensures that the private details, while being brought to the attention of the council as appropriate, need not be made public in all cases.

Amendment agreed to.

Amendment No. 26 not moved.

Section 27, as amended, agreed to.

Section 28 agreed to.

SECTION 29.

Acting Chairman: Amendment Nos. 28 to 30, inclusive, are alternatives to amendment No. 27 and amendments Nos. 31 and 32 are related. Amendments Nos. 27 to 32, inclusive, will, therefore, be taken together by agreement.

Mr. McCarthy: I move amendment No. 27:

In page 24, lines 26 to 35, to delete subsection (1).

For the purpose of clarity, are amendments Nos. 27 to 32, inclusive, grouped? Two of these amendments are in my name and three are in that of the Minister.

Acting Chairman: They are grouped.

Mr. McCarthy: I wish to hear the Minister's reply before moving my amendments.

Mary Coughlan: Arising from comments, particularly from Senator O'Toole, on Second Stage, my Department has reviewed recent statutes in respect of Members of the Oireachtas or the European Parliament or local authority representatives being members of statutory bodies. While it is true that there has not been a rigid approach to this area in general, Members of the Oireachtas and the European Parliament have been precluded from membership of a number of statutory bodies.

In the case of local authority representatives, this is not the case. My view is that the particularly busy working schedules of Members of the Oireachtas and the European Parliament, coupled with the absence of the latter group from the country for much of the working week, raises a practical difficulty in terms of their availability for meetings that would arise on foot of membership of the council. This would not be in the interests of the council, which we are asking to take on a heavy workload in the years ahead.

This difficulty is not as acute for local authority members. Accordingly, I can partially accept the proposals from Senators Henry and McCarthy. This is hoped to be achieved by removing the ban on local authority representatives being appointed to the Veterinary Council and tabling the four individual amendments to section 29(1) and (4).

Mr. Callanan: Hear, hear.

Mary Coughlan: I am catering for Senator McCarthy's voters.

Dr. Henry: It is amusing that the Members of the Oireachtas keep ruling themselves out of various jobs but I take the Minister's point about people being busy. Nothing is more irritating than finding that people take on responsibilities for which they do not have time. I accept the Minister's comments on local authorities and thank her for them.

Mr. McCarthy: I welcome the part that agrees in principle with the amendments. It is good that the ban on members of local authorities has been removed. Whatever about everyone else, we are dealing with one type of body, the members of which were elected. Communities have faith in these people's ability to deliver at local government level. This should not necessarily suggest that their membership of local authorities should prevent them carrying out a function under another guise. I welcome the part that favours my amendment.

Amendment, by leave, withdrawn.

Government amendment No. 28:

In page 24, subsection (1)(b), line 29, to delete "Parliament" and substitute "Parliament, or".

Amendment agreed to.

Government amendment No. 29:

In page 24, subsection (1)(c), line 33, to delete "or".

Amendment agreed to.

Government amendment No. 30:

In page 24, line 34, to delete paragraph (d).

Amendment agreed to.

Amendment No. 31 not moved.

Government amendment No. 32:

In page 25, lines 13 and 14, to delete subsection (4).

Acting Chairman: I do not wish to abuse the privileges of the Chair but, in light of the fact that I raised the issue dealt with in this amendment on Second Stage, I join in the thanks offered to the Minister.

Amendment agreed to.

Government amendment No. 33:

In page 25, lines 19 to 22, to delete subsection (6).

Dr. Henry: This amendment is consequential on the matter of superannuation.

Mary Coughlan: Yes and, as that is the case, subsection (6) must be deleted.

Acting Chairman: Senator Henry has indicated her opposition to this section.

Dr. Henry: The Minister has been entirely logical and has removed the part that followed on from the superannuation area discussed earlier. I am no longer opposed to the section.

Amendment agreed to.

Section 29, as amended, agreed to.

Section 30 agreed to.

SECTION 31.

Government amendment No. 34:

In page 26, subsection (4), line 23, to delete “them” and substitute “it”.

Mary Coughlan: This amendment corrects a grammatical error.

Amendment agreed to.

Section 31, as amended, agreed to.

Sections 32 to 37, inclusive, agreed to.

SECTION 38.

Government amendment No. 35:

In page 29, subsection (4)(e), lines 3 and 4, to delete “*section 80(I)(iii)(II) or (III)*” and substitute “*subparagraph (II) or (III) of section 80(I)(iii)*”.

Mary Coughlan: This is a minor textual amendment.

Amendment agreed to.

Section 38, as amended, agree to.

Sections 40 to 42, inclusive, agreed to.

SECTION 43.

Government amendment No. 36:

In page 29, subsection (2)(a), line 38, to delete “courses” and substitute “programmes”.

Amendment agreed to.

Question proposed: “That section 43, as amended, stand part of the Bill.”

Dr. Henry: Will the Minister have other Departments read this and the previous sections? The House goes to so much trouble to have registers published annually, etc. If people’s names are

appearing on and disappearing from registers, they must be compiled annually. I commend the Minister’s officials on these sections and urge them to pass this information to anyone trying to compile a register.

Question put and agreed to.

Section 44 agreed to.

SECTION 45.

Government amendment No. 37:

In page 34, subsection (1), line 27, to delete “this section and”.

Mary Coughlan: I draw the attention of Senators to two technical amendments that are necessary to be made to section 45.

Amendment agreed to.

Government amendment No. 38:

In page 34, subsection (2)(b), line 33, to delete “courses” and substitute “programmes”.

Amendment agreed to.

Government amendment No. 39:

In page 34, subsection (2)(b), line 37, to delete “courses” and substitute “programmes”.

Amendment agreed to.

Government amendment No. 40:

In page 35, subsection (8), line 35, to delete “courses” and substitute “programmes”.

Amendment agreed to.

Government amendment No. 41:

In page 35, subsection (8), line 37, to delete “courses” and substitute “programmes”.

Amendment agreed to.

Government amendment No. 42:

In page 35, lines 42 and 43, to delete subsection (9).

Mary Coughlan: This amendment is also consequential on decisions that have been made previously.

Amendment agreed to.

Section 45, as amended, agreed to.

SECTION 46.

Acting Chairman: Amendment Nos. 43, 45 and

[Acting Chairman.]

46 are related and may be taken together by agreement.

Mr. McCarthy: I move amendment No. 43:

In page 36, subsection (2)(a), line 3, after “a”, to insert “Class A”.

This amendment is a result of the negotiations we have held with Veterinary Ireland. There is a point to be made about the temporary influx of foreign vets under the limited registration provisions. Examining this issue in the context of the manner in which limited registration applies to foreign vets, it should only be required where the disease or the eradication programme concerned involves a class A disease, rather than any possible disease eradication programme. There are sufficient numbers of personnel to deal with general cases of possible disease eradication programmes. The situation speaks for itself in terms of demanding assistance from outside Ireland. Reservations were expressed about the logic of allowing limited registration to apply more broadly than is necessary. I hope the Minister will consider this section in the same context.

Mr. Quinn: I agree with Senator McCarthy. This is something about which Veterinary Ireland has expressed a concern. The concern is that some future Minister could allow others in, when there is no national emergency. I am told the reference to class A might not be acceptable, on the advice of the Attorney General, because class A might not exist in ten years time. Could some other term be accepted, wording such as “a disease that poses a significant threat to the national herd”? I understand the concerns of the vets. It is necessary to tighten this legislation, as a laxity could develop in the future under someone who does not have the same commitment. I understand class A poses a difficulty but some other words might be acceptable, and this would overcome the concerns of the vets.

Dr. Henry: We must be careful about the maintenance of professional standards. We have a high professional reputation in this country and internationally. I support the amendment.

Mr. Coonan: Taken in the context of my amendment, I agree with my colleagues. We must be conscious of the impact of the veterinary signature on exports and animal welfare. It is accepted worldwide and any diminution thereof could have a knock-on effect. We need to be more specific about the type of individual who can be registered in certain cases. We must consider the impact this will have.

Mary Coughlan: I had the opportunity to meet the representatives, and we had a robust conversation on this issue. There are concerns that this provision could be used as a backdoor to register unqualified persons. This would undermine the veterinary profession. That is not my intention.

While the foot and mouth disease outbreak in 2001 was limited in geographical scope, it showed the pressure a large outbreak could put on the veterinary service. We need to be aware that a disease episode could occur throughout the EU or throughout the hemisphere. In that case we could not call on practitioners elsewhere in the European Community. We have educational recognition throughout the EU, but if something were to affect the entire Community there would be restrictions on who I could call. I think it prudent to make provision for an exceptional recognition mechanism, which would allow persons with requisite skills, such as trainee vets from other countries, to be taken in expeditiously. They would carry out specific tasks determined by the council.

The Senator is correct, because if we define it as a class A disease it may change. Hopefully, we will introduce new legislative proposals on animal diseases. Important safeguards are in place. The council must be satisfied that it is appropriate to activate this provision. There is also an education committee, provided for under section 66, that advises the council. The grounds for limited registration are specified under section 46(2). Conditions can also be attached, such as conditions of time, geographical limits or operating under supervision. It is not an opportunity for unregistered people to practise as veterinary practitioners. We are enabling the council to make a decision in the event of a pandemic. Unfortunately, this is something of which we must be aware.

I have expressed my views to the veterinary council. It has no problem with suitably qualified people coming in. We may need this, as many retiring practitioners are not being replaced, especially in rural Ireland. We may have to consider encouraging people to remain in rural Ireland to provide a service. Allowing this service to be provided is vital for the welfare of our animals and for our disease status. This is not a quick-fix solution but is only for certain time periods and particular pandemics. We may discover a disease that we do not have time to classify. It is prudent to allow the council to work instantaneously as this is appropriate for the disease status of this country. I have reassured the veterinary practitioners.

Mr. McCarthy: I thank the Minister but there are other reasons this amendment might be accepted. If there is a requirement to import expertise, this has a host of industrial relations implications. How many practitioners will be available? What will be the rate of remuneration? Consider the manner in which the retail market is being exploited by foreign companies. Accepting the Minister's response, I ask her to keep an open mind on this amendment for other reasons on Report Stage.

Amendment, by leave, withdrawn.

Mr. McCarthy: I move amendment No. 44:

In page 36, subsection (3)(a), line 7, after “requisite” to insert “educational qualification prescribed under section 66, and”.

Foreign registration applicants should have appropriate educational qualifications. Studying to enter the veterinary profession is very difficult. High points are required in the leaving certificate, and for the next six years students must apply themselves. The qualifications required to operate in this country must be consistent. There was an issue with the MRCVS obtained in UCD and I hope the Minister is favourably disposed to this amendment.

Mr. Quinn: On Second Stage the Minister said that as there are ongoing threats of disease outbreaks we must ensure that, if necessary and at short notice, we can call on adequate support and veterinary expertise from outside the State. That is the proposal for the limited registration. We have no problem with the present Minister, but there is a concern we believe is worthy of consideration.

The Minister touched on the idea of an epidemic or a threat to the national herd. I was in Asia last year during the outbreak of avian flu.

It was frightening to see what could happen and the help that would be needed to deal with such an outbreak. That is the Minister's point. I want to ensure that while we are scared of such an event and want to make sure we are prepared for it, we must also ensure that in the future those who do not have qualifications are not invited in. The purpose of the amendment is to protect the future.

Mr. Coonan: I support the amendment. Veterinary Ireland pointed out clearly that it wanted this amendment included in the Bill. It comprises professional people who know what they want and they should be accommodated.

Mary Coughlan: I appreciate the Senator's point of view but this argument is driven by a fear that people's professionalism is being undermined. That is not the situation. If one were to tie the phrase “requisite knowledge and skills” into section 66 the people concerned would have to be veterinary practitioners which would tie their hands. They must have appropriate linguistic skills, be of good character and repute, not have been convicted of an offence which would render them unfit for the practice of veterinary medicine, and not stand prohibited in either Ireland or another country from practising veterinary medicine, as well as other issues.

This would arise in the event of a short, sharp response to a pandemic or epidemic that may, but hopefully will not, reach our shores. Senator Quinn is correct that the Department is examining how best to deal adequately with other pandemics that may arise, such as avian flu.

Parliamentary questions have been submitted in the other House about what we are doing to ensure we can give an adequate response. If this were to be introduced as an EU-wide issue we would not have enough veterinary practitioners to deal with a problem that may arise. That is why we need flexibility.

I appreciate the Senators' points. I have told the veterinary practitioners that we are not trying to undermine them or the profession. I want to encourage people in the profession, especially to encourage them to move back into rural areas where a lack of veterinary practitioners with their one-to-one interaction with farmers would have a detrimental effect on disease and issues appertaining to animal welfare.

This is enabling legislation which will not be used willy-nilly simply because we are short of a few veterinary practitioners. Those to whom it applies will be under instruction if they are at training stage. This preparatory provision has worked before.

Dr. Henry: The Minister has made her case well. Happily, the veterinary council includes many veterinary practitioners who will not want to see their profession denigrated in any way. The Minister has put the case well for this provision to deal with an emergency or pandemic.

Mr. McCarthy: I acknowledge the Minister's response but it is important to reiterate that those involved in the profession want to ensure that the same standards of delivery to customers should apply no matter who is the practitioner.

One sees young graduates from other countries beyond the European Union working in veterinary practices around the country. They cope well and are as capable of practising here as they would be in their own countries despite the different accents they hear around the country. It is important to achieve consistency across the board, no matter who is practising, not least in terms of animal welfare but also for delivery of service. The consumer is entitled to receive the same standard and level of expertise.

Amendment, by leave, withdrawn.

Amendment No. 45 not moved.

Acting Chairman: Amendment No. 46 has been discussed with amendment No. 43.

Mr. Coonan: I move amendment No. 46:

In page 37, between lines 28 and 29, to insert the following new subsection:

“(12) For the avoidance of doubt, a person who is registered under this section shall not carry out on an animal a treatment or procedure or administer an animal remedy, save in the course of a Class A disease eradication programme.”.

[Mr. Coonan.]

I accept this amendment was already discussed in part.

Acting Chairman: If that happened it is the fault of the Senator not of the Chairman. However, I will give him some latitude.

Mr. Coonan: I spoke on amendment No. 44. We did not discuss amendment No. 46.

Acting Chairman: We discussed amendment No. 46 with amendment No. 43 but we will not make a federal case out of the matter.

Mr. Coonan: Amendment No. 46 is different. It is a specific amendment on this issue. If the Minister introduces limited registration what will happen to those people when the pandemic is over? How will they survive?

The danger of introducing limited registration is that those people can continue to operate. I tabled the amendment to define what they can and cannot do.

Mary Coughlan: People will be brought in on a contract basis, at the council's instigation. Once it has been decided that the problem has been resolved they will no longer be registered.

Mr. Coonan: Is the Minister saying they will be deregistered?

Mary Coughlan: Yes because it is a contract and that will reflect the registration.

Mr. Bohan: Deregistration is automatic.

Mary Coughlan: The contract is framed by a time limit.

Acting Chairman: Is the amendment being pressed?

Mr. Coonan: No.

Amendment, by leave, withdrawn.

Section 46 agreed to.

SECTION 47.

Acting Chairman: Amendments Nos. 47 and 81 are related and will be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 47:

In page 37, subsection (2)(b), line 36, to delete "to be registered," and substitute "to be or continue to be registered,".

Mary Coughlan: It is proposed to provide, for the first time under the legislation, for different categories of recognition by the Veterinary Council. The council expressed a concern about specialists such that under the Bill as drafted a

person once registered as a veterinary specialist could continue to enjoy such registration indefinitely, even if he or she was no longer recognised by the body which had granted the specialist qualification.

I am aware that Senator Henry has tabled a similar amendment, namely, amendment No. 81 for section 64(2). This would not be a desirable situation, and having consulted with the Attorney General I propose this amendment to avoid any legal doubt on this point.

Accordingly, I propose to amend section 47(2)(b) by entering the words "or continue to be registered". Thus the council will be enabled to deregister as a veterinary specialist a person who is no longer recognised by the relevant body. This amendment will also cover Senator Henry's concerns.

Dr. Henry: I thank the Minister for moving this amendment and thank her officials for pointing it out to me before we came into the House so that I do not have to waste energy later.

This issue is very important because practitioners must keep up with the many changes in the professions. The Minister's proposal is adequate to cover this problem. Someone who said he or she was an equine specialist in 1982 would not be an equine specialist now.

Acting Chairman: Except for the ones who were in Cheltenham last week.

Amendment agreed to.

Section 47, as amended, agreed to.

Sections 48 to 53, inclusive, agreed to.

SECTION 54.

Acting Chairman: Amendments Nos. 49 and 50 are alternatives to amendment No. 48. If amendment No. 48 is agreed, amendments Nos. 49 and 50 cannot be moved. Amendments Nos. 51 and 55 are related and amendments Nos. 52 and 53 are consequential on amendment No. 51. Amendments Nos. 54 and 56 are alternatives to amendment No. 55. If amendment No. 55 is agreed, amendments Nos. 54 and 56 cannot be moved. Amendments Nos. 48 to 56, inclusive, will be taken together, by agreement.

Amendment No. 54 is out of sequence and should appear after amendment No. 56. It will be dealt with once amendments Nos. 55 and 56 have been disposed of. I mention this in case Senator McCarthy is worried about his amendment. Is that agreed? Agreed.

Government amendment No. 48:

In page 41, subsection (1)(a)(i), lines 18 and 19, to delete "or condition," and substitute "or state of health,".

Mary Coughlan: Amendment No. 48 is proposed to meet the concerns of those who believe that the absence from the definition of a reference to diagnosing the health of an animal creates an imbalance in the definition. I recognise that vets are not in all cases engaged in diagnosing specific diseases and in some situations are, in effect, diagnosing the apparent absence of disease. Accordingly, I propose to replace the word “condition” with “state of health”. I do not believe it is appropriate to retain the word “condition” in the definition since it covers much of the same ground as “state of health”. Accordingly, I am not in a position to accept amendment No. 49 proposed by Senator Henry or amendment No. 50 proposed by Senator McCarthy in so far as they relate to this issue. In essence what I am proposing will have the same effect.

As regards amendments Nos. 51 to 53, among the many useful comments which the dean of the veterinary college passed to me was one relating to the interpretation of “tests” which under the published version of the Bill will be reserved in all cases to vets. I recognise, particularly in the increasing complexity of technologies associated with the carrying out of tests, that in many cases it is the expert rather than the vet carrying out the analysis who actually interprets the test. Having given the result to the vet, it is for him or her to determine appropriate treatment, bearing in mind other symptoms and results. Accordingly, I propose to delete section 54(a)(iv) in its entirety. A consequential amendment arises in subsections (v) and (vi) of the section. Amendments Nos. 52 and 53 refer.

In amendment No. 55 I am accepting the substance of Senator Henry’s amendment, and that of Senator McCarthy, in regard to the placing of the reference in the definition of the veterinary practice of necropsy. As I am sure Senators are aware, necropsy refers to carrying out a post-mortem. However, having consulted with the Attorney General, and with an eye to simplification, I propose to use slightly different terminology by referring to “cause of death”. I also propose to make an addition to the definition of “diagnosing” in section 56(2). This arises from concerns expressed to me by members of the veterinary profession about diagnosing pregnancy and related procedures in mares.

Senator McCarthy also tabled an amendment in this regard. Having considered in detail the specific suggestions put forward, I propose to add to the definition the phrase “examining the reproductive organs of the mare via the rectum”. While I recognise that it would not be usual to be so specific in primary legislation, in this instance I believe it is the best course in the interest of absolute clarity.

Dr. Henry: I agree with the Minister.

Mr. McCarthy: How sure was the Minister when she maintained Members knew what necropsy was to begin with? I accept the Minister’s

pragmatism, which is a worthwhile and timely intervention.

Mr. Quinn: This approach will solve a problem which concerned people.

Mr. Coonan: I compliment the Minister, even though I am not so sure about the meaning of the word.

Amendment agreed to.

Amendments Nos. 49 and 50 not moved.

Government amendment No. 51:

In page 41, subsection (1)(a), lines 24 and 25, to delete subparagraph (iv).

Amendment agreed to.

Government amendment No. 52:

In page 41, subsection (1)(a)(v), lines 26 and 27, to delete “referred to in *subparagraph (i), (ii), (iii) or (iv)*” and substitute “referred to in *subparagraph (i), (ii) or (iii)*”.

Amendment agreed to.

Government amendment No. 53:

In page 41, subsection (1)(a)(vi), lines 29 and 30, to delete “referred to in *subparagraph (i), (ii), (iii), (iv) or (v)*” and substitute “referred to in *subparagraph (i), (ii), (iii) or (iv)*”.

Amendment agreed to.

Amendment No. 54 not moved.

Government amendment No. 55:

In page 42, lines 5 and 6, to delete subsection (2) and substitute the following new subsection:

“(2) In subsection (1)(a)(i), ‘diagnosing’ includes the following:

(a) diagnosing the cause of death of an animal, and

(b) examining the reproductive organs of a mare via the rectum.”.

Amendment agreed to.

Amendment No. 56 not moved.

Section 54, as amended, agreed to.

Section 55 agreed to.

SECTION 56.

Acting Chairman: Amendments Nos. 58 to 62, inclusive, are alternatives to amendment No. 57. If amendment No. 57 is agreed, amendments Nos.

[Acting Chairman.]

58 to 62, inclusive, cannot be moved. Amendment No. 62 is a logical alternative to amendment No. 63, and it will be discussed with that amendment. Amendments Nos. 57 to 61, inclusive, will be discussed together.

Government amendment No. 57:

In page 42, lines 37 to 48 and in page 43 lines 1 and 2, to delete subsections (2) and (3) and substitute the following new subsections:

“(2) Subject to any matters prescribed under *section 60*, a person who is not a registered person may, in an emergency in relation to an animal, save where otherwise prohibited by law, and notwithstanding *section 55(1)*, carry out such treatment or procedure or administer such an animal remedy as he or she considers necessary, having due regard to the welfare of the animal, where a registered person is not available within a reasonable period of time.

(3) Save where otherwise prohibited by law, and notwithstanding anything in this Act, a farmer who is not a registered person, or an employee of the farmer acting in the course of his or her duties who is not a registered person, may carry out a treatment or procedure on, or administer an animal remedy to, an animal owned by the farmer provided that carrying out the treatment or procedure on, or administering the animal remedy to, the animal is incidental to the usual care and management of that animal.

(4) For the purposes of *subsection (3)*, ‘employee of the farmer’ means a person employed by the farmer for at least 2 of the 4 months prior to the treatment or procedure being carried out or the animal remedy being administered.”.

Mary Coughlan: In view of the fact that I am proposing under the Bill to define the practice of veterinary medicine for the first time, and to avoid farmers and others being criminalised for doing something in an emergency out of concern for an animal that is sick, injured or in severe distress, it is necessary to specifically provide for emergency situations.

I recognise that there could be concerns about the possible abuse of such a provision. However, I would point out that the provision is quite tightly drafted and that, under *section 60*, I may make regulation under which I could address any symptomatic problems which might be identified. Notwithstanding this, I can accept the essence of Senator Henry’s amendment, which is designed to better define the timescale elements by replacing “immediately available” with “available within a reasonable period of time”. This construction in *section 56(2)* will offer better protection against abuse of the provision.

I also propose to make an amendment to *section 56(2)* to provide for greater emphasis on

the primary importance of the welfare aspect when a person other than a vet decides to treat an animal in an emergency. Accordingly, I propose to insert the phrase “having regard to the welfare of the animal”. This means that the welfare of the animal will be the overriding issue in an emergency situation. Taken together, the two amendments will improve the protection afforded by the provision and will make it clear that it cannot be relied on by non-vets as a cover, that the emergency must be real and that the welfare of the animal must come first. This is something to which we referred in our initial discussions. The amendments reflect the concerns expressed by Members of the House.

Dr. Henry: The Minister has gone a long way to try to deal with this issue which is a bit nebulous. My concern was that if the price of sheep was low, and someone began to do a caesarean section on them if they were having trouble lambing, calling a vet may cost more than the value of the lamb. How often could this happen on one farm before one would take notice of it? The Minister has gone a long way in trying to cover this aspect. I am not sure how one can deal with the scenario I envisage. When the price of animals is low, calling a vet is a very expensive business. I am thinking about difficulties with lambing in particular. I do not know why sheep are not designed to lamb themselves; humans are much easier. This is the aspect about which I am concerned. What the Minister has included covers the concerns I expressed previously. I am not sure how to deal with the problem, other than to say that people should be vigilant about animal welfare. It is well known that some farmers’ animals are always getting into trouble.

I will have to rely on the person from the sheep sanctuary who will be on the council and will keep a special eye on these cases. It is a problem that people are sometimes reluctant to seek help about because of the cost involved. One can understand that because there is a very fine line in terms of profit margins. However, the welfare of animals is very important.

Mr. McCarthy: The most important phrase in the Minister’s response was “welfare of the animal”, which is enshrined in my amendment No. 60. It is a technical amendment to ensure that reference to the Veterinary Surgeons Act 1931 can be avoided. The Minister has accepted the general principle which is based on the welfare of the animal.

I accept what Senator Henry said that it is an expensive business to call out a vet if people feel they are dealing with a product which is not financially rewarding. There are situations where the decision-making ability rests within the parameters within which that decision can be made, considering at all times the welfare of the animal. I thank the Minister for her reply.

Mr. Coonan: Senator Henry mentioned that there are a number of farmers who always have problems with their animals. However, the number is limited and the vast majority pride themselves, for example, when 40 cows are calved successfully or when there are 39 live births out of 40. They set very high standards. The Minister referred to somebody who is an employee of the farmer for at least two of the previous four months. Calving and lambing seasons are very defined, and that cannot happen in the terms which the Minister has set. I am worried in that regard. Otherwise I commend her efforts to address these problems.

Mr. Scanlon: I have some knowledge of farming and while the value of a lamb or a sheep may not be as high as the cost of a visit from a vet, the farmer would have the welfare of the animal at heart in all cases with which I have dealt. Farmers can deal with 99.9% of lambing cases, and vets are usually called out when cows are calving, which is when serious problems can occur. Vets are always called in such cases. The risk is very high in that the loss of a cow or a calf is serious and farmers do not usually wait.

Farmers are better organised than they were years ago and know exactly when their sheep are yeanning. They bring them in, look after them and watch them closely, and it is crucial that they do so or they will not stay in business.

Dr. Henry: I support what Senator Scanlon has said and would not like anyone to think I was suggesting this often happened. Unfortunately, it is the notorious cases which are often well-known in an area. This probably does not apply to best practice farmers. Are we sure we can be sufficiently vigilant with regard to these cases? I do not know whether the Minister can do more than rely on those who have great concern for animal welfare, which would be 99% of people in this country.

Mary Coughlan: If we are not happy, I have the opportunity to introduce regulations.

The issue regarding employees is not an emergency situation. An employee would be covered in terms of normal husbandry as opposed to an emergency situation. This measure is to avoid abuse of the provision by persons who might hire themselves out on a daily or very short-term basis, but would not be an employee in the true sense. Senator Coonan is referring to the lambing and calving seasons. An employee working in normal husbandry and looking after their animals is not in an emergency situation and will not be covered. We are not providing that cover, rather we are saying that such people exist, that they are involved in normal husbandry and are therefore covered under the safeguards.

The emergency situation would be of concern to us all. There are also practical implications. If one is on Arranmore Island and has a cow that is going to die one could be waiting three days for

the vet. We must allow for that normal aspect of life. Practicalities exist in all of these issues. In the main, farmers are very anxious about the welfare of their animals, in particular during the vital seasons. Unfortunate accidents can occur and no one in this House would want any animal to suffer as a consequence of having to wait an inordinate amount of time for something to be dealt with. Similarly, no one wants to criminalise the farmer for dealing with the issue.

There must be parameters and awareness. An enabling legislative proposal will introduce a statutory instrument to deal with any issues which may be brought to the attention of the council or the Department. The other issue, under section 56(4), does not relate to an emergency situation. We are not reflecting such a situation, and that is why we are speaking of two to four months of employment and not casual labour.

Mr. Coonan: What sort of employee does the Minister visualise as suitable?

Mary Coughlan: Any employee that is genuine would be suitable, not just someone who comes in for one evening. He or she must be an employee of a farmer over a stretch of two months.

Mr. Coonan: They must have been working on a farm for two months out of the previous four.

Mary Coughlan: I would envisage an even longer period of time.

Mr. Coonan: There will be a problem if the letter of the law is adhered to.

Mary Coughlan: When has that ever happened? These are part-time people and will be there to assist during a certain period. Larger farming enterprises have such people coming in on a regular basis. The normal people know the score, they know what to do and know what is necessary. What we do not want is someone coming in once and making a decision which may be detrimental to the farming fraternity. That is not what we are saying. We are reflecting the fact that there are part-time people who work as farmers and they should equally have the same support and recognition within the legislation.

Amendment agreed to.

Amendments Nos. 58 to 62, inclusive, not moved.

Government amendment No. 63:

In page 43, between lines 4 and 5, to insert the following new subsections:

“(6) (a) Subject to *paragraph (b)*, notwithstanding anything in this Act, a student of veterinary medicine may do or perform an act matter or thing the doing or performance

of which forms part of the practice of veterinary medicine.

(b) The student of veterinary medicine referred to at *paragraph (a)* shall do or perform the act matter or thing if—

(i) it is required to be done or performed as part of the approved programme of education in which the student is participating,

(ii) it is done or performed under the direct supervision and in the presence of a veterinary practitioner, and

(iii) the act matter or thing is, in the opinion of the person providing that approved programme of education and the veterinary practitioner, appropriate to the knowledge, skill and competence of the student.

(7) In subsection (6) 'student of veterinary medicine' means a person who has duly enrolled in, commenced and is participating in an approved programme of education."

Mary Coughlan: I recognise the concerns which underlie Senators Henry and McCarthy's amendments with regard to trainee vets and nurses who as part of their course of training, in effect, practice veterinary medicine to gain a requisite level of experience specified by the veterinary college. Therefore I can accept the substance of these amendments and propose new subsections (5) and (6).

The amendment I propose will provide for a number of safeguards as follows. The work done must be under the direct supervision and in the presence of a registered practitioner. The practitioner and the college must be satisfied that the student has the requisite knowledge, skill and competence to do what is being asked, and the work done must relate to the need to gain a level of experience prescribed for the course concerned.

A subsequent amendment arises in section 2 which lists definitions where it is necessary to provide that the definition of an approved programme of education, which is already provided for in section 62, will also apply to approved programmes referred to in section 56(6).

Dr. Henry: I thank the Minister; the amendment entirely deals with my concern. Students must have some practice and that is why it is important to include that they must practice under supervision.

Mr. McCarthy: I too thank the Minister for dealing with this in terms of her own amendment. We discussed the matter on Second Stage. Graduates leave the veterinary college after six years of very hard study and then arrive on to the practical field of their profession with, in some cases, no internship and therefore no experience. They might have the knowledge but they would not

have the practical experience of carrying out procedures.

With regard to the Garda college, no trainee garda would go through the practicalities of learning to breathalyse somebody until they were qualified in dealing with the issue. Equally, a nursing student would go through the rigours of carrying out various intravenous and injection procedures based on experience accrued during the practical stage of his or her course. This is an important point.

Many of the veterinary practices are extremely busy and many are of different sizes and must deal with the resources available to them. Therefore a situation could possibly arise whereby somebody who owns and is in charge of a practice would rely on new and fresh graduates to carry out procedures that should only be carried out by those who are experienced and by senior practice members. There is a double-edged sword in terms of the work being carried out by the newly-qualified veterinary surgeon, the level of remuneration available to that graduate for the work carried out and the delivery of service, bearing in mind the welfare of the animal. It is not fair in terms of the welfare of animals or the service delivered to the animal owner that somebody would arrive in a yard to carry out a procedure which he or she has not carried out heretofore and, therefore, would not have practical knowledge of. In that respect the Minister's amendment deals conclusively with that issue. While there have been many calls for the legislation in recent years this is matter that should be borne in mind.

In regard to the educational aspect there is a need to be cognisant of the manner in which people can practice and operate within the profession once qualified. They should have the appropriate qualifications to allow them carry out the procedures but there is the important issue of the level of practical knowledge and experience a person would have accrued, not least to protect people from unscrupulous employers. I do not say they are prominent in this profession but it is an issue of which we need to be cognisant.

Mr. Coonan: I welcome what the Minister and Senator McCarthy have said. I am a little perplexed because I am amazed at the standards in Cork and Donegal. For more than 20 years, student vets have been attending in our area with the veterinary surgeon and taking part on a practical basis. I hope they would not have done anything illegal.

Mary Coughlan: They would not.

Mr. Coonan: If that is what the Minister means by the legislation that is certainly positive and worthwhile.

Amendment agreed to.

Amendment No. 64 not moved.

Section 56, as amended, agreed to.

SECTION 57.

Mr. McCarthy: I move amendment No. 65:

In page 43, line 10, to delete “, the details of which are registered on the Register”.

If the Minister has spare civil servants perhaps she would dispatch them to Members who have tabled too many amendments.

My amendment deals with the details registered on the register. Section 57 as drafted would make it a criminal offence for a vet to advertise or use any qualification that is not registered on the register. This appears unduly harsh particularly if the qualification is one the practice might enjoy. The amendment would make it clear that a vet is committing an offence by claiming to have a qualification he or she does not have and it is not necessary that the qualification be registered on the register to avoid criminal liability. We consider that the vet should be obliged to register full details but that can be dealt with under other sections. We tabled this amendment to seek clarification.

Mary Coughlan: Section 57 is designed to ensure the public is not misled as a result of registered persons displaying on signage on their premises a title or qualification they do not possess. By definition, this concerns titles or qualifications relating to veterinary practice. Sections 43, 47 and 51 provide a comprehensive framework for registration of all relevant aspects relating to a person's qualification, including specialised and additional qualifications. Similarly, section 108 provides the council with adequate means of controlling the description to be used in various types of premises. Accordingly, if a registered person misleadingly uses any such terms he or she will have committed an offence. Therefore, it is appropriate that section 57 should refer to qualifications and so on which are registered and I would not be in a position to accept the amendment.

Dr. Henry: It is important to leave the position as it is. There are dreadful problems with people who claim to have degrees and diplomas they do not possess. Given that this is an international scandal the public has to be protected. It is unfortunate that the most rigorous measures have to be taken to prevent such claims being made. It is shocking to do this to the public and it debases any degrees a person may possess.

Mr. Coonan: On a point of clarification, when this legislation becomes law will it be illegal for a veterinary practitioner to advertise himself or herself as a veterinary surgeon?

Mary Coughlan: There will be no veterinary surgeons, there will be only veterinary practitioners. If I remember correctly, and I leave it to our university Senators, all qualifications stand in the time in which they have been conferred even if the establishment has changed. If one was

a veterinary surgeon in 1931 one is still recognised as having the acumen of a veterinary practitioner in 2005.

Amendment, by leave, withdrawn.

Section 57 agreed to.

Sections 58 and 59 agreed to.

SECTION 60.

An Cathaoirleach: Amendments Nos. 67 and 68 are alternatives to amendment No. 66. If amendment No. 66 is agreed, amendments Nos. 67 and 68 cannot be moved. Therefore, amendments Nos. 69 to 71, inclusive, are consequential on amendment No. 66 and amendment No. 72 is related. Amendments Nos. 66 to 68, inclusive, and amendments Nos. 70 to 72, inclusive, may be discussed together.

Government amendment No. 66:

In page 43, lines 22 to 43 and in page 44, lines 1 to 6, to delete subsections (1) and (2) and substitute the following new subsections:

“(1) Notwithstanding *section 55* and following consultation with the Council, the Minister may, by regulations, provide that a person who is not a registered person may, in treating an animal in an emergency, carry out a procedure that comes within the definition of the practice of veterinary medicine.

(2) the regulations referred to in *subsection (1)*, may provide that any procedure specified in the regulations shall be performed in compliance with conditions so specified, which conditions may be inserted for the purposes of—

(a) giving full effect in the State to any—

(i) provision of the Treaties governing the European Communities,

(ii) regulation, directive or other act adopted by an institution of those Communities, or

(iii) a judgement of the European Court of Justice,

that relates to the practice of veterinary medicine,

(b) maintaining and improving standards of animal health and welfare in the State,

(c) regulating and ensuring the proper practice of veterinary medicine in the State, or

(d) ensuring the adequate provision of veterinary services in the State.”.

Mary Coughlan: A number of concerns have been expressed about this provision which is designed to enable the Minister of the day, if necessary, to make regulations to deal with spec-

[Mary Coughlan.]
ific situations which may arise. It is a permissive provision which does not have to be activated unless required. Formal consultation with the Veterinary Council is required before any regulation is made. The Oireachtas may annul any regulation in accordance with standard procedures.

I note there is a particular concern about including the administration of anaesthetics in this provision and Senator Henry has tabled an amendment to replace this with a more general form of words. While I can agree to the deletion of the reference to anaesthetics, on the advice of the Attorney General I cannot accept the second element of the Senator's amendment as it is too broad. Nonetheless, in removing the reference to anaesthetics I am going a long way to meet the essence of the concerns being expressed. Consequential cross-referencing amendments arise in subsections (3) and (4).

Senator McCarthy has sought the deletion of section 60. I would point out that it offers an important safeguard by enabling a Minister in the future to intervene to curb any systematic abuse which may become apparent under the emergency provisions of section 56(2). I believe that the provision which is permissive should be retained with the amendment I have outlined and, consequently, I cannot accept his amendment.

Senator Coonan has proposed, by means of two amendments, to limit the regulation making power under this section to class A diseases. In regard to the amendments tabled to section 66, it is not appropriate to link emergencies with class A diseases, not least because if we were to do so, we could leave out injuries entirely. Therefore, I am not in a position to accept amendments Nos. 67 and 72.

Dr. Henry: I thank the Minister. I am totally confused after that explanation. Veterinary anaesthetics come under the Medicines Act and can only be given by a veterinary surgeon-practitioner.

Mary Coughlan: Yes.

Dr. Henry: Will that continue to be the position under the Bill?

Mary Coughlan: Yes.

Dr. Henry: The anaesthetic can be given only by a veterinary surgeon or veterinary practitioner.

Mary Coughlan: We are not going to regulate for anaesthetics.

Dr. Henry: If that is the case, does this provision not then conflict with the Medicines Board legislation?

Mary Coughlan: No. The Attorney General has advised that we can remove the provision relating to anaesthetics.

Dr. Henry: Far be it from me to dispute what the Attorney General has said, even though I frequently disagree with his advice. Is there no conflict?

Mary Coughlan: There is no conflict because it would have been cross-referenced.

Dr. Henry: Can the anaesthetic still be given by someone other than a vet?

Mary Coughlan: No. Anaesthetics can only be given by vets.

Dr. Henry: That is fine.

Mary Coughlan: This is reflected in section 56. An anaesthetic can only be administered by a veterinary practitioner who is suitably qualified and registered.

Dr. Henry: Suitably qualified and with no false diplomas.

Mr. McCarthy: I thank the Minister for providing clarification. A fair point was made by members of the profession that a situation could arise whereby unqualified persons could involve themselves in carrying out procedures or certain prescribed acts that would subtract from what an established professional practice has to offer. For example, a person trained by, but not possessing the same educational qualifications as, a vet who has similar access to that vet in terms of carrying out certain processes could possibly establish a business down the road and concentrate on dealing with small animals. In other words, an unqualified but competent person who has experience of carrying out procedures, etc., on such animals in a larger practice — of which said procedures might form a substantial part of its business — could establish their own concern and specialise in the areas of activity to which I refer. We have opposed section 60 to avoid this happening. Important procedures should be carried out in the context of an overall practice.

Mr. Coonan: I thank the Minister for providing clarification. Will she further clarify the situation in respect of non-registered persons? Senator McCarthy referred to this but, to be more specific, routine procedures are being carried out by farmers or their employees. I refer here to matters such as hoof paring or skulling and I will not upset the Minister by describing them.

Mary Coughlan: I have a fair idea about what the Senator is talking.

Mr. Coonan: Will the Minister assure the House that the *status quo* will continue and that these services will not be affected?

Mary Coughlan: Yes.

Mr. Quinn: I wish to pose the same question. I am somewhat confused.

Mary Coughlan: I confused the Senator and I apologise.

Mr. Quinn: I deserve to be confused when I come to the Chamber. I refer to the submission on the Bill from Veterinary Ireland which states:

Minister Coughlan's stated intention here is to provide "for non-qualified persons to carry out a very limited range of procedures." The legislation as drafted however goes much further — covering specific matters such as non-qualified persons "administering an anaesthetic to an animal," even though anaesthetics are classified as veterinary surgeons only, VSO, under animal remedies legislation.

I am not sure I understand the change made by the Minister. Will she put my mind at rest?

Mary Coughlan: I apologise to the Senator. We are talking about emergency situations. A non-registered and non-qualified person can treat an animal in an emergency. I am removing the phrase "administering an anaesthetic to an animal" from section 60(2). In an emergency, an anaesthetic may not be administered. Only a veterinary practitioner can administer an anaesthetic and that is how it will be.

The Senator also referred to the exceptions in section 56, which states:

(3) Save where otherwise prohibited by law, and notwithstanding anything in this Act, a farmer who is not a registered person, or an employee of the farmer acting in the course of his or her duties who is not a registered person, may carry out a treatment or procedure or administer an animal remedy on an animal owned by the farmer, which was authorised by or specified in section 46(3) of the Veterinary Surgeons Act 1931.

(4) The Minister may, by regulations, exclude from the application of *subsection (3)* specified treatments or animal remedies.

The normal procedures such as hoof paring and those performed either by a farmer or the farm relief service are not dealt with in this proposal. This section deals with emergencies. Anaesthetics cannot be used in an emergency but the normal day-to-day aspects of dosing and dipping sheep, looking after animals and paring hooves are dealt with under section 56. We are not being proscriptive in respect of this issue; we are dealing with what can happen in emergencies. We are removing the provision relating to anaesthetics because some members of the profession raised it as an issue.

Mr. Bradford: We are at one in trying to ensure that the section is tidied up. The Joint Committee

on Agriculture and Food heard a presentation from Veterinary Ireland in which strong representations were made to have this section, as Senator McCarthy's amendment suggests, removed. The Minister is proposing a new version of the section and I accept that she is trying to tidy it up. She made the point that she is removing the clause concerning the administration of an anaesthetic to an animal. Would the treating of an animal in an emergency not sometimes include the administration of an anaesthetic?

Mary Coughlan: Under the Animal Remedies Act 1993, only veterinary practitioners have access to anaesthetics. We are tightening up on that so that no one but a veterinary practitioner, because of the issues involved, will be able to administer an anaesthetic. Having access to something which, under other legislation, is not permitted would have significant consequences outside the parameters of an emergency situation.

Mr. Bradford: Will the Minister's amendment deal with the matter?

Mary Coughlan: It deals with the issue of concern to the vets, namely, that we were allowing the use of anaesthetics during emergencies. We have removed that provision completely. Only a vet can administer an anaesthetic and no one can have access to an anaesthetic except the veterinary practitioner.

Amendment agreed to.

Amendments Nos. 67 and 68 not moved.

Government amendment No. 69:

In page 44, subsection (3), line 7, to delete "*subsection (2)*" and substitute "*subsection (1)*".

Amendment agreed to.

Government amendment No. 70:

In page 44, subsection (4), line 15, to delete "*subsection (2)(a)*" and substitute "*subsection (1)*".

Amendment agreed to.

Government amendment No. 71:

In page 44, subsection (4), lines 16 and 17, to delete "*subsection (2)(b)*" and substitute "*subsection (2)*".

Amendment agreed to.

Amendment No. 72 not moved.

Section 60, as amended, agreed to.

Section 61 agreed to.

SECTION 62.

Government amendment No. 73:

In page 45, line 2, paragraph (c), to delete “computers” and substitute “information technology”.

Mary Coughlan: This is a textual amendment which relates to a term used in the context of the definition of “management” for the purposes of the Bill. I wish to replace the term “computers” with the more appropriate terminology of “information technology”.

Mr. Quinn: This issue was raised many times by Members on these benches. I am delighted with this amendment.

Amendment agreed to.

Government amendment No. 74:

In page 45, line 6, to delete “a programme of study of” and substitute “a programme of study of and training that relates to”.

Amendment agreed to.

Section 62, as amended, agreed to.

SECTION 63.

An Cathaoirleach: Amendment No. 76 is an alternate to amendment No. 75. Amendments Nos. 77 and 78 are related to amendment No. 75. Amendments Nos. 75 to 78, inclusive, will be taken together.

Government amendment No. 75:

In page 45, subsection (2), to delete lines 20 and 21 and substitute the following:

“(2) The Education Committee shall consist of no fewer than 8 and no more than 11 members of the Council, who shall be appointed by the Council, and shall include the following:”.

Mary Coughlan: I do not have a difficulty with the principle underlying the amendments to provide for the possibility of an increased number of members who could be appointed to the Veterinary Council of Ireland education committee. However, the advice of the Attorney General is that an upper limit needs to be specified. Accordingly, having consulted further with the council, I propose to provide that the eight persons stipulated with the education committee may be supplemented by up to three additional members drawn from the council. In these circumstances, it is not necessary to provide, as proposed, for an increase by one in the minimum numbers of elected members of council who must be appointed to the education committee. It will be

a matter for the council to decide which members will fill the additional three places.

Dr. Henry: Despite this amendment, this section will still not allow for the council’s education committee to co-opt specialists. While I am sure the Minister has good reasons for tabling this amendment, this is perhaps a limiting factor, which is a matter of concern to me. The Minister has gone some way in adjusting the size of the committee.

Mr. McCarthy: I agree the Minister has gone some way in dealing with this matter but we need to be mindful of the bigger picture. If the Minister were not so resolute in her determination to proceed with her amendment rather than those tabled by myself and Senator Henry, our amendments could be examined more closely on Report Stage.

Mary Coughlan: I will do my best for the Senators. Section 64(4) provides for the committee to take advice from experts when reaching a decision. I am sorry Senator McCarthy feels as he does about this issue. I have taken on board the Senators’ proposal on three members. I was advised that it was not possible on the maximum number. This permutation was, therefore, introduced to address the issues raised on Second Stage.

Amendment agreed to.

Amendments Nos. 76 to 78, inclusive, not moved.

Government amendment No 79:

In page 45, subsection (3), line 37, to delete “subsection (5)” and substitute “section 18(5)”.

Mary Coughlan: I draw Senators’ attention to an error in section 63(3). The cross reference should be to section 18(5) and not subsection (5) that appears in the published version of the Bill. This amendment will correct this error.

Amendment agreed to.

Government amendment No. 80:

In page 45, subsection (5), lines 43 and 44, to delete “of office shall not exceed 4 years and in any event, shall not exceed the term of office of the Council appointing the member” and substitute “of office as a member of that Committee shall not exceed 4 years and in any event shall not exceed his or her term of office as a member of the Council”.

Amendment agreed to.

Section 63, as amended, agreed to.

Amendment No. 81 not moved.

Sections 64 and 65 agreed to.

SECTION 66.

Government amendment No. 82:

In page 48, subsection (5)(c), line 23, to delete “*subsection (6)*” and substitute “*subsections (6)*”.

Amendment agreed to.

Section 66, as amended, agreed to.

SECTION 67.

Government amendment No. 83:

In page 49, subsection (4), line 30, to delete “*subsection (1)*,” and substitute “*subsection (1)*”.

Mary Coughlan: This section is concerned with the making of regulations by the council as regards programmes of further education to be undertaken by veterinary practitioners and nurses. As such the provision represents an important new dimension to regulation of the profession by bringing in the concept of continuing professional development. Section 67(6) is designed to ensure that the affected providers have appropriate appeals procedures available to them.

The Attorney General’s office has reviewed the section suggesting three amendments which are designed to improve a construction from a legal drafting perspective. This amendment, along with amendment Nos. 84 to 86, inclusive, does not make a substantive change to the meaning of the subsection.

I thank Senator McCarthy for spotting the punctuation error in section 67(4) on line 30. Amendment No. 83 will delete the offending comma.

Mr. McCarthy: The Minister is being too generous to me as the error was spotted by my parliamentary assistants. I thank the Minister for accepting the amendment.

Amendment agreed to.

Government amendment No. 84:

In page 49, subsection (6)(a), line 38, to delete “Where it proposes” and substitute “For the purposes of this section, where it proposes”.

Amendment agreed to.

Government amendment No. 85:

In page 49, subsection (6)(a), line 41, to delete “(9)” and substitute “(10)”.

Amendment agreed to.

Government amendment No. 86:

In page 49, subsection (6), lines 48 and 49, to delete paragraph (b) and substitute the following:

“(b) *Paragraph (a)* does not apply in respect of regulations directed by the Minister under *subsection (5)* to be made.”.

Amendment agreed to.

Section 67, as amended, agreed to.

Sections 68 to 73, inclusive, agreed to.

SECTION 74.

Government amendment No. 87:

In page 52, subsection (1), lines 21 to 23, to delete “shall not exceed 4 years and in any event, shall not exceed the term of office of the Council appointing the member” and substitute “as a member of that Committee shall not exceed 4 years and, in any event, (otherwise than in relation to the member of the Fitness to Practice Committee appointed under *section 72(2)(a)*), shall not exceed his or her term of office as a member of the Council”.

Amendment agreed to.

Section 74, as amended, agreed to.

Section 75 agreed to.

SECTION 76.

Government amendment No. 88:

In page 54, subsection (5)(b), line 4, to delete “may seek” and substitute “shall seek”

Mary Coughlan: Concern was raised on Second Stage about procedural assessments or aspects of the fitness to practise provision. This relates to, whether at the preliminary investigative phase, the relevant committee should be required to seek observations from the person complained against before reaching a decision on whether a substantive inquiry is to proceed. The Bill provides this as optional. Having considered the matter further and taking account of the advice from the Attorney General’s office, on balance it will be better to make this obligatory. I propose to replace the word “may” with “shall”.

Amendment agreed to.

Section 76, as amended, agreed to.

Section 77 agreed to.

SECTION 78.

Mr. McCarthy: I move amendment No. 89:

[Mr. McCarthy.]

In page 57, subsection (4)(c), line 9, to delete “, or the testimony of the applicant”.

The section appears to suggest the fitness to practise committee can require the applicant to give evidence against himself or herself. This Labour Party considers this inappropriate and has tabled an amendment to correct it.

Mary Coughlan: These disciplinary procedures were drafted in close consultation with the Attorney General’s office to ensure they are in line with legislative and case law norms. Section 78(4)(c) is concerned with outlining, although not exhaustively, what evidence the fitness to practise committee of the council may choose to call when considering a complaint. It is appropriate that the fitness to practise committee would have the option when it considers it appropriate to call for direct testimony from the complainant. This would be in addition to the original complaint submitted by that person.

Progress reported; Committee to sit again.

An Cathaoirleach: When is it proposed to sit again?

Mr. Moylan: Tomorrow morning at 10.30 a.m.

Adjournment Matters.

Schools Building Projects.

Mr. Leyden: I am delighted that the Minister for Agriculture and Food is here as she has a great interest in and knowledge of the region in question. I seek to ascertain when the major development at Elphin community college will be approved to go to tender. Elphin has a proud record of second level education for many years. Its first school, the Bishop Hudson Grammar School, opened in 1869. Up to the late 1960s the town had three second level schools. We now have only one second level school, which cannot operate to its full potential. The school is in the unique position of being the only second level school in the school building programme of the Department of Education and Science, which operates on a split campus. From a health and safety point of view it is deplorable that the students and teachers must trek 0.4 of a mile to get from one building to the other. We need to provide accommodation for students on a single site and eliminate the problems associated with having to travel between school premises 0.4 of a mile apart.

This school is the lifeblood of the Elphin community. I ask the Minister for Agriculture and Food to provide clarification as to how decisions are made regarding schools in band 3 being included in the 2005 schools building programme. This school is unique. Education has been part and parcel of the life of Elphin going back to the days of Oliver

Goldsmith, who was educated in Elphin. Bishop Hanley, the former Bishop of Elphin, was also educated there. I could give many names of people who received tremendous education in Elphin, particularly at the Bishop Hudson Grammar School, which amalgamated with the vocational school in the 1960s. The school has 116 pupils and 14 staff, including the principal. It offers a full curriculum of second level education in a very difficult situation. I visited the school last December; it has a tremendous atmosphere despite the conditions under which the teachers are working. The relationship between staff and pupils is excellent and the school has a great record of achievement.

As a parent, the Minister for Agriculture and Food will appreciate that carrying schoolbags 0.4 of a mile from one building to another on a wet, windy, cold, miserable day is not acceptable. I cannot understand the numerous letters sent by the Department of Education and Science indicating the building project is at an early stage of architectural planning. Representatives from the school met former Ministers for Education and Science, Deputies Martin and Dempsey. They have lobbied the Taoiseach, Ministers, Deputies and Senators and still the saga continues. We have a responsibility to provide quality education facilities to the families and children of Elphin. We are in the Border, midland and western area, which could not spend the funding allocated yet we cannot provide funding for this school.

I am asking the Minister for Agriculture and Food, as a member of the Cabinet and someone who has the interest of the west of Ireland and the region at heart, to personally intervene in this issue. It is not a matter of referring to these bands, which is a way of delaying projects. It is a matter of getting a Government decision to approve the building programme for the school as a matter of urgency to ensure that education can continue in Elphin and that the pupils and teachers are given proper facilities to work in good quality conditions, which we deserve in the 21st century. This school was initially built in the 1800s and conditions have deteriorated since then. I ask the Minister for Agriculture and Food and the Minister for Education and Science, who will be getting a full report of this debate, to give some hope to the people of Elphin that some light exists at the end of the tunnel and that approval for this project will be given sooner rather than later.

Minister for Agriculture and Food (Mary Coughlan): Gabhaim buíochas don Seanadóir as ucht ocaíde a thabhairt dom a chur in iúl don Seanad an méid atá ag dul ar aghaidh ag an Roinn. Aontaím go bhfuil brú ar an Seanadóir ina cheantar féin agus mar gheall as an díospóireacht seo, labharfaidh mé leis an Aire Oideachais agus Eolaíochta faoin díoma ar mhuintir Ros Comáin. On behalf of the Minister for Education and Science, I wish to point out that modernising

facilities in our 3,200 primary and 750 post-primary schools is not an easy task given the legacy of decades of under-investment as well as the need to respond to emerging needs in areas of rapid population growth. Nonetheless, since taking office, the Government has shown a sincere determination to improve the condition of our school buildings and to ensure that the appropriate facilities are in place to enable the implementation of a broad and balanced curriculum. The Minister for Education and Science recently outlined details of the schools building and modernisation programme. This year alone, €270 million will be allocated to primary schools and €223 million to post-primary schools for building works. This represents an increase of 14% on the 2004 allocation.

Elphin community college is a single centre coeducational facility with an enrolment of 116 pupils. Enrolment has remained steady in recent years. The school's teaching staff is 11.71 whole time equivalent posts, indicating a very generous pupil teacher ratio of 10:1. The school currently operates on a split site in the town and I can appreciate the difficulties this causes. County Roscommon VEC submitted an application to provide accommodation for all students on a single campus. Architectural planning for a project to provide an extension was initiated and is at an early stage of architectural design. Last year the VEC was given approval by the Department to purchase a portion of land to allow access to the site for the development of the proposed extension.

All school building projects in the system were reassessed last year in line with the criteria for prioritising large-scale projects, which were revised following consultation with all the education partners, and this project is rated as a band 3. The introduction of multi-annual capital envelopes requires a revised approach to how building projects are scheduled through the design process and on to tender and construction. The Minister announced details of 122 high priority major projects, which will prepare tenders and move to construction in the next 12 to 15 months, and followed this with a series of announcements relating to the school building and modernisation programme. These announcements included details of an expansion of the number of schools invited to deliver their building projects on the basis of devolved funding, details of schools with projects approved under the 2005 summer works scheme to which the Department has allocated €60 million, almost twice that spent in 2004, and details of schools authorised to commence architectural planning. Further announcements will be made on projects, which will be allowed to progress through the architectural design process and Elphin community college will be considered in this context. In thanking the Senator for raising this matter, I will bring his concerns to the attention of the Minister for Education and Science

and I will ask that the Department might be able to initiate stage 2 of the project.

Mr. Leyden: I am grateful for the Minister's reply. I am disappointed this project is not making the progress it deserves in a rural area where we need education. This school is the lifeblood of the town of Elphin. Elphin community college must be given the priority it deserves and I appeal to the Government to progress the matter.

Road Traffic Offences.

Mr. Higgins: I thank you, a Chathaoirigh, for choosing this matter on the Adjournment. I empathise fully with Senator Leyden as my very first job was as a teacher in the same school. I am only disappointed that in mentioning Oliver Goldsmith and various bishops, I was not mentioned.

Mr. Leyden: *Mea culpa.*

Mr. Higgins: I travel extensively in the Border counties in the European constituency of Ireland North West, through Donegal, Leitrim, Cavan and Monaghan. I am constantly amazed at the manner in which drivers of Northern-registered cars deliberately flout the speed limits in the Republic.

Apart from showing a disregard and contempt for speed limits, one regularly encounters convoys of Northern-registered cars overtaking on double white lines. Members of the Garda Síochána in some Border counties have pointed out to me that some drivers from Northern Ireland seem to treat the Republic's roads as playgrounds. If these drivers are caught on a speed camera the Garda cannot enforce the law once they abscond across the Border to the North. There is the additional difficulty that the penalty points which accompany speeding fines in the Republic cannot be imposed on Northern drivers. Apart from road safety considerations, there is frustration in the Garda that its campaigns to reduce road traffic fatalities have been hamstrung by its inability to enforce financial penalties and penalty points on Northern-registered drivers.

While the problem manifests itself most acutely in Border counties at weekends, it is also evident in other areas, particularly during holiday times. I do not contend that Southern drivers necessarily behave in an exemplary and law-abiding manner when driving in Northern Ireland. I am sure some do not abide by the Northern speed limits and that the PSNI must endure the same frustration as the Garda in attempting to enforce penalties for breaches of road traffic regulations and legislation.

In this context, a reciprocal arrangement should be put in place between the Garda Síochána and the PSNI so that each is empowered to collect fines for road traffic breaches in the other's jurisdiction. I understand this would be a

[Mr. Higgins.]

reasonably simple procedure which can be put in place without undue administrative hassle. The welcome and unprecedented level of co-operation between the two police forces in recent times is encouraging in this regard. The ultimate aim is to ensure fewer accidents, injuries and deaths on our roads.

Mary Coughlan: I thank the Senator for raising this issue and empathise with him in reflecting on the carnage on our roads, particularly in County Donegal last weekend. We all agree road safety is a matter of great public concern. Departments and agencies which are responsible for dealing with road safety issues are extremely aware of the urgent necessity of bringing about a steady reduction in the numbers killed and seriously injured on our roads. Government policy in this area is set out in the road safety strategy for the period from 2004 to 2006.

Speeding offences and other breaches of road traffic legislation are detected in a number of ways by police forces. Broadly speaking, they are detected either by an intercept or non-intercept. An intercept takes place when a police officer stops the transgressing motorist. In respect of speeding, this is done in the majority of cases when the infringement has been detected by technological means. A non-intercept detection always occurs by technological means.

To refer to a driver as a "Northern" driver or a "Southern" driver can mean a number of things. It can refer either to where the driver's car is registered or the jurisdiction in which his or her driving licence was issued. Upon interception by a garda or police officer, a driver is asked to produce his or her licence. If the garda or police officer decides to pursue the matter, he or she issues the driver with a fixed charge notice. Under our road traffic legislation, the driver has the option of paying the fixed charge within 56 days, with payment after 28 days incurring an increase of 50% in the fixed charge payable. However, the driver may decide not to pay and so allow his or her case to proceed to a court hearing, as he or she has a constitutional entitlement to do. By the time a case has reached this stage, a Northern driver detected in this jurisdiction or *vice versa* will in the vast majority of cases have returned to his or her own jurisdiction.

A case proceeds to court by means of a summons issued by the Garda. The difficulty arises when the driver resides outside the State. Drivers with foreign addresses who choose not to pay the fixed charge are identified during the process of summons application. The matter of issuing summonses to such drivers was referred to the DPP by the Garda fixed penalty office. The DPP advised that the prosecution of such offenders should not proceed as service of summons was unlikely.

The position with non-intercept detections, where the driver is not stopped, also causes difficulties. With regard to EU member states, I understand from the Department of Transport that the European Commission is preparing proposals for access to the vehicle files of other member states.

In summary, drivers who are detected speeding are served a fixed charge notice, which gives them the option of up to 56 days to pay. By this stage the driver is almost certainly back in his or her own jurisdiction. If the driver has not paid after 56 days, a courts summons is issued. Legal advice is that summonses should not be issued to drivers with foreign addresses.

The Senator is correct in pointing to the difficulties which arise when drivers from outside the jurisdiction are detected speeding. However, Article 34 of the Constitution provides that "justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution". Any decision of a court in Northern Ireland in cases such as these would therefore not be enforceable in this jurisdiction and I understand the situation is similar in Northern Ireland. It would be a significant development to provide for the enforceability in this jurisdiction of decisions of non-domestic courts without any involvement by the domestic courts.

With regard to paying fixed charges, the position in reality is that drivers only pay these because they are backed by the threat of a court summons if they are not paid. A person resident in this jurisdiction who ignores the decision of a court or the issue of a fixed charge notice in another jurisdiction could be laying himself or herself open to serious consequences.

A more promising way of approaching this problem may be by means of mutual recognition of penalty points. Penalty points are applied to the driving licence records of drivers in respect of a number of offences, including speeding. A separate system, which differs from that in Northern Ireland, operates in Britain and there is no mutual recognition between the two systems. Accordingly, where a driver who holds a Northern Ireland licence commits a penalty point offence in Britain, the points cannot be recorded on that licence.

Where a driver with a foreign licence is detected committing a penalty point offence in this jurisdiction, it is not possible to record penalty points as no entry exists in our national driver file for that driver. The question of providing for a system of mutual recognition of penalty points is being pursued by the British-Irish Council in view of the differences between the systems in this jurisdiction, Northern Ireland and Britain. The Department of the Environment in Northern Ireland is the lead agency for transport issues under the British-Irish Council and it has recently prepared a paper on this subject. I

understand the Department of Transport, which is the Department responsible for this matter, has referred the matter to the Attorney General for his advice, given the complex legal issues involved.

I will advise the Minister for Transport of the serious concerns expressed by the Senator and will ask that this issue be pursued more vigorously.

Recreational Facilities.

Mr. Bradford: I thank the Minister for Agriculture and Food for being here to represent the Minister for Education and Science. Davis College in Mallow, County Cork, is a newly-built second level school with approximately 400 pupils. When the new campus was built almost four years ago, the principal, staff and students looked forward to a bright future in their new premises. The old Davis College has been in Mallow for many decades and is a well respected school.

The disappointing aspect of the new development for staff and pupils is the lack of playing facilities. County Cork VEC, which operates the school, purchased sufficient land to provide such facilities with the result that a landbank now adjoins the school building. Mallow is one of the towns accorded hub status by the Government and it is important that a second level school of the scale of Davis College should have proper recreational facilities. County Cork VEC has received many representations from staff, students and parents on this matter. County Cork VEC has now written formally to the Minister for Education and Science requesting that funding be made available to provide the playing facilities. I believe approximately €350,000 would be required. Given that the Department has already sanctioned the purchase of land, built a new school and put in place fine facilities, it is disappointing that playing facilities have not been provided. Given that the land is available, I ask the Minister for Agriculture and Food to liaise with the Minister for Education and Science to ensure that adequate recreational facilities, including a football and hurling pitch, are put in place for the approximately 400 pupils in the school. Early progress is required.

Last week, in the wake of the difficulties on St. Patrick's Day, we had a debate on what happens when young people do not have enough sports and recreational facilities. We should begin to address this in our secondary schools by ensuring that children have such facilities. The facilities that exist at Davis College, Mallow, are insufficient. A playing pitch is required and I ask the Minister to make progress in this regard as soon as possible.

Mary Coughlan: I thank the Senator for raising this issue. As he has indicated Davis College is a coeducational vocational school under the aegis

of County Cork VEC. It has a current enrolment of 565 pupils, including 361 mainstream pupils and 204 PLC pupils. The school is located in a recently completed new building which cost in excess of €4.5 million.

An application under the 2004 summer works scheme, made by County Cork VEC, sought funding towards improved playing pitch facilities at Davis College. All applications under the scheme were considered and, in the context of available funding for the scheme and the number of applications received for that funding, it was not possible to approve all applications including the application from Davis College.

An application from the VEC under this year's summer works scheme sought funding for the upgrade of the electrical system at the college. This was in line with the advice to applicants to apply for one project only so that funding could be spread over as many schools as possible. I am pleased to inform the Senator this application was successful and the VEC has recently been informed that grant aid of €187,000 has been allocated for this work. As the funding available under the 2005 summer works scheme, amounting to over €62 million, has been allocated, it is not possible to consider any further applications in the current year. It is, of course, open to the school's management authority to apply for funding for the project under the 2006 summer works scheme, details of which will be published later in the year.

I assure the Senator that the Government has never underestimated the scale of the task and the level of capital funding and other resources required to rectify decades of underinvestment in school infrastructure. The budget day announcement regarding multi-annual capital envelopes will enable the Department of Education and Science to adopt a multi-annual framework for the schools building programme. The Department is confident this will allow it to make significant and visible inroads into our educational infrastructure deficits.

I appreciate that the Senator has raised a very important issue. I suppose he inadvertently thanked the Minister for the money Davis College did receive. I am sure he will have the opportunity next year to pursue further the necessary funding, perhaps under the 2006 summer works scheme. The school's authorities will be able to apply under this scheme at the end of this year.

Mr. Bradford: I appreciate that the Minister does not have line responsibility for education but she might know whether the summer works scheme is the only option available in the search for funding. Following a meeting of County Cork VEC last week, a letter was issued to the Department. The summer works scheme is not normally regarded as the appropriate vehicle for obtaining the funding required. It would have been far pref-

[Mr. Bradford.]

erable had the whole package been delivered when the school was first built. Perhaps the Minister will ask the Minister for Education and Science to liaise with me on this issue.

Mary Coughlan: I am not sure about all the idiosyncrasies in this area but perhaps something could be done through the national lottery if the facilities are to be made available at a community level.

Mr. Bradford: We are considering that option.

Mary Coughlan: The Minister for Education and Science is currently under pressure in respect of school playing fields and PE halls because she is trying to address the basic infrastructural needs of all the colleges and schools. Perhaps the Senator could talk to his colleague from the south of Ireland, who might be able to facilitate him.

The Seanad adjourned at 9.25 p.m. until 10.30 a.m. on Wednesday, 23 March 2005.