

SEANAD ÉIREANN

*Dé Céadaoin, 22 Meitheamh 2005.
Wednesday, 22 June 2005.*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Paidir.
Prayer.*

Business of Seanad.

An Cathaoirleach: I have received notice from Senator McCarthy 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 provide much needed temporary accommodation for the resource teacher at St. Patrick's boys school, Dunmanway, County Cork.

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

The need for the Minister for Education and Science to indicate if any contribution is made to the children of Traveller families attending primary and secondary schools towards the cost of school books and uniforms.

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

The need for the Minister for Health and Children to clarify if it is still the intention of the Health Service Executive to provide an Alzheimer's unit at St. Ita's Hospital, Newcastle West, County Limerick, and, if so, when construction will commence.

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

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, the Commission to Inquire into Child Abuse (Amendment) Bill 2005 — Second Stage, to be taken at the conclusion of the Order of Business until 1.30 p.m., with the contributions of spokespersons not to exceed 15 minutes, those of all other Senators not to exceed ten minutes and the Minister to be called on to reply not later than ten minutes before the conclusion of Second Stage; No. 2, Disability Bill 2004 — Report Stage (resumed) and Final Stage, to be taken at 2.30 p.m. until 5 p.m.; and No. 12, motion 22, to be

taken at 5 p.m. until 7 p.m. There will be a sos from 1.30 p.m. until 2.30 p.m.

Mr. B. Hayes: An international report on migrant workers published yesterday shows the benefits of migration not only to the host country but also to the workers themselves in being able to travel around the world to take up opportunities. Will the Leader arrange to have a debate on the green card before the end of the session?

We are happy to welcome people to Ireland to do work we will not do but we treat them appallingly when they try to leave to visit their own countries for two or three weeks. The other week I dealt with a case in my constituency involving a Romanian couple who have been here since 2003. They have three young children, one of whom was born here, while the other two were born in Romania. The couple made a simple request to leave Ireland for a two week visit to Romania to allow their children's grandparents to see their new grandchild. They were recently told by the Department of Justice, Equality and Law Reform that they may leave the country with their Irish child but must leave their Romanian children, aged six and nine years, here.

We need to get our heads around the fortress Ireland mentality. Officials of the Department, who can decide at the stroke of a pen who may come here, are behaving like demi-gods. The family in question is hard working and in this country legitimately. People who we want to come here and work are being told when they can enter and leave the country. A separate Department, with no relationship to the Department of Justice, Equality and Law Reform, should deal specifically with the issue of visas.

Mr. Ryan: Hear, hear.

Mr. B. Hayes: Refugee control and asylum seekers who enter the country are a separate issue. The issue I raise concerns people with green cards whom we want in Ireland working hard and contributing to the country. They are being treated in a shameful manner. I apologise for bringing a constituency case to the attention of the House but it illustrates countless thousands of cases which are a matter of concern to both sides of the House.

Mr. O'Toole: There is no doubt that cases such as that raised by Senator Brian Hayes are widespread. An inconsistent approach is taken to those who enter and leave the State. I recently received representations from a person running a business in Munster concerning an employee from a non-EU country who was here officially and legally. When the employee in question experienced a problem with his visa, he was informed by the Department of Justice, Equality and Law Reform that he must leave the country but the matter would be sorted out on his return. However, on his return he was stopped at Shannon Airport. If the business person in ques-

[Mr. O'Toole.]

tion had not intervened with senior officials in the Department of Justice, Equality and Law Reform, the employee would not have been allowed back into the country, yet the reason he left in the first instance was to fulfil some stupid departmental rule. There is no logic to some of these cases. Senator Brian Hayes has raised an important matter.

Yesterday, I referred to the money which was not spent by the Department of Education and Science. Over the course of the day, I received at least four proposals from various organisations involved in education outlining how they could usefully spend the money. One such proposal was made by Educate Together, an organisation with up to 50 schools around the country, which is trying to run a national office.

As a former Minister for Education, the Leader is aware that the Department requires organisations, such as Gaelscoileanna, Educate Together, the Catholic Church, the Church of Ireland, etc., to have management structures in place before departmental support is provided. Why does Educate Together not receive a fair level of support? Why is the Department returning money when it is needed by this organisation, which does a job on behalf of the Department?

The Leader knows that if the Department is making changes, it must deal with the different management structures. For those working in the management structures, it is a full-time job and people should be employed on a full-time basis in them. These people are acting officially and legally. We should propose to the Minister for Education and Science that groups such as Educate Together would get an appropriate amount relative to their size to operate their management structure.

In the last two days, there has been extraordinarily negative publicity about the Office of Public Works. We should have a debate on the report of the Committee of Public Accounts because the OPW has done fine work for us in Leinster House 2000, Government Buildings, Dublin Castle and numerous other places around the country. The Office of Public Works managed to secure 115 buildings to deal with refugees and asylum seekers and only got five wrong — it is not even clear by how much — but it is being absolutely vilified in the media. It does not do us any good. If the OPW does something wrong, we should deal with it, but we should balance that with the things it does right. It has done a great job in recent years and these public servants are being unfairly vilified for cheap headlines.

Mr. Ryan: I would be the first to defend public servants but those of us who live in Cork and who must put up with the appalling structure that is our Government Buildings on Sullivan's Quay do not have a high opinion of the Office of Public Works. It imposed that building on the city contrary to the advice of everyone on Cork City

Council at the time, including the then city manager. It is probably the ugliest and most intrusive building in Cork and it is no credit to the Office of Public Works. It does many other things well but it appears to have two sides — the architecturally sensitive side that does a lot of wonderful conservation work and another side which goes in for Stalinist Soviet socialist realism and block building which is no credit to its architects.

I was at a recent meeting of a voluntary organisation where someone raised a problem she said she had never encountered before — that she was meeting homeless people on the streets of Cork who could not speak English. They are recent immigrants from the accession states who came here in the belief they would get work but who ended up with no work or the work did not last long. As a result of the provision that they must have been in the country for at least two years before they are eligible for benefits; they have no right to any welfare so they end up in a state of indigence that defies description.

Mr. Mooney: They must be here for one year.

Mr. Ryan: As far as I remember, they must be here for two years. It is worse than what would happen to an illegal Irish emigrant in the United States. They are entitled to nothing and end up sleeping on the streets in abject poverty.

We heard what Senator Brian Hayes has just said about the contribution immigrants make but we should look at the daft decisions the Department of Justice, Equality and Law Reform makes. I know of a senior researcher from outside the EU recruited to this country to head up a high powered, multi-million euro science foundation project who was told that he could come here but his spouse and children could only join him six months later because that is the rule.

Ms O'Rourke: I thought it was 12 months later.

Mr. Ryan: The Department made the huge concession of agreeing on six months for this man's spouse. This man is a world class researcher. Fortunately he agreed to put up with this nonsense. That is the way our Department of Justice, Equality and Law Reform deals with people.

I raised yesterday the issue of the 250 missing migrant children. If those children were Irish, the country would be in a state of outrage. They arrived here and became our responsibility, no matter what anyone says, and they have now gone missing. When we try to raise the issue, we get inflammatory speeches about asylum seekers from the Minister responsible. This creates a climate in which it is impossible to have a serious debate on immigration.

A major announcement about hospital capital funding will be made today. Will someone confirm that with each capital provision regarding staffing and equipment will be included and that we avoid yet another saga of buildings lying

empty for years? Building hospitals without staff is nonsense and it is time the Department of Finance and the Department of Health and Children got their acts together and agreed that when a building is erected, there should be a commitment to staffing and equipment for it.

Labhrás Ó Murchú: This House has always been to the fore on human rights and civil liberties issues. We should be particularly vigilant when it comes to the rights and difficulties of our own citizens in foreign jurisdictions. I have raised the case in the House before of a young Tipperary man, a champion jockey, Christy McGrath, who is serving a long term of imprisonment for a crime of which he says he is innocent. There is growing evidence to support his case and it is particularly significant that 50 MPs now support him. Included in that number is John McDonald, MP, of the British-Irish Inter-parliamentary Body. He has been proactive, so much so that he is coming to Carrick-on-Suir on Sunday and on Monday morning to Buswells Hotel in Dublin.

If we are getting such support from political parties in Britain, we should be more proactive in our support for Christy McGrath. It is not right that a distinguished young man like him, who has such an impeccable record and who has worked very hard in his career, is left isolated in a British prison. I appeal strongly on his behalf that he does not spend a day longer in prison than is necessary. All he is asking is the opportunity to appeal his case in court to show how he has been wronged.

Mr. Finucane: I support Senator Ó Murchú and compliment him on his tenacity on the issue. We all received documentation on the issue recently and it made for grim reading about the British system of justice.

We recently attended a meeting with a deputation from the Catholic church that does tremendous work with prisoners abroad. It expressed to us the inadequacy of the assistance it is getting from the State for what it is trying to do, particularly with prisoners in Britain and South and Central America where significant funding is required to assist them. I was shocked when one of the clerics stated that there are such difficulties in repatriating Irish prisoners from England that members of the IRA would be repatriated more quickly.

Irish Travellers who go to England are finding particular difficulties with regard to their ethnic background because the British justice system has no appreciation of their ethnicity. As well as Christy McGrath, we should remember the many other prisoners who have been forgotten by this country, usually those who emigrate as a result of social and family breakdown. They are falling between the cracks.

As a member of the Oireachtas Committee on Communications, Marine and Natural Resources, I am concerned about the energy issue. It is

shocking that the Irish consumer who saw electricity prices rise by 29% since 2003 may be faced with an increase of up to 36% in the near future because of the ESB statement on the cost of fossil fuels. This is a result of the war in Iraq and the scarcity of oil. The Minister cannot be criticised on this issue because most Ministers are fire-proofed by regulators, in this case the energy regulator. So far when a percentage increase was sought, the energy regulator approved it. I contrast this with ComReg which held off indefinitely when An Post sought an increase in the price of a postage stamp. Last year the ESB turned over a profit of €250 million. With regards to the validity of the claim and the changes the ESB made within its structure, it still cannot be given *carte blanche* on this matter. The consumer will suffer another crippling increase later this year. The Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, must come to the House to debate the energy issue.

Mr. Mooney: I support the brave efforts of my colleague, Senator Ó Murchú in the case of Christy McGrath. Senator Finucane referred to the meeting of the sub-committee on human rights last week. I compliment the chairman of the sub-committee, Senator Bradford, on his initiative in pursuing one matter on the committee's priority programme, namely the status of Irish prisoners overseas. I was appalled at the long list of violations in the presentation to the sub-committee. Senator O'Toole, a senior trade unionist, will be surprised to learn that many of the recommendations agreed under Sustaining Progress in 2002 have not been implemented. This was not exclusively a Government issue, but the social partners on the status and human rights of Irish prisoners overseas. There is a long catalogue of violations, which four years on have not yet been resolved.

The sub-committee, under Senator Bradford, intends to call in the relevant Departments to ask why they have not implemented these recommendations. We are talking in the same vein as Senator Ó Murchú about Christy McGrath's situation. As Senator Finucane has pointed out some families are not only suffering emotionally but also financially because they do not have the resources to regularly see their sons, daughters, brothers or sisters who are in jails throughout the world. Senator Ó Murchú's intervention in this serious issue is timely. One can only support him in this issue.

The Leader should consider a debate on immigration reform legislation in the autumn. In reply to Senator Ryan's comments, this country has been extraordinarily generous following the EU enlargement process. Ireland and the United Kingdom are the only member states that have opened their borders to their fellow EU citizens from the eastern European new member states who are seeking work. Inevitably, there had to be qualifying conditions which are in place to ensure those who enter the country are not a burden on

[Mr. Mooney.]

the State. That happens in every other country. For one year, a person is not entitled to benefits.

Mr. Ryan: The Senator might be wrong about that.

Mr. B. Hayes: That does not apply to Romanians.

Mr. Mooney: Romania is not a member of the European Union. In the context of spouses and the unification of families, as the Leader will inform the House, last week on our visit to America we discovered it takes up to 15 years for families to be reunified.

An Cathaoirleach: Senator Mooney has sought a debate on the issue.

Mr. Mooney: This is an important issue and I ask the Leader to have a debate on immigration policy to which the House can make a valuable contribution.

Dr. Henry: I do not believe Senator Brian Hayes or any other Member should apologise for bringing up individual cases regarding visa problems. Several times I have brought to the House the repeated problems I have with non-EU doctors, desperately needed by the health service, experiencing terrible trouble with the Department of Justice, Equality and Law Reform regarding their visas. Another area where there have been visa problems is at Trinity College, Dublin. In one instance a lecturer at the college returned home to St. Petersburg for the summer and was not allowed back into Ireland until Christmas the following year.

Will the Leader ask the Minister of State at the Department of Finance, Deputy Parlon, to come to the House to discuss the issue of the Office of Public Works? There is a need for more lateral thinking regarding some of the office's properties. For example, there has been a great deal of criticism about the residences it bought for refugees, which were then not used due to objections from people living in the local areas involved. On the television news last night, I saw that the Jesuit's institution, Brock House on Nutley Lane, was one of these buildings. This is situated across the road from St. Vincent's Hospital which has an appalling problem regarding bed shortages. Some lateral thinking might allow the Department of Health and Children to make use of this excellent premises. I was there several times and it is a first-class building. As the Office of Public Works could not get permission for it to be used for refugees, it can be used in another capacity.

Mr. Bannon: It is over a year and a half since the constituency boundaries commission delivered its report on changes to constituency boundaries but we are still waiting for legislation in this regard. Will the Leader update us as to when the Electoral (Amendment) Bill will be introduced to

the House? We were promised it would be introduced this session.

Increasing numbers of people are taking up walking and jogging on our country roads as a pastime. Up to 80% of those are responsible and wear reflective clothing, etc.

Mr. Dooley: And little lights on their head.

Mr. Bannon: However, a small percentage do not use any type of reflective armbands or clothing. Will the Leader invite the Minister for Justice, Equality and Law Reform to debate the introduction of legislation making it an offence for pedestrians to use our country roads without proper reflective armbands?

There is a serious situation with regard to accidents involving pedestrians. The poor motorist is blamed for such accidents. Senator O'Toole claimed that approximately €500 million was handed back by the Department of Education and Science last year. A good area to start on such a campaign is in the schools. Free reflective armbands should be given to all our schoolchildren. A former Taoiseach is still remembered for the introduction of free toothbrushes and toothpaste for schoolchildren.

Mr. Glynn: Did the Senator brush his teeth?

Mr. Bradford: It is important that we respond as quickly as possible to Senator Bannon's call for the introduction of the electoral Bill. He wants to get the full licence to travel to Westmeath as quickly as possible.

Mr. Minihan: With his armband on.

Ms O'Rourke: I see him coming.

Mr. B. Hayes: Senator Bannon does not need an armband.

(Interruptions).

An Cathaoirleach: On the Order of Business.

Mr. Bradford: I fully support what was said by Senator Ó Murchú and others concerning the case of Christy McGrath. I commend Senator Ó Murchú on bringing this matter to our attention on several occasions. From the body of evidence made available to the sub-committee, which is admittedly working from a distance, it appears that Mr. McGrath has a compelling case to have the issue reviewed. I hope it will be reviewed as quickly as possible and the Minister for Foreign Affairs will use his good offices to pursue the case.

Today the EU Commission is expected to announce its proposals for the future for the sugar industry. The indications are that the cuts being proposed from a production and price point of view will decimate the Irish sugar industry. Thousands of growers and workers in rural communities are concerned about the situation. It is

imperative that the Government, through the offices of the Minister for Agriculture and Food and the Taoiseach, fight and resist this set of proposals. We must ensure the sugar industry in Ireland is retained. The proposals emanating from Brussels are extremely negative and must be resisted by the House and the Government.

Mr. Feighan: I join with colleagues in raising the issue of visas and work permits. Some months ago I raised on the Adjournment the case of a Canadian citizen living in my constituency who was married to a British citizen. She was told her visa would not be renewed. The visa was subsequently renewed but restrictions were imposed under which she was not allowed to carry out her work as a visually impaired artist. This highlights an anomaly in the system. The visa section is very difficult to contact and when one does get through any information is drip-fed. Eventually I put it to the staff there that if an Irish citizen living in the UK were treated in this way we would be up in arms and that I would see to it that this House made its feelings known on the issue. The visa was issued in the end but it is an unacceptable situation and we need a debate in this House to point up the anomalies in the process. Politicians such as ourselves should not have to tackle a problem that should be dealt with fairly and equitably by officials.

Ms O'Rourke: Senators Brian Hayes and Henry said nobody should have to apologise for raising particular immigration cases. My heart is broken with stories about immigration, visas and asylum seekers. No matter what one does one cannot keep up with the flood of injustices which come to light each day by telephone, letter and e-mail. There seem to be inconsistent rules such as in the case of the Romanian couple to whom Senator Brian Hayes referred who are allowed to bring their baby to Romania but must leave their other two children. Furthermore nobody knows if they will be allowed to return. I am aware of the case of a professional Indian mathematician of a calibre not available in Ireland who wants his wife to come over. She must wait 12 months before she will be admitted. I do not understand it. The owner of the firm he works for has given details of his salary and qualifications so it is a mystery why his wife cannot be allowed in. It is amazing.

I agree that the Department of Justice, Equality and Law Reform, even with the most outstanding Minister and officials, is not the right Department to deal with immigration. One cannot even get through to the appropriate section. It is most frustrating that people who do good work for good firms cannot be reunited with their families. The man to whom I refer will now return to India so his firm is denied the services of a fine worker and cannot replace him. I cannot make a breakthrough in the case and I have never in

public life had such myriad difficulties to overcome.

The issue most damaging from a human rights perspective, and I will talk to Senator Bradford about this, is that of asylum seekers who have been here for four years or more and, having integrated into their community, are told to leave. A separate Department should deal with immigration and asylum seekers because the situation is not improving. Under freedom of information we obtained details of what barristers and solicitors earned "toiling", and I use the word advisedly, on behalf of asylum seekers. They earned huge money but there is no transparency on why people were turned down or why they were considered to be here illegally. There is no information on whether there were extenuating circumstances in any particular case or what steps were taken to identify such circumstances, such as whether they had children in schools or whether there were personal references that might have a bearing on the situation.

It is a mysterious system absorbing large amounts of public money for which there is no clear explanation. Of all the issues I have dealt with it is the one that preys most on the mind because one sees people going back to terrible conditions in, for example, Lagos where there might be five people in one bed, no jobs and no luxuries of any kind. It would cost very little to allow these people to work here in cases where we cannot otherwise get workers. Every day I try to clear three such cases and by the end of the day I have three more cases. I cannot get on top of it. Senator O'Toole said there was no logic to the system and I agree. Whether in respect of visas or immigration a type of *Alice in Wonderland* logic applies. There is no trail of events that one can follow. I agree a serious debate on immigration is required but there is so much to cover one cannot say where it would begin and end.

I agree that Educate Together is a fine organisation which is at a crossroads and needs proper developmental funding. I have been in touch with the Minister on the matter. The Senator defended the Office of Public Works and we will ask Minister of State at the Department of Finance, Deputy Parlon, to come to the House, although time is limited. Senator Ryan mentioned the ugliest building in Cork but I agree with Senator O'Toole that the OPW has done much good work in the State.

Senator Bannon will know with regard to the situation in Mullingar that capital funding is available but not current funding so the beautiful big buildings, being unoccupied, are only shells. I understand when the Tánaiste makes her statement on capital funding she will also address the need for current funding.

Senator Ó Murchú raised the issue of Christy McGrath on previous occasions and I am sure he is sponsoring the visit of John McDonald, MP, to Carrick-on-Suir on Sunday and to Buswells Hotel the following morning. I agree that the case should be taken up with vigour.

11 o'clock

[Ms O'Rourke.]

Senator Finucane raised the issue of Irish Travellers getting repatriated to Ireland and violations of human rights with regard to prisoners abroad. He also raised the energy crisis. We are now faced with a price rise of 36% and he asked if the Minister would come here to talk about that.

Senator Henry frequently raises the difficulties medical personnel and academics have getting into the country and, if they leave for a period, being allowed back again. This echoes what we discussed in Washington last week. I felt a fraud at times because the problems there are magnified many times here. The Senator also asked whether the Department of Health and Children might use Brock House, which is near St. Vincent's Hospital and was not allowed to be used for asylum seekers, and if Minister of State, Deputy Parlon would come to the House.

I am pleased to inform Senator Bannon that it appears the Electoral (Amendment) Bill will be taken next week. I am sure he will welcome it.

Mr. Bannon: I am sure Senator O'Rourke will too.

Ms O'Rourke: I will. I do not look forward to the Senator prowling the streets of Westmeath though, with or without your armband.

Mr. B. Hayes: The Senator will hear him before she sees him.

Ms O'Rourke: He will be welcome in Westmeath. I do not know what the Deputy will say about that. I hope I will be welcome in Longford.

Senator Bradford also raised the Christy McGrath case and EU proposals for the future of the sugar industry, which do not bode well for Ireland. I will ask the Minister for Agriculture and Food if, time permitting, she will come to this House next week.

Senator Feighan also brought up visas and work permits. Every person in this room has stories they could tell about these issues.

Order of Business agreed to.

Commission to Inquire into Child Abuse (Amendment) Bill 2005: Second Stage.

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

Minister for Education and Science (Ms M. Hanafin): I am delighted to commence the debate in this House on the Commission to Inquire into Child Abuse (Amendment) Bill 2005. The Bill amends the Commission to Inquire into Child Abuse Act 2000 and the Residential Institutions Redress Act 2002 and establishes a statutory body to administer a €12.7 million education fund for former residents of institutions and their families.

Before outlining the purpose of the Bill to the House today, it is important to draw attention to

the general background to the Bill which has been passed by the Lower House. The Members are no doubt aware of the progress made in this area since the Taoiseach's apology of 11 May 1999, when he announced a series of Government measures for the redress of abuse. These measures included the establishment of the Commission to Inquire into Child Abuse, amendments to the Statute of Limitations and the establishment of a national counselling service.

The Government subsequently announced the setting up of a financial redress scheme for victims of abuse and the establishment of a statutory redress board to administer such a scheme. Following the resignation of Ms Justice Mary Laffoy as chairperson of the commission, on 26 September 2003 the Government appointed Mr. Justice Sean Ryan, then senior counsel, as chairperson-designate of the commission.

The Government requested Mr. Justice Ryan to undertake immediately his own independent review of the working of the commission. Mr. Justice Ryan's report was published on 15 January 2004, together with the review completed by the Office of the Attorney General. The Government accepted the recommendations contained in Mr. Justice Ryan's report. Following the publication of this report, the investigation committee held consultation meetings with all interested parties and representative groups to facilitate them in expressing their views regarding the content of both reports and to enable them to make suggestions in respect of the future operation of the investigation committee. A formal hearing of the investigation committee took place on 24 May 2004 to receive submissions on identifying institutions and persons under the Act. Representative groups were also given an opportunity to express their views on the matter. On 16 June 2004, Mr. Justice Ryan publicly stated that the commission had decided to proceed in accordance with the position paper published on 7 May 2004.

The confidential committee of the commission continues to operate as normal and by 17 June 2005, it had heard evidence from 1,082 witnesses. The confidential committee will continue to hear evidence in the coming months from the remaining witnesses after which it will prepare its report and present it to the commission.

The investigation committee has held a series of hearings into the emergence of child abuse. The Taoiseach, former Ministers for Education and Science, Deputies Martin and Woods, officials of my Department as well as other Departments, the congregations and survivor group leaders have all given evidence to the committee regarding the background to the establishment of the commission. The aim of these public hearings was to establish how child abuse as an issue emerged in the State on an historical basis.

In addition to the public hearings noted earlier, the investigation committee has commenced hearings into specific institutions commencing with St. Joseph's, Clonmel, in September 2004.

Hearings on St. Patrick's industrial school, Upton, took place in October 2004; on Our Lady of Succour industrial school, Newtownforbes, in January 2005; on St. Patrick's, Kilkenny, in February 2005; on St. Vincent's, Goldenbridge, in March 2005; on St. Conleth's reformatory school, Dainean, County Offaly, in May 2005; and those on St. Joseph's, Letterfrack, commenced on 16 June 2005.

In his programme of work for 2005, Mr. Justice Ryan has outlined that the investigation committee will interview all of the approximately 1,300 people who decided to continue to participate in the inquiry by the investigation committee. This process has already commenced and is being conducted by members of the commission's legal team. The information obtained in these interviews will be collected and produced in a report which will then be distributed as appropriate to relevant bodies for comment and discussion. If there are material areas of dispute, the committee will arrange for further investigation, including full hearings if appropriate. In the interview process, witnesses whose experience must be investigated further by the committee will be chosen for later appearance before the committee in full session with cross-examination taking place.

In order to do this, the investigation committee must first establish how many individuals are willing to give evidence and whether that evidence is necessary in order to cover the full range of complaints before it. The basis of choosing witnesses is to give as full a picture as possible of life in the relevant institution, covering the range of complaints and experiences over the period under investigation.

If the investigation committee does not get enough information from the witnesses that have been chosen to give evidence in respect of any institution, it will call more witnesses until the point of sufficiency has been reached. In other words, the process is not mechanical, whereby a certain percentage or proportion of complainants is called to give evidence before the investigation committee. Flexibility must be maintained and the essential point is that the inquiry must acquire sufficient information to enable it to reach conclusions and furnish a report.

The commission's scheme has a number of functions. The investigation committee will have the opportunity to gather a body of evidence at first hand from all the people who want to continue with the committee, thus ensuring that every single person has a role in the work of the inquiry. It will enable the committee, through its legal team, to ensure that the witnesses who are put forward for participation in the formal hearing process represent the full range of experiences across time in the particular institution. It will reduce the likelihood of people who are less able for adversarial hearings being subjected to examination and cross-examination before gatherings of lawyers and other interested parties. It will yield information across institutions under investigation. The information will be gathered in

a formal process of interview to enable the examination of particular topics and comparisons between institutions will be made easier. It is the commission's intention to complete its report prior to the end of its extended remit of May 2008.

I wish to take this opportunity to outline some of the main features of the Bill in so far as the Commission to Inquire into Child Abuse is concerned. The Bill will implement the main recommendation of both the Attorney General and Mr. Justice Ryan to remove the obligation on the investigation committee to conduct full hearings into all allegations of abuse made to it.

Instead, the committee will be able to call witnesses to give evidence of abuse suffered by them to the extent that the investigation committee decides is necessary for the purposes of the inquiry. This key amendment is provided for in sections 4 and 7 of the Bill. Persons not called to give evidence to the investigation committee can opt to apply to transfer to the confidential committee of the commission. Sections 4 and 7 of the Bill also extend the remit of the commission and the investigation committee to examine the manner in which children were detained in residential institutions and the circumstances in which they continued to be so detained. This is important from the point of view of gaining a full understanding as to how and why child abuse occurred and the historic and societal context in which it arose.

Sections 5 and 8 of the Bill, respectively, provide that the commission and the investigation committee will only name individual abusers that have a criminal conviction for child abuse or those who have admitted to or pleaded guilty to charges of child abuse.

The primary purpose of the commission of inquiry is to determine the causes, nature, circumstances and extent of child abuse. Given the rights of people to due process, it is necessary to place certain limitations on the naming of individuals alleged to have carried out abuse.

A number of other changes proposed in the Bill are as follows: a provision to allow for joint hearings to take place to allow complainants with a common alleged abuser to have their complaints heard simultaneously, provided for in section 6; a provision also in section 6 for a division of the committee to operate under a single member of the commission; a provision in section 8 that would enable the commission to issue fact finding interim reports; the powers of the commission are to be extended to require persons giving evidence to it to swear the matter in an affidavit and make admissions to and to answer written interrogatories under oath in order that matters can be dealt with more speedily and at less cost, provided for in section 9; and provision under section 14 to allow a complainant to withdraw a complaint being made subject to the consent of the committee.

There are two other main parts of the Bill which I would like to bring to the attention of

[Ms M. Hanafin.]

Senators. The first deals with the establishment of an education finance board to administer an education grant scheme for former residents of institutions and their families. This is provided for in Part 3, sections 22 to 33, and in the Schedule. The second deals with amendments to the Residential Institutions Redress Act 2002, which are contained in Part 4 of the Bill.

Under the terms of the indemnity agreement concluded with the religious congregations, €12.7 million is to be used for educational programmes for former residents of institutions and their families. The agreement was concluded in June 2002, that is, after the enactment of the Residential Institutions Redress Act 2002 in April 2002. In view of the urgency of making funding available to former residents wishing to undertake further education, a grant scheme funded by the Department of Education and Science was established on an administrative basis in September 2003 pending the introduction of a statutory scheme. This scheme is currently administered by the national office for victims of abuse with the assistance of the City of Dublin VEC and to date €1.7 million has been spent on the scheme.

The purpose of what is proposed in the Bill is twofold. First, it establishes an independent education finance board to administer an educational grant scheme for former residents and their families. Second, the Bill provides a legal basis for the management and investment of the €12.7 million fund provided under the indemnity agreement for this purpose, after taking account of interest accruing on the €12.7 million fund and expenditure incurred to date on the non-statutory scheme.

The principal functions of the board, set out in section 25, are to pay grants to former residents of institutions and their families, to determine and publish the criteria by which it will make decisions on applications for grants and to make available to applicants information in relation to the educational services in respect of which grants are available. Section 29 provides that the board will consist of a chairperson and eight ordinary members. To ensure that survivors' interests are adequately represented, four of the ordinary members will be former residents of institutions.

The proposed amendments to the Residential Institutions Redress Act are mainly of a technical nature and have been requested by the redress board and the review committee in the light of their experience of the redress application process over the past two years. The redress board was established on 16 December 2002 under the Residential Institutions Redress Act 2002. Its primary purpose is to make fair and reasonable awards to persons who, as children, were abused while resident in industrial schools, reformatories and other institutions that were subject to State regulation or inspection. The redress scheme provides an alternative to survivors having to pursue traumatic civil court cases in order to obtain compensation for their injuries. The redress scheme

is designed to address the fact that the State and the institutions concerned failed in some way while they had the responsibility for the care of the child.

It acknowledges that because of this some people who were in institutional care have, through much of their lives, carried serious psychological scars. The scheme seeks to provide reasonable financial compensation for that injury. The board commenced operations in December 2002 and according to the latest information available, the redress board has received 6,500 applications to date and has made awards in over 3,400 cases. The average award made by the board is €77,000 and total payments to date amount to €260 million.

The amount of award payable by the board in each case will depend on the severity of the abuse and the severity of physical and psychological injury as well as loss of opportunity resulting from the abuse. The board may grant awards up to €300,000 and in exceptionally severe cases the board may award an amount higher than this. There is also provision to award additional aggravated damages of up to €60,000 in certain specified circumstances.

The proposed amendments to the Residential Institutions Redress Act are contained in section 34 of the Bill and include first, allowing for a two week cooling off period once an applicant has made a request to the review committee for it to review an award offered by the redress board. Survivor groups have requested this change and the chairperson of the review committee is in agreement with it. Second, allowing the Courts Service to administer arrangements for the payment of awards in instalments. The Courts Service has confirmed that it is willing to do so but cannot until a legislative basis is provided. Third, providing that anyone who gives false information to the board may be liable to prosecution for perjury. As it currently stands, only applicants to the board can be so prosecuted.

The Commission to Inquire into Child Abuse (Amendment) Bill 2005 was published on 24 March 2005. The Bill proceeded to Second Stage in the Lower House on 21 April 2005 and completed this Stage on 28 April 2005. Before the Bill proceeded to Committee Stage on 17 May 2005, I consulted with a number of survivor support groups to hear their views on the amending legislation. A number of amendments have been considered since the publication of the Bill and I believe it would be helpful to outline to the House these amendments. An amendment was made to the definition of "relative" in the interpretation section of the education (former residents of certain institutions for children) finance board. Following consultations with the survivor groups, I have decided to limit the scheme to those most affected by a family member's residence in an institution. Therefore, for the purpose of the Bill "relative" means spouse, son, daughter, grandson, granddaughter, stepson and

stepdaughter of a former resident of an institution.

An amendment to section 34(f) will allow the review committee to sit as a committee of two. Also, section 34(h) is being amended to allow for a complaint against a solicitor to be fully investigated. The survivor groups and the Law Society raised a concern regarding section 28 of the Residential Institutions Redress Act 2002 which prohibits the disclosure of certain information. The Law Society of Ireland is asked on occasions to investigate complaints against solicitors acting on behalf of applicants to the redress board. An amendment to paragraph 8 of the Schedule to the Bill will provide clear guidelines in the legislation to cover conflict of interest situations for members of the education finance board. A number of the survivor groups raised this issue.

On Report Stage in the Dáil I tabled an amendment to ensure that the Ombudsman has sufficient powers to investigate any complaints made to her office in relation to the education finance board. Following completion of Committee Stage it was brought to my attention that the Bill as drafted could be viewed as limiting the scope of the Ombudsman in relation to her ability to make recommendations. This was not my intention so I brought forward the amendment to remedy the matter.

On Committee Stage, I agreed to consider the inclusion of the education finance board in the Schedule to the Freedom of Information Acts 1997 and 2003 and have since taken the advice of the Office of the Parliamentary Counsel. It advises me that the appropriate means of ensuring that the education finance board is included in the Schedule to the Freedom of Information Acts is to request that the Department of Finance provide for its inclusion in the next list of additions to the Schedule by way of statutory instrument rather than by primary legislation. Once the board has been established my Department will request the Department of Finance to arrange for its inclusion.

This amending legislation fulfils three important functions. First, it will greatly assist the commission in completing a comprehensive inquiry into child abuse within a sensible timeframe and at an affordable cost. Second, it sets up an independent statutory scheme of educational support for survivors and their families. Third, it makes a number of legislative amendments to enhance the effective operation of the redress scheme.

Most importantly, by bringing forward this legislation, we are providing the commission with the framework to move forward with its remit. The commission can continue to move ahead with its hearings and will be in a position to deliver a detailed report on what happened within these institutions and what should be done to ensure it cannot happen again. This will be of benefit to all survivors. They have waited too long already. To ask them to wait for a further ten or 11 years or more while 1,300 individual adversarial hearings

or mini-trials took place with little certainty of the outcome would not have been acceptable either to them or to the State. The completion and publication of the commission's report within a reasonable timeframe will hopefully bring at least some form of vindication and healing for these survivors and will allow them to try to move ahead with their lives as best they can. Molaim an Bille don Teach.

Mr. U. Burke: I welcome the Minister and the opportunity to contribute to this Bill. I am fully aware the Minister inherited a difficult situation in which many bridges were broken from previous occupants of her position. All those who were abused look to the Minister to confidently rebuild those bridges. I hope she has, through this legislation, set about the initial steps and will continue to address those problems as they arise.

I welcome the Bill and its intention to streamline the system which will allow survivors of abuse to tell their stories. As the Minister said the purpose of the Bill is to implement the main recommendations of the Attorney General and Mr. Justice Ryan to remove an obligation on the investigation committee to conduct full hearings into each and every allegation of abuse. There is concern in regard to that issue. It is important, by whatever mechanism is necessary, that everybody who wants to tell his or her story is given that opportunity. That is the kernel of the bridging of trust that was lacking and that may be built again. It would enable people to look forward to a recognition of the problem and would ensure that it will never happen again despite the delays that have occurred.

For victims of abuse it has been a long time since May 1999, when the Taoiseach apologised to all victims on behalf of the State, until today when we are provided with an opportunity, through this legislation, to assist the commission in completing a comprehensive inquiry into child abuse within a reasonable timeframe and at a reasonable cost to the Exchequer. The Taoiseach's apology, though overdue, was welcome by all those children who were so savagely abused while in the care of the State in religious-run institutions. It was rightly acknowledged that these victims deserve to have their stories heard. In the past they were forgotten by society and were abandoned by all in a most shameful manner. The Commission to Inquire into Child Abuse, established in May 2000, was to hear their stories, to investigate the abuse of children in the institutions and to publish its findings and recommendations.

The victims of past abuse have had shocking and distressing experiences. It was right that they be given the opportunity to tell their stories and tell us how society had failed them. Today many of them are approaching old age. We have heard much from these people about the State-sponsored brutality and barbarity that can exist in a society that fails to be vigilant.

[Mr. U. Burke.]

The resignation of Ms Justice Laffoy in September 2003, a direct result of the failure of the Department of Education and Science to engage with her in a proper manner, was the low point in the history of the commission. The work of the commission and its relationship with the Government was brought under the spotlight. What was uncovered exposed the Government to the valid criticism as to how it had failed to support Ms Justice Laffoy in her approach to the investigation of abuse and how persistent mishandling of the situation led directly to her resignation.

In regard to the Government's approach to the Commission to Inquire into Child Abuse, Ms Justice Laffoy said that since its establishment the commission had never been properly enabled by the Government to fulfil satisfactorily the functions conferred on it by the Oireachtas. This was a damning indictment of the Government that on the one hand established the commission to investigate the dreadful history of abuse and, on the other hand, failed to give the same commission the support it needed to carry out its functions. Ms Justice Laffoy listed the ways in which the Government thwarted the work of the commission.

Compensation for the survivors of abuse was raised in July 2000 but was not dealt with until July 2002. The issue of payment of legal costs for persons involved in the process of the investigation committee was also raised in 2000 but was not dealt with until 2002. The decision to review the commission's mandate effectively stalled the work of the commission by the slow and contradictory way in which its request for additional resources was handled. The issues were clearly matters for the Government to resolve but the delay in dealing with the requests from the commission, regretful, led to the resignation of Ms Justice Laffoy.

There is a conflict of interest within the Department of Education and Science sponsoring an inquiry when the Department is part of what is being investigated. This is a mistake and it is a pity the opportunity to rectify this in the legislation has not been taken. The actions of the Government stymied the work of the commission and delayed proceedings that are vital to the search for truth that so many victims of past abuse seek.

It is vital that Mr. Justice Ryan gets the full cooperation and assistance he needs from the Government and the Department under the Minister's stewardship which, unfortunately, was lacking and withheld from Ms Justice Laffoy. We must ensure the Commission to Inquire into Child Abuse is enabled to work for all victims of abuse. From the moment the Taoiseach made the apology in 1999 the victims expected they would have access to the commission and that their stories would be heard.

Following the resignation of Ms Justice Laffoy and the appointment of Mr. Justice Ryan to the

commission, a detailed report on the commission was published in January 2004. In this report Mr. Justice Ryan outlined the difficulties that have faced the commission, in particular the problems associated with the work of the investigation committee. Mr. Justice Ryan made a clear statement on the issue of sampling and the random selection of cases that proceed to inquiry. He said that while there was a readiness all around to acknowledge the problems facing the investigating committee, the idea of sampling the cases was seen as an unacceptable continuation of the entitlement of victims of abuse to bring their experiences to the commission via a committee of choice. It has been accepted that this proposal would have deprived a large number of complainants of the opportunity to participate directly in the inquiry process.

On the issue of sampling, the One in Four group realised at an early stage that those involved were beginning to realise that this was never realistic. The then Minister for Education and Science, Deputy Noel Dempsey, admitted that the State was guilty of an error of judgment when it mandated the inquiry to investigate every claim of abuse. It is understandable that the victims are disappointed because the promise given initially was reneged on. I am pleased the Minister has explained the reason for this in her contribution. It will be received positively by many of those who have had concerns.

In his report Mr. Justice Ryan said he believed the commission should have a wider discretion in regard to which cases go to a full hearing. The investigation committee requires the capacity to come to a conclusion in respect of a particular complainant that it would be impractical, unfair and unreasonable to put him or her through the ordeal of being examined and cross-examined in respect of allegations that were of such a nature as to be unlikely ever to be able to ground a finding of abuse. This is naturally a sensitive and difficult issue.

Like every Member of both Houses of the Oireachtas, the Minister has received representations from a person on behalf of the victims of Donal Dunne, the third paragraph of which reads:

Since Justice Laffoy published details of the numbers involved in her Third Interim Report surely the Commission has refined those figures by now and knows exactly what is involved. If changes to the legislation are necessary because the task is too big then it would help if the actual extent of the inquiry under the present legislation were known.

I hope the Minister will give a response to that matter on which all of us have received representations.

Section 4 amends the Act of 2000 removing the obligation on the investigating committee to hear all complaints and gives discretion as to which witnesses it considers should be called for a full hearing. However, to balance this change in legis-

lation, the commission will meet all victims and will conduct interviews with each one before making a decision as to the cases that should progress to a full inquiry. Mr. Justice Ryan in his report of January 2004 was clear that it was not suggesting that the category of complaints, whose allegations of abuse should not proceed to the full inquiry, would be large in number, which is of some concern. This amending legislation cannot indicate the number of cases that might not proceed to the inquiry.

It is important to insist that if this legislation is passed and the discretion is given to the Commission to Inquire into Child Abuse, it should only be applied in cases where the intention was to use it in the January 2004 report. The chairman of the commission, Mr. Justice Ryan, wrote to 1,712 outstanding complainants asking them whether they wished to proceed with their complaints. We would have a better idea of the scope of what we are dealing with here if we were told how many people had replied confirming that they were continuing. It would also allow us to debate this issue with a clear grasp of the level of complaint. When Fine Gael contacted the commission it informed us that it would not make this information available as replies were still being received. It is a pity that we cannot have the information available today and I ask the Minister to give an undertaking to make it available when all the replies have been received.

We welcome the establishment of an educational finance board with a chairman and eight members. A matter of concern to some groups is that while four representatives will be appointed from the various institutions, we have no indication as to how these will be selected. I would be grateful if the Minister would outline the criteria for selection.

I also welcome the grants system. However, many victims are not interested in money. They want to tell their story to bring some healing to themselves, which is what everybody wants. I appreciate that the Minister has a difficult task in bringing about final closure to the matter. Every group and individual to whom we spoke clearly indicated that money is not the issue. While the level of compensation and the grants outlined are welcome, the victims want to tell their stories. When we reach final closure on this matter I hope that all those with the capability to tell their story will do so. I look forward to dealing with other matters on Committee Stage.

Mr. Minihan: I welcome the Minister to the House and I thank Senator Fitzgerald for allowing me to speak before him as I have another meeting at noon. I am glad to have this opportunity to outline a few points on this important legislation. To set the context for this legislation and today's debate, I would like to quote Mr. Justice Ryan. On his appointment in September 2003 as chairperson of the Commission to Inquire into Child Abuse, he was asked to conduct a review of the workings of the

commission. It was clear that problems existed. In his review Mr. Justice Ryan said:

There is of course no simple measure, which will bring about the desired result. Any solution to the problems of the Investigation Committee of the Commission will necessarily require some adjustment of existing entitlements but I hope that it will be appreciated by everybody who considers the matter, that what is suggested in my report is a scheme which offers the most realistic prospect of a successful conclusion of the important work assigned to the Committee.

The purpose of the Bill before it is to give effect to the recommendations of that report. We must bear in mind the words of Mr. Justice Ryan when he said the report "is a scheme which offers the most realistic prospect of a successful conclusion of the important work assigned to the Committee". As a result, the same applies to the Bill. The circumstances leading to the Bill are not ideal. In many ways the changes it proposes are regrettable. Many people will rightly be disappointed with the Bill. While I would prefer if it were not necessary, I welcome and support it. Some will say that the background to this situation was the "States of Fear" series of programmes broadcast by RTE in 1999. However, this awful episode began many decades before that.

The investigation committee of the commission is to investigate child abuse alleged to have taken place over a period of 60 years. The oldest victim was born in 1926, when W.T. Cosgrave was President of the Executive Council of the Irish Free State and Pius XI was Pontiff. The task given to the investigative committee, to investigate more than 100 institutions, in respect of over 1,700 complainants, was onerous. When I stated that the oldest victim was born in 1926, we must also remember that those accused of abuse are older than the complainants. Some of them are dead. Some left their congregations many years ago. Some have not been, nor ever will be, traced. Despite the formidable nature of the task, investigate we must. When announcing the measures relating to childhood abuse on the 11 May 1999, the Taoiseach said:

What the Government has decided on is not a break with the past; it is a facing up to the past and all that this involves. This may well be a painful process, but it cannot and should not be avoided.

The objectives from the start were to establish as clear a picture as possible of the causes, nature and extent of the physical and sexual abuse of children in institutions and in other places and to afford victims of abuse in childhood an opportunity to tell of the abuse they suffered to a sympathetic and experienced forum. The Bill is part of that process. I accept that while it may not have been foreseen and may not even be desirable, it is, nonetheless, necessary. While some critics of the legislation claim that it is amending

[Mr. Minihan.]

the 2000 Act despite the original, admirable objectives I have just listed, it is being introduced because of these original, admirable objectives. As Mr. Justice Ryan's review found, the primary legislation sought to marry the benefits of therapeutic telling of experience with those of vindication of complainants.

The problems of implementing the Act are created by excessive ambition. The Act tries to do too much at the same time. In the same way we as legislators had to enact the original legislation to establish as complete a picture as possible of the causes, nature and extent of abuse, we also have a duty to address the problems in the process. While it may have taken time to discover the problems, which in hindsight were inherent from the beginning, the vastness of the undertaking only became apparent when the number of complainants opting for the investigation committee was known.

Politicians and legislators often face the criticism that when problems are identified, they are not addressed. We cannot allow that accusation to persist regarding this most serious issue.

The problems have been revealed and recounted by Mr. Justice Ryan. The essential problem with the commission is the work of the investigation committee and, according to the review, the essential problem of the investigation committee is one of case management. How can the allegations made by 1,712 complainants be handled within a reasonable time and at reasonable cost? The context of this Bill is Mr. Justice Ryan's correct assertion that the duration of the commission's work is of the greatest importance to all those who are concerned with its work and also to the public interest.

In her speech, the Minister outlined amendments such as that which pertaining to the definition of a relative. In this regard, I ask that a clear definition of spouse is provided. I raised this in 2002 and at meetings of the Joint Committee on Education and Science. I am concerned about that definition as it is interpreted by other legislation that deals with inheritance and so on.

The persons for whom the original legislation was enacted to serve have had their childhoods ruined and adult lives blighted. What other group could be more deserving of our care and of a cautious legislative approach? Breaking a promise to them is difficult to countenance. On the other hand, we would be failing that same group if we did not take on board the recommendations of the review. In light of this, I welcome and support this Bill in the House today.

Dr. Henry: I welcome the Minister to the House. I would like to add to what was said by Senator Ulick Burke and Senator Minihan. We are quite sure of the Minister's bona fides in trying to bring forward the best possible legislation to deal with this very difficult situation. Like other Members, I have been in contact over the years with many people who were abused in the

various institutions in this country. One can never be in a position to do enough to try to help them. It is not possible for us to understand their great pain and loss.

I took great interest in the Minister's speech, in particular, two parts of it. The first dealt with the investigation committee and the second dealt with the public hearings which are now being brought forward so that we could look at the historical basis of how child abuse emerged as an issue in this State. I have been concerned about the reports of these debates. In Letterfrack and in Dangan, it appeared to me that people were speaking in public about a time which they did not really know. Many of them are currently very senior members in the orders which had run these institutions and may not have been there at the time people were admitted. Distress has been caused to some people who were within those institutions where they felt that the sufferings that went on were minimised. It was known decades ago that abuse was going on in these institutions. The Kennedy report came out but we did nothing about it. It was not until five years ago that anything significant was done. I am anxious that many people feel that what is being said in public now is not exactly what happened.

The Minister has made changes to the way the investigation committee and the confidential committee will work in the future. She stated that the changes to bring forward witnesses will not be mechanical whereby a certain percentage or proportion of complainants are called to give evidence before the investigation committee. I hope that everyone who wants to come forward, can come forward. It is very important for the healing process that people feel that they have had their day before the committee. It looks to me as if this may not be so, but if the Minister can reassure me when she replies, I would be very grateful. The Minister stated that the way the commission will now work will reduce the likelihood of people who are less able for adversarial hearings being subjected to examination and cross examination before gatherings of lawyers and other interested parties. I strongly support anything she wants to do in that manner.

A letter appeared in *The Irish Times* on 19 May from a psychiatrist, Dr. Michael Corry, who has appeared before the commission. What he wrote was very disturbing. As we are all aware, the committee in question sits in private. In his letter, Dr. Corry states:

I have given evidence to the board on three occasions on behalf of three patients, all victims of layers of abuse, in particular sexual. Two of these have been under my care for over ten years. All will bring their pain and suffering to the grave. I was not allowed to be present when they gave evidence, nor indeed were their partners, a friend, an advocate, no one of personal significance.

I ask the Minister to address that. It is very difficult for someone to be in court without any

friend. It is hard that those victims who come forward do not know what other evidence is given. I can only quote what Dr. Corry says, because none of us can be there. He continues:

They were alone. Alone in attempting to articulate their exposure to regimes of unbridled rape and violence which lasted for years, at the hands of sadistic sexual perverts answerable to no one. Alone in telling about how their chance of a normal life was diminished from the beginning. About how they learned to place no value on themselves, and with their lives totally derailed following their release at 16 years old, drifted from one crisis to another for the rest of their lives.

One patient was left alone, on the verge of a panic attack due to the intensity of his fear, to tell the board of a past littered with criminal behaviour, prison records, substance misuse, dysfunctional relationships, mistrust of authority, and family breakdown. I found the discomfort of waiting in a side room to give evidence, aware of my patients' fears and worries, unbearable. They dreaded getting a panic attack, a flashback to an incident of abuse, a rush of uncontrollable anger that would alienate the chairman and jeopardise the outcome.

In giving my sworn evidence I felt under time pressure, and worse, that I was an unwelcome irritation slowing down the proceedings. An atmosphere of minimisation prevailed. It was impossible to present a complete picture.

The "board" consisted solely of a judge and a medical doctor.

Looking at this new Bill, it appears to me as if the board can now consist of one person. Dr. Corry continues:

On two occasions that doctor, having had no experience of working with traumatised or abused children, let alone a qualification in psychiatry, was nonetheless there for the purpose of contributing to a judgment on the compensation deemed appropriate for each victim.

Not being a court, it is held in secret, away from the eyes of the community, and no perpetrator of a crime is ever sentenced to a punishment.

To this day, I am confused about those who are indemnified from litigation by the Government. I read a report by the Committee of Public

12 o'clock

Accounts and sections 4.87 and 4.88 address the issue of who is indemnified from litigation. In the report,

there are some extraordinary parts where the then Attorney General, now a Minister, "flatly contradicted that this was his understanding of the position." In other words, people did not have to make a claim before the redress board for those against whom they were claiming to be eligible. It is a source of great confusion to me. The report states:

The Attorney General's office had been, effectively, out of the loop since the previous

negotiations broke down. No reply was received. The Committee asked why it had taken so long to reply to the Attorney General's queries.

If there was such confusion at that significant time between the Office of the Attorney General and the Department of Education and Science, it is very hard for any of us to know what the situation was. It should be remembered that the then Attorney General is now a Minister.

According to Dr. Corry's letter:

No apologies were offered as no one representing the religious orders can be held responsible. Justice for the victim is not the purpose; only financial compensation.

Dr. Corry also wrote:

The award is conditional on them signing a secrecy agreement and a waiver to taking further legal action. If the victims disclose the amount they were awarded or discuss the facts of the case in public, they face criminalisation.

That criminal cases can be taken against the victims is a matter we must address in the Minister's Bill.

Dr. Corry's letter continued to outline what happens before the committees, making very sad reading, but there was little response to it apart from a letter from Celine Henry, no relation, and Paddy Doyle of St. George's Villas, Inchicore. Ms Henry said she felt that while we could not undo the deliberate abuse of so many children in the past, we cannot plead ignorance. She suggested action should be taken. Mr. Doyle wrote:

I would like very much to comment on Dr. Michael Corry's letter concerning the Residential Institutions Redress Board. However, as one who gave evidence to the board, I am prohibited from saying anything under penalty of a €25,000 fine and/or two years imprisonment.

While it is very important to ensure those who were abused have the right to come before the committee, I cannot be sure from the Minister's contribution if that will be the case.

It has been well recognised for years that the education provided to people within residential institutions was woeful. The Minister was, therefore, quite right to try to establish an education finance board. It was odd that when the original legislation was enacted, it was passed one month before the educational trust with CORI was agreed. Not being a lawyer, I do not know where that leaves the legislative position, but it has always struck me as odd. There have been people who have said the process is not being used well but the Minister has taken the opportunity presented by the Bill to ensure it is better administered. I am very grateful that she has done so.

Senator Minihan spoke about who should and who should not be able to apply and said spouses will not be so permitted. The Minister did the best she could in the Dáil. I have heard that 100 spouses have applied but some people have asked

[Dr. Henry.]

how they were affected by what happened within the institutions. If they are, I am not quite sure the Minister is not right to leave that in despite strong representations to us that it should be taken out. It will have to be discussed on Committee Stage. To marry someone without realising how devastating a time he or she had in the past could have important effects.

I am very glad the Minister has rectified the Ombudsman provisions. People would have felt they were being very hard done by if the Ombudsman had not been included. As we keep saying, this must never happen again. While the Minister will remember that when she brought the Children Act through the House we were all very supportive of it, she and I did not agree on a minor but important matter relating to the placing of children in residential care. If children are in residential institutions on foot of convictions against them, the institutions are inspected every six months. The institutions in which children are placed on foot of neglect are inspected only periodically. Contrary to the Minister's wishes, both groups of children are often placed together.

When she replied on my amendment which proposed regular inspections at six-month intervals of the institutions in which children are placed on foot of neglect, the Minister said there were an insufficient number of inspectors. I am sure she was right given that we are having enough problems getting inspectors to visit nursing homes. Children who are placed due to neglect, however, are probably even more vulnerable than children with criminal convictions. Neglect could involve parents or guardians but children with criminal convictions may, unfortunately, come from families who are enthusiastic to have them out and about with them again. If the Minister can do anything about it, she should take the matter on board. Abuse happens because places are not inspected on a regular basis. I would be very grateful if the Minister could ensure something is done.

I am delighted the Minister has brought the legislation forward. She is aware that there are concerns about it, many of which she addressed in the other House. I hope she will be able to address some of the other concerns which have been raised in the Seanad.

Mr. Fitzgerald: I welcome the Minister to the House. I am sorry I could not hear Senator Henry's full contribution as the little I heard suggested she made a number of points on which I would have liked to be able to comment. I heard her discuss the inspectorate issue, which is relevant in other areas and which the Minister and ourselves will bear in mind.

As we were told growing up, a mistake is no longer a mistake if you learn from it. We are certainly on a learning curve in this instance as are people in other countries in which the same terrible and unfortunate events took place. None of us knows the best way in which redress can be

provided to the victims of abuse, their rights vindicated and their allegations validated in the public arena. We are all in this together as Members of the Oireachtas working with the Government to establish the best formula. The Minister's Bill represents a substantial, significant step forward to facilitate the efficient, timely and cost-effective delivery of the service originally envisaged to address the issue in question.

We are no less scandalised on successive occasions on which we rise to talk about child abuse than we were when we first addressed the matter in 1999 and 2000. Every time we hear about it, it becomes more sickening and as more examples are brought to our attention, we become angrier. We are angry at the abusers and at those who facilitated, sheltered and protected them to enable them to continue with their abuse uninterrupted and unchallenged for such long periods of time. It is of no significance that these matters happened many decades ago before the reform of the 1970s and it does not justify what happened. Our predecessors in the Houses of the Oireachtas took no action and failed to acknowledge their responsibility as legislators for all the children in the State though I am sure that on many occasions over the period they acknowledged the constitutional rights of children. We must put those harrowing times of physical, mental and sexual abuse in context to establish a scintilla of understanding of the ignorance, reluctance, denial and apathy of the State and successive Governments.

There are many examples which we could cite today, but I will refer to the case of the Baltimore Fisheries school in the context of which 21 former residents gave sworn evidence of their horrible experience of appalling abuse and deprivation.

It was terrible hardship. There were horrific stories of physical and sexual abuse. Many other stories have come out that are no less horrifying and that are likely to induce anger.

If I was asked what is the fundamental principle underpinning the Bill I would say, "Justice delayed is justice denied". That is primarily what the Minister has in mind, apart from the other obvious and justifiable considerations. The proposed changes to the two Acts for the roll-out of this service are very important to refocus the work, fast-track the timeframe for the delivery of the final report and reduce the legal costs that were originally envisaged.

The Government is the first in the history of the State to face up to the issue of child sexual abuse, to listen to the victims, to apologise to them — as the Taoiseach did in May 1999 — and to put a strategy in place to deal with the matter. The Government's action is an acknowledgment that we have been very wrong over the years in allowing our children to be incarcerated in such horrible places and in allowing them carry with them the physical, psychological and other scars they bear into adulthood.

The Government's commitment led to the setting up of the commission with a dual structure.

The confidential committee and the investigations committee components have already been referred to here today and in the other House. The confidential committee is the forum in which people come to tell their stories. It is an important part of the healing process for victims to talk to experienced people in a forum in which the investigative process does not play a part. I understand it is working very well. I do not have the up-to-date figure as quoted by the Minister today. The figures I have are from 19 April when the cases of 1,060 witnesses had been heard and 35 cases were still outstanding. It is heartening that this committee is working extremely well.

The investigations committee ran into difficulties because its work involved carrying out detailed inquiries akin to trials into allegations of abuse. Before we look at the merits of the Bill we must look at the background that gave rise to it and why it was necessary to bring it forward. I share the sentiment of other speakers that it would have been preferable if there had been no need to bring the Bill forward but we must accept that it is necessary that it should be brought forward.

With the progress of the work of the investigations committee it became obvious that the delivery of the final report would not be done within the original timescale of two years. The commission advised that it would take eight to 11 years before the process would be concluded as there were 1,957 applications to the investigation committee. It became clear that it was unrealistic to expect the report to be delivered on target.

The implications for costs were also becoming more significant. One estimate of costs put the legal bill at €200 million. It was also likely the publication of the report might be challenged because the alleged abusers might consider they were not getting due process. A review was set up, initially by the Attorney General and subsequently by Mr. Justice Ryan. The Bill is the product of those reviews.

I commend the Minister on the Bill which was subjected to significant consultation with survivor groups and all other interested parties. I believe the Bill is a good one which will achieve its three objectives of fast-tracking the final report of the commission, making the process more efficient and producing results at lower legal costs than originally envisaged.

Two key elements of the Bill have been the subject of debate. One of these is the removal of the requirement that the investigation committee should interview each individual applicant. Although there is a some disagreement with this change, I support it because there are compelling reasons for it. There are 1,300 applicants and if each one were to be given an individual hearing the process could go on for ever, not just for eight to 11 years. Mr. Justice Ryan recommended this change. If the change were not introduced many of the victims could have passed away before they would have a chance to be heard. They have waited for long enough as it is. Not alone would

many of the victims have passed away but many of the abusers would also no longer be around. That is not the objective for which this strategy was put in place in the first instance. There are many compelling reasons the change should take place, and I fully support the Minister in this regard.

The second proposed change is that the discretion of the commission to name individuals who have been found guilty of child abuse is being restricted to people who have already been found guilty in a court of law of a criminal offence of child abuse, or to those who have already pleaded guilty to such an offence. That is a necessary, desirable and sensible change to the legislation. I support these two key provisions, in addition to the other provisions such as the one referred to by Senator Henry which would allow an individual member of the board to conduct a particular hearing. She was concerned that this would mean that the board in that instance would be a board of one member. That is a legitimate question.

As an aside may I say I am sorry I do not have the same tolerance of heat as other Members of the House. I should have requested a fan but did not do so.

On the naming of individuals, I can see from where the Minister is coming and I can see the advantage of using that device to fast-track the system. If and when the situation arises that one member of the board interviews a particular applicant, would that member be obliged to go back to the full board? Supportive as I am of the proposal, I accept that Senator Henry may have a point.

While people are opposed to the first proposal, it is important to point out that others are supportive of it. I omitted to mention that one member of the survivors group from Artane, from where there were some 400 applications for individual hearings, made the point strongly to *The Irish Times* some time ago that not every individual applicant from a large group like that from a particular institution has to be heard to enable the commission to know what exactly went on there. That is an important point which I consider as a further endorsement of what the Minister is proposing.

The Minister has also proposed to amend the Residential Institutions Redress Act. She stated the amendments to this legislation are mainly technical in nature. One of the changes proposed would allow an applicant who has received an award a two-week period for the withdrawal of an application for review to the residential institutions review committee. That is most sensible. At times, on foot of an award, people can rush into making decisions to apply for a review, which is not necessarily always the wisest course. It is wise to provide a two-week period for people to consider and reflect on their decisions.

Another important change relates to the giving of false evidence. Anyone who gives false evidence, not just an applicant, may be liable to prosecution for perjury. I welcome this proposal.

[Mr. Fitzgerald.]

Other speakers have commented on the education fund for survivors. The legislation will set up an education and finance board and give statutory effect to the provision of €12.7 million. This is very important and I welcome it very much.

As regards the education and finance board, we should ensure the information we circulate in the public arena in respect of all the applicants is absolutely clear. This should be achieved as early as possible. The eligibility criteria for obtaining a grant should be very clear and known well in advance. When the relevant information is provided, all applicants should know whether they are eligible and what courses come under a particular scheme. When they participate in a particular education programme, the payments should be up front in so far as this is practicable.

I welcome the Bill. It will make a significant contribution to achieving the very desirable objectives which were inherent in the original legislation.

Mr. Ryan: To open the Minister's mind to amendments, I will point out an error which is more serious than a drafting error. It is in page 18, line 7, which refers to the Ombudsman. The legislation states: "Where, following an investigation under this Act into an action, it appears to the Ombudsman that the action adversely affected a person by or on whose behalf an application was . . ." However, "affected a person by" should be changed to "affected a person by whom". Otherwise it is entirely meaningless. This needs to be amended. I have consulted the authorities and the error is too significant to be deemed a drafting error. As the subsection stands, only people who had an application made on their behalf could be the subject of an investigation by the Ombudsman. We will obviously submit an amendment but it is really a job for the parliamentary draftsman to notice these problems.

When I was less than nine years old, I had the experience not of sexual abuse but of the most horrendous verbal and emotional abuse by a teacher. I was among the brightest in the class and the teacher was just disturbed. He is now deceased. However, his impact on me over 50 years ago is part of what I have had to live with ever since. It was quite extraordinary. Apart from those who have horrific stories of sexual abuse, there is a great number of people who were victims of the sort of people who seemed to believe it was acceptable to terrorise small children.

As I stated on the last occasion this matter was dealt with in the House, we genuinely need to reflect on what happened in this regard and why it happens. It happened because power was abused. It is not essentially about sex although that is the symptom. It is about people who used positions of power to abuse those over whom they had power. It happened because society deferred to power and authority, as was the case in many other countries.

I get a little tired when I hear people talk about the current lack of respect for authority. In Ireland, authority created the lack of respect for itself because, in the church and State, authority and the power that went with it were systematically abused by so many people. The knowledge of that systematic abuse, which was much more widespread than the abuse, was also suppressed by people in the interest of protecting power structures in church and State. I will return to this subject because it raises issues.

The liberal agenda, which is much maligned by many of those who would claim to be defenders of the *status quo* and to have family values, is the reason we now can talk about these issues. A cultural change in our country transformed people's outlook such that they felt, for the first time, able to talk about abuses perpetrated on them. They felt they would be listened to. Had they made such revelations 25 years earlier, they would have been sent home with a clip on the ear and told not to be thinking up such dirty stories. This is what happened to many people.

I stated before in the House that the foregoing abuses happened in what many would consider the good old days, in which the country was deemed a nicer place to be. It was not nicer and those days were not good old days. For a considerable section of society, they were horrible days in which the abuse of power and authority and physical and sexual abuse were capable of being perpetrated without accountability. There was nothing good about those old days; they were dreadful times.

We must deal with this legislation in the context of the hurt felt by victims of abuse. This is why I find it so regrettable that the Government managed to move at such an extraordinarily slow pace on these issues.

I remember reading the occasional interim reports of Ms Justice Laffoy. The account of her record is almost on a scale that would do justice to Stalin at his best given the way in which it was left out of the Minister's speeches in both this House and the other House. One would not think there had been a Ms Justice Laffoy who carried out an investigation and resigned. The truth is that Ms Justice Laffoy was frustrated by the delay of the Department of Education and Science in providing her with documentation and by the Government over its failure to provide her with the funding she requested and its decision to conduct reviews when she asked for resources.

There was a great delay before we reached this stage. It is no great credit to the Government and our public administration system that this is the case. It is only in Ireland that one could believe a six-year period from the time of the Taoiseach's apology to the middle of June 2005 is an acceptable period in which to deal with a matter as sensitive and horrendous as that about which we are talking. I do not understand our concept of efficient public administration. One is tempted to attribute motives but I will not do so. However, those who say this is not appropriate business to

be handled by the Department of Education and Science have an extremely valid point.

I have a copy of a letter from a person in the midlands, which was sent to the Minister on 19 June. She will probably know who it is from but I do not want to mention names. The point made in the letter is that there are still people working in the Department of Education and Science who are involved in what the sender alleges to have been delays in the processing of the Donal Dunne case in that Department. It is difficult to know how one could ever reassure the victims of that particular outrage given that a Department delayed and ignored the complaints that this individual made and did not do anything about them. How could anybody have faith in the Department's ability when there are people therein who were around when many of these abuses were being covered up, if not being carried out?

My experience and that of the Acting Chairman's former colleague, Pat Gallagher, in dealing with the Department of Education and Science regarding this issue is not the sort of experience that would inspire confidence. This did not happen 30 years ago. Mr. Pat Gallagher got access to the Department of Education and Science records in the late 1990s after a long series of delays and obstructions. When he finally got access he was told he could see but not copy them. What sense of openness, accountability and transparency can justify that, other than obfuscation and delay? When one sees that particular value system transferred into how Ms Justice Laffoy was frustrated, as she concluded she was, then it is understandable that people who have been at the receiving end of this abuse believe this is not the appropriate Department to deal with them.

It has been said to the Minister over and over again that this matter should be dealt with by the Department of the Taoiseach, not by the Department of Education and Science. There is a perceptible and perceived conflict of interest where the body that should have been responsible for protecting these victims is responsible for the investigation into what happened. I know the Department does not have a single identity and I accept there are many people working there, but from a perception viewpoint it is profoundly wrong.

Moving on to the legislation, I do not doubt the problems that arose. However, again in that letter, which the Minister received, the question arose as to precisely what stage the investigations are at. How many people will be further affected by the requirement under the previous legislation for each individual allegation to have a separate hearing? The Minister has been asked on a number of occasions to put some numbers on the real situation now as distinct from that which people thought would be the case. So far, we have no numbers.

As regards the Minister's rationalisation in her speech, I accept there are difficulties. However, we need to ensure we know precisely that one of

the reasons for the scheme the commission is now putting in place is to reduce "the likelihood of people who are less able for adversarial hearings being subjected to examination and cross-examination before gatherings of lawyers and other interested parties". That is a very humane objective. One does not need to end up telling people who want a full hearing that they cannot have it, however, in order to protect people who do not want to go through an adversarial process.

Again, the same letter which the Minister has refers to this individual saying:

I do not know why I was excluded from the hearings on the emergence of abuse, or whether I will be given an opportunity to give such evidence in the future. I do know that the wrong impression was sent out to the public at that time and I had no opportunity to give the other side of the story.

These are matters that ought to concern us, when somebody such as this individual, who has a record of attempting to expose child abuse, feels like that about this issue. He believes he is not being responded to by the Minister and Department responsible. That is a great pity.

I want to refer also to the redress board and to a communication I got from an individual. This suggests there has been a significant number of suicides among people just before they went before the redress board or just afterwards. Has the Minister any information on this? It is extremely disturbing. I have diluted what the individual said to me, on purpose, but the evidence was quite strong. Another upsetting aspect about the redress board, as instanced to me by people who had appeared before it, is that the culture is strongly reminiscent of the culture in which they were abused, which is, in effect: "It is our secret. Do not tell anybody. If you behave yourself I will give you the sweets. If you do not behave yourself, we will bring you to court." I am sure that this was never the intention. There is genuine concern that the redress board is a harrowing experience for the people who go through it. It really needs to be investigated further. I would like to know whether we can have at least some views as regards the victims of child abuse who have gone through the redress board. We could have an independent evaluation. I can understand the problems about confidentiality, to avoid people being named. I cannot understand why we cannot have high-powered professional evaluation of that.

I welcome the Bill in so far as it goes. We will table a number of amendments, one of which is absolutely necessary, otherwise the phrase "on the Ombudsman" is potentially meaningless. There are a number of others which will attempt to clarify and quantify the scale of the problem which it is alleged we need to address, in terms of reducing the right of everybody to have a full hearing.

Ms Feeney: I welcome the Minister to the House. I am very pleased that this piece of legislation is before the House today. In February 2004, after the Baltimore story was brought to us through the media, I spoke in this House. I have the same type of feeling of shame today. Shame on us all. This is something that has been neglected by all parties and Governments from the commencement of this State. It should not be made a political football by any party.

As a Fianna Fáil Senator I will be the first to put up my hand and say "shame on us all". I feel a terrible sadness that children could be affected as they have been. I am a mother of four in their late teens and early adulthood. I would kill if anything happened to any of those children at the hand of an adult in whose care I had put them. If I have feelings like that, how must it be for those people who have been abused? Unlike Senator Ryan, however, I am glad that Deputy Hanafin is the Minister for Education and Science. I have known her for more years than we might like to mention. I know the Department is in very capable hands and that she will leave no stone unturned to ensure the victims of child sexual abuse will get a fair hearing and what is due to them.

I agree with Senator Ryan's point, however, that this was an abuse of power. It certainly was. Power is a wonderful thing, but when it is abused it is the most destructive commodity of all. I hope now, through this piece of legislation, that the victims will be allowed to tell their story. Almost as if the shoe is on the other foot, the power will now be in the hands and voices of those victims who had to go through what they did.

The Minister has outlined the purpose of the Bill, which is to give effect to the recommendation of the review group's report to the Government and the subsequent recommendation of Mr. Justice Ryan. The Bill proposes to help the commission to complete a full inquiry into child abuse within a reasonable timeframe and at a reduced cost. I have picked out a few sections that are of interest to me. In section 3, I fully support the change in "clarification of serious offences", carrying a sentence of five years to an offence carrying a sentence of one year. In my view child abuse is a serious offence and poses a serious threat to any child, whatever its nature. It is therefore right that we should lower it to a sentence carrying one year as opposed to five.

I welcome the extension in section 4 of the functions of the commission to include a duty to inquire into the manner in which children were placed in institutions and the circumstances in which they were residents. We have all heard and read sad stories of children being placed in institutions for apparently spurious reasons.

Speaking on this issue in the House last year, I referred to an article written by Kevin Myers in *The Irish Times*, in which he outlined how, as a young journalist 20 years ago, he exposed child sexual abuse in institutional homes. At the time, he had to submit his articles for editing because

he was a junior journalist. When he asked why the editors erased every mention of the name of an institution or abuser he was looked at as if he had two heads and told it was not politically correct to mention names of abusers. I am glad we have come a long way in the 20 years since, even if Senator Ryan and other Senators do not believe this to be the case. I, for one, would not be afraid to name people if firm evidence were available.

As Senators will be aware, mothers were sometimes placed in institutions because their unmarried status did not fit in with the moral thinking of the time. In the town in which I grew up, the children of large families who fell on hard times, whether as a result of poverty or because the mother became medically unfit to rear her family, were placed in institutions. Sadly, children with whom I grew up were abused in institutions.

It is unfortunate that the House is discussing an issue one would expect to arise in a third world country. Sadly, however, these events took place in Ireland not so long ago and it is for this reason that I warmly welcome the powers proposed for the commission. As often is the case, the greatest abuse occurred to people taken into the care of others.

The amendment proposed in section 5 is welcome. It is eminently sensible that the commission can conduct its inquiry in one, rather than two, phases as it will speed up its work and save costs. The speediness of the proceedings will hasten closure for those who have suffered and reduced costs will make additional moneys available for the fund to help those who have been abused.

As the Minister outlined, section 6 proposes to amend section 11 of the principal Act, which should also speed up the work of the commission. I was glad to learn that provision will be made to hold joint hearings of cases involving an alleged common abuser. People need support and find it easier to tell their story if a friend or another person has been in the same position and sings from the same hymn sheet.

The Minister also mentioned the division of the committee to operate under a single member of the commission. I welcome this change as it allows several inquiries to be held at the same time. When serious inquiries arose on the Medical Council during the five years on which I have served on it, we broke up the inquiry team to allow several hearings to be held simultaneously. Again, this amendment is in the interest of the public, particularly the victims of abuse.

Section 9, which amends section 14 of the principal Act, is welcome as it should ensure greater co-operation with the commission. As the Minister noted, this legislation will greatly assist the commission in completing its work into child abuse within a sensible framework and at an affordable cost. It also establishes an independent statutory scheme of educational supports for survivors and their families.

I live in the north west, the location of a highly publicised case of child sexual abuse which took place in the home. Members of the family affected have stated that education empowered them to tell of the horrific childhood they endured. The Minister indicated that €12.7 million had been allocated to administer an education fund. I am open to correction but I understand €1.7 million of this figure has been spent to date. Education enables people to come out, tell their story and move on, as it were.

I hope all victims of abuse will get solace, healing and vindication, both from the report and the process into which they are about to enter. I also hope they will be able to move on with their lives as best they can. The childhood and teenage years stolen from them can never be replaced by the State, the Commission to Inquire into Child Abuse or anyone else.

We all feel shame that these events were allowed to happen. I hope the commission will be able to help victims to reach a point at which they can close off a part of their lives they want to forget. I hope, in time, they will be able to forget and move on.

Responsibility for this issue is with the appropriate Department. I extend my best wishes to the Minister who will leave no stone unturned to ensure justice is done.

Mr. Bradford: I am glad to have an opportunity to say a few words on this important legislation. Senator Feeney summed up the outcome we all seek when she stated in her final remarks that we must try to ensure the victims find solace, healing and vindication to allow them, in as far as possible, to move on with their lives following their difficult experiences. Unfortunately, neither the legislation we put in place, nor the work done by the commission of inquiry, nor the compensation or redress that is made available will answer all the questions for those affected. Tragically and for far too long in this State young children and young adults suffered enormously at the hands of people who had power and authority over them. While we can inquire and try to provide redress, we can never solve all the problems.

When I was first elected to the Houses in 1987, no one would have envisaged that this type of legislation would be required. Even as late as the 1980s, we had not yet realised or had our eyes opened to the type of abuse which had been perpetrated in State run institutions and educational establishments. It was not until the mid-1990s that the curtains finally opened and the public was given a clear picture of what had gone wrong. In a sad but necessary development various inquiries, reports, commissions and legislation are now being put in place. While I commend the Minister for introducing this amending legislation, it is a great tragedy for all of us, particularly those directly affected, that it did not happen 20 or 30 years ago.

The Bill amends legislation passed some time ago. The House has already introduced Bills to

establish the inquiry into child abuse, the redress board and a financial support mechanism. Members are now advised that this legislation is necessary and will improve the system of inquiry and redress. This is not a party political issue; every party bears some responsibility for the tragedy so many children endured.

Ireland is not unique in this. Children's lives, as recently as ten years ago, were looked upon differently from today. That is no excuse but there were different standards. There was no accountability and politicians were unwilling to inquire. Senator Feeney mentioned that questions were asked but the answer was not to inquire because it was too tricky a political situation. On the basis that none of us made sufficient inquiries, we are all responsible. We are trying to right wrongs and while it is not possible to correct fully all of those wrongs, we must do as much as we can to resolve the situation faced by so many people.

I am interested in the change of emphasis of the investigation committee — I genuinely hope it will work. There may be difficulties with the fact that not everyone will be questioned by the investigation committee and I note that people who are less able for adversarial hearings will not be subject to strong cross examination. That is welcome but those who wish to tell their story should be facilitated as far as possible. Mr. Justice Ryan, who has given this some thought, made this recommendation.

The redress board is to be changed. People have come to me about their ongoing correspondence with the board. Although they are being dealt with in a sensitive and fair fashion, their complaint relates to the time taken for the processing of cases. A lot of work must be done before a case can be concluded but if additional resources and staff are needed, the Minister should consider them. As politicians, however, we hear from those who have problems, not from those whose cases have been resolved satisfactorily. The main concern of those who have contacted me is the timescale for their cases. I hope that the legislation before us will be the final piece of the jigsaw that will provide the solace so many abused people require.

We must reflect on the resignation of Ms Justice Laffoy. Senator Ryan mentioned that her record was not recognised in the Minister's speech or during the debate in the Dáil. Ms Justice Laffoy had problems with the way in which matters were being addressed and the responses from Departments. I hope that those issues have been taken seriously by the Government and no such further difficulties will be experienced.

We owe it to those people who have suffered and endured pain and a lifetime of misery as a result of their experiences to right the injustice done to them by putting in place a proper scheme of assistance and compensation.

Mr. Scanlon: This Bill amends the Commission to Inquire into Child Abuse Act 2000 and the Residential Institutions Redress Act 2002. It establishes a statutory body to administer a €12.7 million education fund for former residents of institutions and their families.

In recent years Irish society has been shocked. It must confront the reality that so many people were subjected to serious abuse as children in homes and institutions charged with the care and protection of children, many of which were orphanages, industrial schools and reformatories owned and managed by religious orders and funded wholly or in part by the State. Many victims of this abuse have grown to adulthood carrying the emotional and physical scars of the abuse.

On 11 May 1999 the Taoiseach apologised to all victims of abuse for the suffering they endured as children and the failure of society to provide the care, attention, love and support to which all children are entitled. On that day the Taoiseach announced a range of Government measures to redress the abuse. The original legislation envisaged that the commission would proceed on an informal basis as far as possible. As the commission began its investigation process, however, this proved not to be possible, giving rise to the possibility of legal costs rising to hundreds of millions of euro. If the work of the investigation committee had continued in this way, it would have taken the commission an estimated eight to 11 years to complete its work.

The age profile of many survivors was also borne in mind. Many people, including survivors, were justifiably concerned about the lengthy timeframe. Accordingly, a review of the commission was carried out by the Office of the Attorney General. Following this, the Government requested that Mr. Justice Ryan undertake his own independent review of the working of the commission. The terms of reference were to carry out a review of the working of the commission and to make all necessary recommendations having regard to the interests of the victims of abuse, the completion of the commission's work within a reasonable timeframe and in a manner consistent with proper investigation, and to achieve these objectives without incurring exorbitant costs.

Mr. Justice Ryan's report was published on 15 January 2004, together with the review completed by the Office of the Attorney General. Mr. Justice Ryan concluded in this report that a combination of legislative amendments to the original Acts should be implemented so the commission would be in a position to conclude its work in a reasonable timescale and without incurring exorbitant costs.

The Government accepted Mr. Justice Ryan's report. Following its publication, the investigation committee held meetings with all interested parties and representatives of groups to facilitate them in expressing their views on the contents of both reports and to enable them to make suggestions on the future operation of the investigation. A formal

hearing of the investigation committee took place on 24 May 2004 to receive submissions on the matter. Representative groups were also given an opportunity to express their views subsequent to the hearings. At the conclusion of the process on 16 June 2004, Mr. Justice Ryan stated the commission had decided to proceed in accordance with the position paper published in May 2004.

This legislation was enacted for the many people who as children were committed to these institutions and have suffered serious psychological scars. Many families have also suffered. Members will be only too aware of those who suffered at the hands of these people. The stress, annoyance, hardship and sorrow that has been caused to many families should be kept in mind. Hopefully, this Bill will speed up the process so those affected can be compensated. They have suffered enough and we must do everything to ensure they suffer no more.

This amending legislation fulfils three important functions. It will assist the commission in completing a comprehensive inquiry into child abuse within a sensible timeframe and at an affordable cost. It will set up an independent strategy scheme of education support for the survivors and their families, which is to be welcomed. It also makes several legislative amendments to enhance the effective operation of the redress scheme. I welcome the Bill.

Minister for Education and Science (Ms M. Hanafin): I thank Senators for their sensitive consideration of the issues surrounding the Bill. It addresses issues of which we are all conscious. All Members wish to ensure the process is correct and sympathetic to those involved.

Everybody who applied to the confidential committee will be heard and get an opportunity to tell their story. Everybody who applied to the investigation committee will be interviewed but not all will go to a full hearing. This protects those not able for full hearings but it also allows the commission a way that will ensure a reasonable representation of the years, people and issues involved. At the same time, it will ensure the process does not take 12 years, putting a dreadful pressure on everyone involved. No one wants this to happen. For the majority of institutions involved, everyone will get a full hearing. However, for the very large ones it would not be possible to do so. The commission recommended this proposal to ensure it could continue its work while protecting the interests of all survivors.

I appreciate Members are interested in the appointment of members of the finance board. The sum of €12.7 million is a large one to be spent on education but it is valuable in that it can open new opportunities for people. With regard to the survivors of the institutions who will be members of the board, I will be consulting with the various groups to see how best to make those appointments. I have already met with some groups which are supportive of the changes proposed in the Bill.

I am aware of the concerns raised by Senators Henry and Ryan regarding the redress board. Many of these issues have already been raised by the survivors' groups. Officials from the Department of Education and Science are in consultation with the groups and the national office for victims of abuse to see what can be done to assist survivors after they have told their stories to the redress board and the commission. It must be a dreadfully traumatic experience to tell one's story. It is not necessarily that the boards are causing trauma but the actual revival of memories in telling the story. When I met with Mr. Justice O'Leary recently, one matter he highlighted was that anyone telling his or her story is allowed to have a counsellor waiting outside, which will be paid for by the redress board. However, few people take up this opportunity. They probably did not realise the effect of re-telling their stories. It is an offer those attending the board in the future may wish to consider. These are issues of which we are conscious because it is a difficult process.

The commission and the redress board have all the resources and staff they require. The Government is committed to ensuring they can do their work well and efficiently. The Department of Education and Science has given dedicated staff and resources and has provided approximately 150,000 pages of documentation to the commission in response to all its requests. After Ms Justice Laffoy's criticisms, it was highlighted that some requests to the Department could not have been answered. They were taken on board and we appreciate her work with the commission. Our determination is to ensure the process is sympathetic, efficient and cost effective. The Department and the Government are committed to meeting their requirements. Over 30 people are working on the redress board and 53 people work with the commission. Resources are provided on request. The commission and the Department are satisfied that there is no conflict in this area.

Regarding the Donal Dunne case and the numbers involved in day schools, the commission issued the most recent figures in its third interim report in January 2004. It is up to it to decide what information it gives and when it will be published. Nothing in this legislation affects the position of day schools. This work can continue but the commission will make its information available as soon as possible. Senator Ryan raised an issue concerning the drafting of the Bill. We will discuss this with the Parliamentary Counsel to see if this needs to be addressed.

Senator Fitzgerald quoted the saying "Justice delayed is justice denied". As legislators, in trying to address the issues for the survivors, the last thing we want is to delay the process any longer. This amending legislation goes some way to ensuring we can address the issues and concerns of the victims while ensuring there is an effective system to do so. I look forward to discussing some of the issues raised by Senators on Committee

Stage. I thank them for their sensitivity in dealing with these matters.

Dr. Henry: On a point of information, when do we need to submit Committee Stage amendments? Do they have to be submitted by 3 p.m.? Some Members will be working on the Disability Bill this afternoon.

An Cathaoirleach: The Chair will be flexible as regards amendments so long as they are submitted this evening. It cannot be tonight as it must go to the printers then.

Question put and agreed to.

Committee Stage ordered for Thursday, 23 June 2005.

Sitting suspended at 1.10 p.m. and resumed at 2.30 p.m.

Disability Bill 2004: Report Stage (Resumed) and Final Stage.

An Cathaoirleach: Amendment No. 21 has been discussed with amendment No. 7.

Government amendment No. 21:

In page 24, line 36, to delete "designated" and substitute "assigned".

Amendment agreed to.

Ms Terry: I move amendment No. 22:

In page 26, after line 48, to insert the following:

"(c) The compliance of public buildings with Part M shall be ensured by the allocation of certificates of compliance by a building control officer who will also be charged with the periodic monitoring and inspection of such buildings."

This amendment seeks to ensure the compliance of public buildings with Part M of building regulations. The Minister of State stated last week that Part M already exists and has to be complied with. I accept this. This amendment ensures such compliance by issuing certificates in the same way that a building control officer would give a fire certificate for compliance with fire regulations. I ask that a similar action would occur in the case of complying with disability legislation regulations. This would guarantee that buildings are complying with Part M.

Periodic monitoring of buildings should also occur to ensure compliance with Part M. Such a provision would strengthen the Bill and I ask that the Minister of State accept it in the interest of fortifying compliance with Part M. Many rules, laws and regulations exist in the State but many are not enforced or complied with. Issuing of cer-

[Ms Terry.]

tificates would help enforce compliance with these regulations.

People with disabilities, in wheelchairs or otherwise, have difficulty in accessing railway stations. I know this from my own neighbourhood, which has a railway station. A public body must ensure that such stations are accessible to everybody; the current situation falls short of that. I ask that this provision is included in the Bill to ensure the best standards are maintained and monitored.

Dr. Henry: I second Senator Terry's amendment. A similar discussion took place in considering the Veterinary Practice Bill 2004. The Government put forward a stipulation that the premises upon which veterinary practice was to occur be certified, and that the original certificate be displayed. On this side of the Seanad it was suggested that a copy might suffice because of what can happen to important documentation. If an issue is to be made of certification, and if original certificates are already displayed in a veterinary practice, the least that can be done is to ensure certificates describing public premises as being in compliance with legislation be displayed.

Mr. Kett: I agree with this sentiment, as part of Part M of the building controls is probably one of the most abused. It has existed for some time but a lack of adherence to it is evident. The Minister of State gave a reasonable answer to this on Committee Stage when he stated that the Government was introducing a building control Bill in the future. I agree also with his statement that local building control authorities, rather than individuals, should monitor individual sectors. Overall, I support Senator Terry's assertion that compliance with Part M must be monitored, as do all aspects of the Disability Bill in future. Everybody should in their own way ensure that all aspects of this Bill, more so than other Bills considered in the past, are monitored and delivered.

Ms O'Rourke: I echo Senator Kett's statement. I have some questions for the Minister. Senator Terry spoke about access to railway stations. Great effort has been made at some stations around the country to make them accessible to people with disabilities. Can the Minister of State report how long CIE has to get the stations updated in this regard, not just with buses and trains but with its railway stations as well? Is there a timespan over which it must get the premises in order?

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): Ten years.

Ms O'Rourke: Ten years is a long time for someone in a wheelchair.

Mr. Fahey: The timescale has to be progressive.

Ms O'Rourke: That would echo what the Minister of State has said about CIE informing people of what it was doing, that stations would be visited, and that the body would testify about what work had been carried out.

Mr. Fahey: Section 25 of the Bill states:

Subject to *subsection (4)* and *section 29*, a public body shall ensure that its public buildings are, as far as practicable, accessible to persons with disabilities.

Section 25(3)(a) of the Bill states:

Buildings, which are public buildings on the commencement of this section or which become public buildings 40 after such commencement, shall be brought into compliance with Part M (unless the building is already required to be so compliant) not later than 31 December 2015.

Amendment No. 22 seeks compliance with Part M of the building regulations through allocation of certificates of compliance by building control officers. Under the Building Control Act 1990, the enforcement of the national building regulations, including Part M, which relates to access for people with disabilities, is vested in local building control authorities. The responsibility is not on individual officers employed by these authorities.

I pointed out on Committee Stage that the Government plans to introduce a building control (amendment) Bill this autumn. The Bill will provide for the introduction of a disability access certificate system, whereby the building control authority will certify that all planned non-domestic buildings and apartment blocks comply with Part M of the building regulations before work commences. This system will apply to a wider range of buildings than the public buildings covered by the proposed amendment to section 25 now under discussion.

I appreciate the Members' expressed concerns as they wish to see the issue dealt with in the Disability Bill rather than waiting for legislation to be enacted. However, this matter is more appropriate to that legislation. The Disability Bill cannot deal with every aspect of policy that will have an impact on people with disabilities. I am confident that the provisions of section 25 are already adequate in respect of the obligations placed on public bodies to make their buildings accessible in accordance with Part M regulations and to further upgrade their buildings where those regulations are amended. There are also provisions for compliance and appeals to the Ombudsman when a body fails to comply with

these obligations. These bodies must also adhere to any further obligations arising from the building control Bill.

In addition, the sectoral plan of the Department of the Environment, Heritage and Local Government will contain information about the measures to be taken to ensure compliance with the building regulations. The draft plan will be subject to consultation with the relevant stakeholders and has already, in recent weeks, been the subject of regional information sessions, which are facilitated by the National Disability Authority. I am satisfied that the matter of certificates and the associated monitoring and inspection processes will be more appropriately dealt with in the building control Bill and therefore it is not necessary to accept the amendment.

Ms Terry: I will welcome the building control Bill when it comes before the House. However, Members will be aware of how long it takes for most legislation to pass through the Houses. As far as the issue of making public buildings accessible for people with disabilities is concerned, we should not wait for that to happen. The timeframe of ten years, which would take us to 2015, is far too generous. I do not see how people responsible for any building could take ten years to make it accessible. This is far too lenient and I do not understand the need for such leniency. We need to set down ground rules and timeframes. I would have thought that even a five year period is too lenient. However, the provision of a period of time as long as ten years baffles me.

The Minister of State also mentioned that the Disability Bill cannot cater for every need or aspect of the provision of accessibility or other issues pertaining to people with disabilities. Surely however, in the case of accessibility, we should set the standards and demand the delivery of those standards in a much shorter timeframe. After all, the purpose of the Bill is to bring people with disabilities into the mainstream and putting such questions on the long finger does not

deliver a service to people with disabilities. We should do everything we can to speed up that process. My amendment would help to deliver that service and would be in everyone's interest.

We want to reach a stage where people with disabilities can leave their home, gain access to footpaths and public buildings and go about their business. As far as footpaths are concerned, we must also ensure that when someone leaves home in a wheelchair, he or she can reach his or her destination, be it to the local school, church or shop. Such people should be able to travel along footpaths with dished kerbs in place to enable the wheelchair to access every footpath, but that does not happen. If everything is put on the long finger, it will not be done. I regret the line taken by the Minister of State, as he is putting the matter on the long finger and this is not acceptable. I urge him to accept the amendment.

Amendment put.

The Seanad divided by electronic means.

Mr. U. Burke: My vote did not register.

An Cathaoirleach: It is too late now.

Mr. U. Burke: I voted but it did not register.

An Cathaoirleach: The Senator should have notified the tellers to that effect.

Mr. U. Burke: I am notifying the Cathaoirleach now.

An Cathaoirleach: It is a bit late to bring it to my attention when the result has been announced.

Mr. B. Hayes: I request a manual vote.

An Cathaoirleach: The manual vote will now proceed in accordance with Standing Order 56(A).

Amendment again put.

The Seanad divided: Tá, 17; Níl, 29.

Tá

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

Henry, Mary.
McCarthy, Michael.
O'Toole, Joe.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Níl

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Dooley, Timmy.

Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Hayes, Maurice.

Níl—*continued*

Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.

Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Terry and Tuffy; Níl, Senators Minihan and Moylan.

Amendment declared lost.

Amendment No. 23 not moved.

Ms Tuffy: I move amendment No. 24:

In page 29, to delete lines 40 to 43 and in page 30, to delete lines 1 to 5 and substitute the following:

“31.—(1) Each Minister of the Government.”.

This amendment requires that all Ministers prepare sectoral plans. At present only six Ministers are required to do so. Why should not every Minister prepare such a plan? The idea is that there should be mainstreaming of disability issues throughout every Department. Even the preparation of sectoral plans does not go far enough. At the very least every Department should have to prepare such a plan.

The ultimate aim of Departments should be to include people with disabilities from the outset and every penny of Government expenditure should be inclusive so that disability is not an add-on. One way to do that is to ensure different Departments have comprehensive disability proofing. While a sectoral plan is a step in the right direction, it does not go as far as the disability groups would wish, particularly those who have withdrawn from the DLCG but also those groups still within that process are not happy. The sectoral plan requirements are vague and do not go far enough. The disability groups feel strongly that every Department should have to prepare such a plan.

Ms Terry: I second the amendment. It is very important for every Department to prepare a sectoral plan to ensure we have disability proofing across the board. While the Bill will oblige most Departments to provide sectoral plans, we want to go one step further. I support what Senator Tuffy said. This requires us to adopt a new mindset. When dealing with legislation every Department and all legislators need to be cognisant of people with disabilities, which will become a matter of course in the same way that we have equality proofing. We need to take the extra step and ensure we disability proof every Bill and regulation proposed and implemented. We need to provide safeguards to ensure we do not do anything that may cause difficulty or present an

obstruction for people with disabilities. In time all Departments will incorporate that way of thinking. In the meantime we will need to provide for it to ensure it gets done. This amendment is worthy of acceptance and I hope the Minister of State will do so.

Mr. Kett: I would not disagree with the sentiments expressed by my two colleagues. If Departments are left out of the loop at this stage, at the very commencement, the mindset that we are trying to engender into Departments might not be forthcoming. Even if those Departments never produced sectoral plans, they should be encouraged to do so. If Departments are not asked to think about disability or to disability proof legislation, they will not do so. The Minister of State made it clear that the six Departments were chosen as their policies have a greater impact than those of other Departments, with which I agree with one slight exception. In a different way, the Department of Justice, Equality and Law Reform has a major impact on the lives of people with disabilities as it has shown with its legislation to date in the area of equality.

Dr. Henry: I support the amendment, as it is a very good way to monitor the mainstreaming of the legislation.

Ms White: When we met Mr. Dolan of the Disability Federation—

An Cathaoirleach: It is not necessary for the Senator to refer to people whom she has met.

Ms White: The responsibility should be covered in the legislation. Some €38 billion is spent each year on infrastructure in the country and generally the disabled are excluded from this Government expenditure. The head of the Disability Federation of Ireland drew our attention to those who are now disabled and who will become disabled in the future, which I had not fully considered. Now that we are living longer the chances are that all of us will become in some way disabled with, for example, rheumatism and arthritis. Not only is this provision required in legislation, but also the Secretary General and Minister of each Department need to ensure that any money spent includes people who are disabled.

Ms O'Rourke: I believe that each Department should be included. When the Bill is enacted factors will emerge that belong to other Departments. Departments change name and become merged and segregated. The cleanest approach is to require every Minister to report a sectoral plan, which will ensure they understand it is also their business and not just the business of the Ministers responsible for transport, education and health.

Mr. Fahey: I will respond to the last point made. Each Minister does not have a sectoral plan as the sectoral plans only apply to the six major Departments with a need for a plan owing to the massive amount of work to be done. In response to what Senator Terry said before the division, that work will be done on a year-on-year basis up to a maximum of ten years. It is not a question of putting it on the long finger. Other Departments are covered in another section of the Bill, which requires them to have their plans in place by the end of December 2005.

Ms O'Rourke: Does this apply to the Departments that have no plans now?

Mr. Fahey: The ones without plans must have their provisions in place to comply with the Bill by the end of this year, which means they have no need to have a plan. For example, the Department of the Taoiseach does not need a sectoral plan because that Department has little to do in this area when compared with the Department of Transport or the Department of the Environment, Heritage and Local Government. Six sectoral plans will cover the planning to be carried out by the six major Departments that need to spend hundreds of millions of euro in the next ten years in adapting buildings and facilities.

Earlier Senator O'Rourke asked about Bus Éireann. It needs to carry out that work which is already in progress. The Senator was very proactive in this area when she was the Minister responsible for semi-State bodies. Over a ten-year period they will be required to become fully accessible to disabled people.

I do not accept the point made by Senator White that of the €38 billion to be spent, no account is taken of people with disabilities. Under the building regulations and the existing protocols all Government expenditure is subject to controls requiring it to be disability friendly.

Ms White: Are the regulations being carried out?

An Cathaoirleach: The Minister of State should be allowed to speak without interruption.

Mr. Fahey: By and large they are being carried out. Part M of the building regulations ensures that all new buildings funded from new moneys are——

Ms White: The regulations are being broken.

Mr. Fahey: With due respect, it is very unfair to make such comments. A strong set of regulations for new buildings and developments exist and are being adhered to. If the Senator has examples where this is not happening with new expenditure, I would like to hear them. I ask the Senator to inform me of projects involving Government expenditure in which the planning laws on disability are not being adhered to.

Ms O'Rourke: The Minister of State said other Ministers are required to come back by the end of the year.

An Cathaoirleach: Senator O'Rourke has spoken already and should allow the Minister of State to reply.

Mr. Fahey: Sections 25 to 29 impose significant obligations on the six Departments, which, among other matters, must make all their services accessible to people with disabilities. Significant costs and resources cross a wide range of bodies are involved. The main cost for the six Departments is the cost of retrofitting and making changes. This applies to agencies such as Iarnród Éireann, Bus Éireann, etc. It is not necessary to include the other Departments, as the amendment proposes, as all other Ministers must deliver their responsibilities under sections 26 to 29 by the end of the year. For these reasons I do not propose to accept the amendment. This is because all other Ministers must deliver their responsibilities under sections 26 to 29 by the end of the year. For those reasons I do not propose to accept the amendment.

Ms Tuffy: Sections 26 to 29 apply to all Departments also mentioned in section 31. If what the Minister of State is saying is true, why would he need to name six Departments? He states that it is anticipated in the legislation that they will spend so many millions or euro and that proof of expenditure is needed. That should surely apply to all other Departments as well.

This is not concerned only with access to buildings. The provisions in sections 26 to 29 have a general application. It is not as they have application to all other Departments while section 31 has application to specific ones. As I understand it, sections 26 to 29 applies to everyone, but section 31 applies only to six Departments which have a special onus to have a sectoral plan under the provisions. I do not see the big deal in including all the other Departments. It means that a similar onus will be placed on them.

Senator Kitt pointed out to me that the Department of Justice, Equality and Law Reform is not included. Of all Departments it should have been included as this is where the legislation is originating. The Department of Justice, Equality and Law reform covers such a broad area and surely these sections should cover it.

Similarly, I do not understand the logic for not including the Department of Education and

[Ms Tuffy.]

Science. The Education for Persons with Disabilities Bill 2003 is of very limited application. It covers primary and secondary education, but it does not cover further education, lifelong learning and so on. Nor does it cover the other things covered by the Department of Education and Science, such as services provided to the public. I cannot understand why that is not included.

The way to go about this is to have every Department draw up some kind of plan. Every cent spent by the Government should be proofed for disability from the outset. It represents good value for money to do it that way. It is like spending money on gender equality. We should not be spending money first and examining it later to see how we are dealing with women, or the elderly or whatever. I urge the Minister to change his mind.

Mr. Fahey: There are six Departments with plans because it is necessary for those Departments to plan for the short, medium and long term action they will take. This is because there

are very significant amounts of work that they all must carry out. The other Departments are covered and they must complete their work by December 2005, which is covered in sections 26 to 29. We wanted to focus on the big Departments which must put plans in place because of the fact that there is a very significant amount of work to be done by them or the agencies under their area. The Department of Education and Science is covered under the Education Act, so it is not necessary to cover it here.

Ms Tuffy: I do not agree with that.

Mr. Fahey: If it was necessary to have plans for the other Departments, there would have been no difficulty in having them. However, it is not necessary because they will be obliged, once the Bill is passed, to put in place all of the requirements expected of them in the Bill by the end of this year.

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

The Seanad divided: Tá, 29; Níl, 17.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Hayes, Maurice.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
MacSharry, Marc.

Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Níl

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

Henry, Mary.
McCarthy, Michael.
O'Meara, Kathleen.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Terry and Tuffy.

Question declared carried.

Amendment declared lost.

Acting Chairman (Mr. U. Burke): Amendments Nos. 26 and 27 are cognate to amendment No. 25 and they will be discussed together by agreement.

Government amendment No. 25:

In page 31, line 2, to delete "Dáil Éireann" and substitute "each House of the Oireachtas".

Mr. Fahey: I thank the Senators for bringing this important matter to my attention on Committee Stage. I am happy to agree with the suggested amendment by Senator Quinn and Senator Henry to remove "Dáil Éireann" from section 31(6) and replace it with "each House of the Oireachtas". Government amendments Nos. 25 and 27 will also ensure that section 31(6), which refers to the laying of sectoral plans before Dáil Éireann and the commencement of section 31, is subject to the passing of a resolution by both Houses approving the plan.

Dr. Henry: Senator Quinn, who asked me to move his amendment, was the person who spotted this omission. I regret to say I did not, but I am delighted we were able to advise the Government on it.

Ms Terry: I also thank the Minister of State for bringing forward this amendment. As was stated on Committee Stage, it is only right and proper that the work of this House should be recognised in legislation. The omission is probably due to an oversight or the taking for granted of this House and it is right that the amended wording would be included. I thank the Minister of State for doing this.

Ms O'Rourke: Let the call go out loud and clear from this House that it was a big mistake to state that the sectoral plan should be laid before the Dáil. Senator Quinn discovered this omission some years ago. I would not be as kind as Senator Terry about it. Those in the Office of the Chief Parliamentary Counsel who formulated the Bill should realise there are two Houses in the Oireachtas and that no Bill can become the law of the land until it has passed through both Houses. It is cavalier of them to have allowed that unconstitutional reference into the Bill. The matter has been corrected by amendments Nos. 25, 26 and 27. Senator Terry always includes reference to both Houses of the Oireachtas in her statements on legislation.

Amendment agreed to.

Government amendment No. 26:

In page 31, line 5, to delete "Dáil Éireann" and substitute "each House of the Oireachtas".

Amendment agreed to.

Acting Chairman: Senators Quinn and Henry have also tabled an amendment similar to Government amendment No. 27, which has already been discussed with amendment No. 25.

Government amendment No. 27:

In page 31, in lines 2 and 3 of the text inserted by Government amendment No. 45 at Committee, to delete "Dáil Éireann" and substitute "each House of the Oireachtas".

Amendment agreed to.

Ms Terry: I move amendment No. 28:

In page 40, between lines 46 and 47, to insert the following:

"(5) The Minister shall, as soon as may be after the passing of this Act, prepare and lay before each House of the Oireachtas, a report on the possibility of increasing the public service employment quota for people with disabilities above 3 per cent."

This amendment calls for a report on the possibility of increasing the public service employment quota for people with disabilities above 3%. On Committee Stage the Minister of State was critical of the fact that I am only asking for a report on the possibility of increasing the quota. The implication is that I should have sought an increase. I am trying to make it as easy as possible for him. I did not think he would accept my amendment if I asked for an increase in the quota. My amendment is very fair in that I am only asking for a report which would examine how the present quota is currently working in each Department from which we could deduce whether the quota should be increased.

I believe we should increase the quota. Some Departments are doing very well in this regard while others are doing very badly. Therefore, a report on this issue would be important. If we cannot get public bodies to employ more people with disabilities, how can we expect the private sector to do so? It is an enormous help to disabled people to provide them with employment. It is well known that people with disabilities who are unemployed are at a greater risk of living in poverty than able-bodied unemployed people. It is vitally important that we do everything we can to facilitate people with disabilities to get into the workforce. Many people with disabilities face obstacles to getting into the workforce but once they are employed they have a significant contribution to make. Many of them are capable of working alongside able-bodied persons, which is an advantage to everybody in the workforce.

It is time we raised the quota of 3% which has been in place for a number of years so as to facilitate more disabled people to get into the workforce. My amendment does not even go that far, it merely asks the Minister to draw up a report on the possibility of increasing the quota. That report would facilitate all of us in terms of how well the system is working. Perhaps the Minister of State would be able to provide us with the percentages of disabled people currently working in each Department. In that way we would be able to see how well or how badly Departments are faring in this regard. We know that some of them are doing badly and that is not acceptable.

Perhaps the Minister of State could also inform me if a timeframe is set for each Department to reach the quota. In the absence of one they would never achieve it. The setting of targets in legislation is a point I have stressed in regard to many amendments today. If there is no onus on people to comply, they will not do so. It is an opt out, a cop-out. My amendment is very fair and does not ask a lot of the Minister of State. It does not require him to increase the quota but to provide a report on the possibility of doing so. I hope he will accept it.

Mr. Kett: I am not sure how I feel about quotas. As was stated on Committee Stage, if one sets a quota Departments might sit on their hands when they reach it and do nothing else. I would

[Mr. Kett.]

rather change mindsets before changing quotas. However, I take the point that one could consider changing them.

Given the changes that will result from this legislation, more and more people will be able to gain access to employment, be it through changes to the working environment or otherwise. It may be that quotas will go through the roof as a result, provided that the right types of disabled people are coming on stream looking for jobs.

Do the quotas that will be specified fall under the new or old definition of disability? The Minister of State will answer this. Under the new definition, the quotas may not stand up.

On employing people with disability, I hope that when the new regime commences, people with disability will get meaningful jobs rather than jobs created for the sake of creating them. I said this last week. Senator O'Meara referred to a report that stated people with disability are twice as likely to be poverty-stricken as able-bodied people. It is probably even more likely when a disabled person is head of a household. Given that we have so much modern technology enabling and assisting people with disabilities, they will find themselves in more meaningful jobs, thus affording them a greater sense of self-worth and all this brings with it.

Parents need to be realistic about the abilities of their adult children who are presenting themselves for jobs. I have noted parents who overstate the ability of their children. If this occurs and the applicant does not get the job for which he or she applies, it can be very hurtful. It can be demeaning in that he or she will deem himself or herself a failure. Parents need to be careful that they do not set out their child's stall to such an extent that they over-value their ability when applying for a job. One should bear in mind that not all technology will assist such applicants to the extent that it will assist them in years to come, be their disabilities associated with hand movement or otherwise. Heartache can be caused for a young adult seeking employment in this regard. A balance should be struck.

Ms O'Rourke: I wish the Minister would accept this amendment as it opens the door further. I take the point that a Department may not take further action in this area if a Secretary General, for example, says the quota of 3% has been reached. Senator Feeney called for a report into whether further action could be taken. Of course Departments could do more. In a Department with a staff of 300 or 400, a quota of 3% is very small. It could easily be increased and this should be done.

On Committee Stage we were saying Senator Terry is a lady although she did not want this term to be used and called herself a woman — a fine woman, a decent woman. We said she had not been forceful in making the case for her amendment. The amendment would require the Secretary General or Minister to make a report

on the possibility of increasing the quota such that, on its being reached, he or she could identify that seven or ten more disabled people, for example, could be taken on. The report would trigger the taking on of these staff. I hope the Minister of State will accept the amendment.

Ms Tuffy: While I support the amendment, there is much merit in what Senator Kett had to say on the issue. In general, I would not be one to advocate quotas. Senator Terry is suggesting that a report, if produced, should involve reviewing whether the quota system is working and identifying how it could be improved, whether it should exist in the first place and whether the quota itself should be increased. In making the report one would consider how various public bodies implement quota systems. South Dublin County Council won an award this year for the way in which it approached this issue. The report would compare this council to other public bodies and Departments.

As Senator Terry stated, the amendment does not require the Minister to increase the quota or otherwise. It simply stipulates that a report should be produced on whether it should be increased. This is a good idea.

Dr. Henry: I, too, support the amendment. One could not put the case for it better than the Leader of the House has done.

Mr. Fahey: The 3% employment quota has been in place on an administrative basis for many years. I would be the first to acknowledge that there has been considerable variation in the performance of various Departments and public bodies regarding the target. It has received specific attention in a number of the national wages agreements. Sustaining Progress captures the essential point in that it refers to the target as having a key role in creating employment opportunities for those with disabilities that might not otherwise be available.

In Part 5, careful attention was paid to the views of social partners and those in public bodies who have direct experience of operating the present arrangements. Amendment No. 28 would require the Minister to lay a report before the Oireachtas, as soon as may be after the passing of the Bill, on the possibility of increasing the public service target employment level above the current 3%.

I noted the concern Senators expressed on Committee Stage that there should be an impetus for continuing improvement beyond the 3% target. I shared this view. Senators may have overlooked some of the key provisions in this regard which were already contained in Part 5, specifically in sections 47, 49 and 50. Section 47(4) gives statutory effect to the 3% target on a baseline requirement, meaning the target must be at least 3%. This is not to say Departments cannot exceed it. They are encouraged to do so.

Section 47(3) allows the Minister to set compliance targets for recruitment as well as employment levels and related matters. The measures include special recruitment competitions and the filling of specialist categories of vacancies. Provision was also included by a Dáil amendment for work experience placements. I emphasise that the 3% target is a baseline. It will put the onus on Departments to give opportunities for training and work experience to people with disabilities. I was anxious to raise the 3% quota but recognised the practical difficulties associated with doing so and then agreed we should proceed on the basis of providing the extra training and work experience places.

Section 47 provides for a much broader range of measures than the existing target. Of particular importance is the emphasis on recruitment, which has been identified as a key element in demonstrating continued commitment by public bodies to employing people with disabilities. The approach is based on the existence of monitoring the present arrangements, including important input from the social partners. I note such a report is not a feature of the proposed amendment.

Section 49 refers to the enforcement of compliance targets. Each Minister, in co-operation with the NDA, will have responsibility for monitoring his or her sector of the public service. Public bodies will be specifically obliged to implement compliance measures specified by the NDA under section 49(2).

Section 50 covers the very important overall reporting procedures. These allow the NDA to report on all aspects of compliance, including the numbers employed. It will be laid before the Houses of the Oireachtas in such a way that, if necessary, bodies that are not fulfilling their obligations can be publicly identified. The approach is similar to the Ombudsman procedures which operate so effectively in other areas.

The report by the NDA can cover all issues regarding the 3% target. It will be an annual report, therefore, monitoring of the performance

of various Departments will be constant. It is clear that Part 5 generally expands the range of measures to support employment of people with disabilities beyond the present 3% target arrangements. It is the product of experience and of the input of relevant stakeholders including the social partners. Overall monitoring through the NDA will facilitate ongoing review of progress and will allow for a much more comprehensive approach than that proposed in the amendment. That is the important point, that the Bill provides for an ongoing review procedure, whereas the amendment calls for a once-off report. It would considerably narrow the focus of Part 5 and reduce the impetus of future positive actions. Therefore I do not propose to accept the amendment.

I wish to refer to the question put by Senator O'Rourke On Committee Stage regarding the actual percentages. While there is a significant

number of bodies which have not yet reached the 3% target——

Ms O'Rourke: I will bet.

Mr. Fahey: ——many of them have. The variable progress is due to a number of factors, including the problems with disclosure of personal information, differences in recording procedures within public bodies and the lack of acceptance by some bodies of their responsibilities in this area. It is clear from recent research that a change in the approach to recording and a broader range of positive action measures are needed. Part 5 will provide such an approach. The Department of Finance monitors compliance. The last official figures for employment in the relevant bodies in 2002 was 2.78%. However, the Department of Finance has been involved in intensive research and consultation with stakeholders to improve the systems for reporting as well as the practical measures that may be taken to support employment of people with disabilities.

I have before me additional statistics which relate to other public bodies outside the Civil Service. These bodies are monitored by a committee chaired by my Department which includes the social partners and people with disabilities. Latest figures available show that at 1 January 2005, the achievement rate is 3.04%.

Ms O'Rourke: Where is that happening?

Mr. Fahey: In other public bodies outside the Civil Service. While returns for all public bodies for 2005 have not yet been received, the outstanding returns, including the local authorities, which have shown good achievement in previous years, show an average rate of 3.5% on 1 January 2004. Therefore, improvements are taking place and we are satisfied that this trend is ongoing. In respect of Departments, the last figures I have are for 2002 when, as I have said, it was 2.78%.

Ms Terry: While I accept that a number of measures mentioned by the Minister of State will help to ensure that there is an improved compliance with the quota, I am disappointed that he is not accepting my amendment, which would strengthen the legislation. It is clear to me that we do not have as good a compliance rate as is needed and that this needs to be monitored. That mechanism needs to be in place. It is all very well to set a target and hope that people will comply with it. The local authorities, in general, are doing very well. However, local authorities can always do better and will, I am sure, if they are obliged to. The figure of 2.78% for Departments in 2002 is nothing of which to be proud. I wonder whether that has improved in 2005. We do not know——

Ms O'Rourke: We have been without the figures for the last three years.

Ms Terry: Three years is a very long time. It is not good enough that more accurate figures could not be provided today. Therefore, this area needs to be tightened up. There is an obligation on the Minister of State to ensure there is compliance and that everything is done to ensure that this figure is met and even surpassed. Those standards should be put in place. I am not happy with section 47, which provides that a public body shall, “in so far as practicable take all reasonable measures to promote and support the employment by it of persons with disabilities”. How vague is that? First, it has to be “practicable” and then “reasonable measures” must be taken. That is written in such a way as to make it easy for somebody to say, “It is impracticable for us to employ people with disabilities.”

Ms White: Hear, hear.

Ms Terry: As for what is termed “reasonable measures”, these will fall very short of what is absolutely necessary. The wording here is extremely weak.

Again, in section 47, subsections (2) and (3), it is down to the Minister for Finance and various other Ministers to give their consent as to whether or not they should specify compliance targets relating to the recruitment and employment of persons with disabilities. These need to be set down.

I also do not like quotas but, unfortunately, that is the way we have to address this issue. If the 3% quota was not set down years ago, there

would probably be much fewer people with disabilities working today. However, where we are starting from a very low base, it is necessary to have quotas. It is time to move on, nonetheless, and to go beyond the 3% quota. We need to monitor this area much more carefully and there is an onus on us all to improve on the current quota and monitor compliance. I again ask the Minister of State to accept my amendment.

Mr. Fahey: I do not have anything to add. I am absolutely satisfied that all of the points made by the Senator are covered in the reporting mechanisms which will be ongoing. This issue was debated at great length at an official level across all Departments and it was felt that it should be a statutory requirement, as outlined in the Bill, to ensure that people with disabilities were given adequate opportunities for employment in the public service.

Probably the most important amendment, which is being completely overlooked, is that there is no ceiling on the numbers of people that may be taken on by public bodies or Departments as part of their training and job experience programmes. This highly significant amendment will ensure that Departments, semi-State agencies and local authorities will be obliged to take on people for training and work experience who can then move on to work in the private sector. I am completely satisfied that the Bill provides adequately for their employment requirements.

Amendment put.

The Seanad divided: Tá, 16; Níl, 28.

Tá

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Burke, Ulick.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.
Hayes, Brian.

Henry, Mary.
McCarthy, Michael.
O'Toole, Joe.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Níl

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Hayes, Maurice.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
MacSharry, Marc.

Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Terry and Tuffy; Níl, Senators Minihan and Moylan.

Amendment declared lost.

Government amendment No. 29:

In page 49, line 15, after “person” to insert “as well as the body corporate”.

Mr. Fahey: This is a technical amendment to correct the offences provision in section 54. It clarifies that bodies corporate as well as specified individuals will be guilty of an offence and liable to prosecution, as appropriate.

Amendment agreed to.

Bill, as amended, received for final consideration.

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

Ms Terry: We intend to call a vote on this question.

Ms O’Rourke: If that is the case, when will we have an opportunity to thank the Minister of State?

Question put.

The Seanad divided: Tá, 28; Níl, 16.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Hayes, Maurice.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
MacSharry, Marc.

Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O’Brien, Francis.
O’Rourke, Mary.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Níl

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Burke, Ulick.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.
Hayes, Brian.

Henry, Mary.
McCarthy, Michael.
O’Toole, Joe.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Terry and Tuffy.

Acting Chairman: I ask the Leader to move the suspension.

Ms O’Rourke: Members who participated in the debate on the Bill wish to speak to the Minister of State.

Ms Terry: I thank the Minister of State for giving of his time and staying with the House throughout the debate on this important Bill. I also want to thank members of his staff who were in the House throughout the full debate.

This has been a long-awaited Bill and much debate has taken place around it. I accept this Disability Bill is better than the earlier one. Several improvements have been made to help bring it about. It must also be recognised that it has several failings which have led to several groups leaving the Disability Legislation Consultation Group. Several disability organisations are also dissatisfied with the Bill, despite all the consultation that took place. It is unfortunate that many

people are still unhappy. I concur with their disappointment in that they feel this Bill does not go far enough. While I accept it is a large improvement on the previous Bill, there are still many gaps and flaws in this Bill.

The largest flaw is around the issue of funding. I accept multiannual funding is in place. However, should the economy deteriorate, people with disabilities will not get the services they require. Indeed, over the coming years many people will not get the services envisaged for them in the Bill. This is because the administrative framework will not be in place, nor the specialists, such as speech therapists, that are needed to deliver the services. I urge the Minister of State to ensure that the services are delivered as quickly as possible and that funding is provided to ensure that happens.

My other concern is with unmet needs and the prioritising of services in that area, which has to be addressed as quickly as possible. This legis-

[Ms Terry.]

lation will only be as good as the services it provides to meet the needs of people. Funding is essential for this purpose. The core objective of the Bill is to mainstream people with disabilities, to assist a person with a disability to live as normal a life as possible. In the future we will strive for full equality in so far as that is possible, though we all have limitations, including each of us here. While this legislation will not achieve it, we want in the future to deliver freedom for people with disabilities and to provide them with the right to the services they need.

I ask the Minister of State to do all in his power to implement the administrative framework within the set timeframe so that the services and products are delivered as quickly as possible. I would like to see the accessibility issue fast-tracked to ensure people can get around more easily and without restrictions.

While I welcome this legislation I hope we will in the future be able to make improvements to it because they are necessary. I hope we monitor its progress and I look forward to doing so over the coming years. There is also an onus on all of us who have been involved in the passage of the Bill to make sure we monitor the legislation closely to ensure that compliance will be enforced. I look forward to the implementation of the Bill when it is finally passed.

Dr. Henry: I thank the Minister of State for the constructive way he conducted the debate in the House. He and his officials have ensured that the Bill is much improved on the Bill that was brought forward some years ago. As Senator Terry said, we hope any improvements which should be made will be made and, even more importantly, that all resources that are needed for the implementation of the legislation are made available by Government.

Ms Tuffy: I thank the Minister of State and his staff. The legislation going through today is significant and contains much that is good. A great deal of work has been put into it by all concerned, including the Minister of State's officials, people involved in the consultation process and those involved in drafting it.

However, as we have said all along, the legislation does not go far enough. It is based on the mindset that disability is separate, an afterthought, rather than on the premise put forward by the disability sector that disabled people have the same right to participate in society as anybody else. Inclusivity is the starting point and should be the focus of every cent spent on the issue.

Both those in the DLCG and those who have left the group are unhappy that there are five issues that have not been addressed. These are that rights should not be resource dependent, that there should be assessable timeframes for meeting people's needs, that funds should be ring-fenced, that every Department should be involved

in disability-proofing and that this disability-proofing should be embedded in the system.

The Minister of State did not respond to the suggestion that there should be a disability commissioner. It is a good idea and I hope he will consider it in the future, perhaps in further legislation. The Ombudsman might have a brief in this regard but it would be a good initiative to have a separate person who would represent people under this legislation, overseeing the whole system but also dealing with questions of whether individual rights had been met.

The right to appeal the contents of an assessment is a key omission from the Bill and I do not understand the reason it was not included. The right to an assessment is the most fundamental aspect of the legislation. However, many people will be unhappy with their assessment and, as Senator Terry has said, ultimately there should be a right to appeal to court as an appeal of last resort.

The legislation should be about mainstreaming the rights of people with disabilities. It does not achieve that but it is a step in the right direction. I hope it is monitored over time and that additional legislation will be brought forward to further extend people's rights.

Mr. Kett: I also thank the Minister of State and his officials for their great assistance over the past two weeks. They have enlightened my views as we progressed. I particularly commend the Minister of State for the energy he has brought to the issue even though he arrived to the process a little later than the rest of us. His commitment to people with disability, which I believe is genuine, is encouraging for somebody like myself who works in the area.

It is a significant day for people with disabilities because it is the culmination of many fine pieces of legislation which have been enacted in the life of this Government to bring about a better life for people with disabilities. It proves the Government's commitment to its programme of action to reinforce the participation of people with disabilities in our society. That becomes a reality today. Aspirations that were held by people with disabilities will become more and more attainable. Such people who want to live independently or set targets for themselves each day will now have a much greater possibility of doing so.

However, this legislation will bring about a much greater facility for such people to do this. Others must be commended for it. The Taoiseach has been a great driving force, as have the Ministers associated with it. We cannot forget the DLCG and, in particular, the DFI. It is somewhat sad that today as the Bill is finalised, a number of disability sectors are not on board. Hopefully, as they see the progress and abilities of the Bill, they will reflect and conclude that we were correct and they were wrong to step away from it.

Senator Terry has stated that we must ensure the Bill's effectiveness and this is critical to our business today. If we sit on our hands and do not

monitor the Bill's effectiveness, it will not be as effective as it otherwise might be, as has happened in other cases. Whenever it is necessary, I will be on my feet to set out my stall regarding matters which I feel should have, but have not, happened by a given time. The effective monitoring of this Bill by Members will be important.

If I had a concern, it would be with the progress of the sectoral plans. This has nothing to do with the legislation but concerns the mindset of people who might be the driving force behind them. I will stand corrected if my doubts are unfounded as I hope they will. I believe this will be the case because today, people within Government circles and politicians in general must think differently about people with disabilities. Consequently, a new dawn has developed in our thinking and mindset in this regard. I extend my congratulations and thanks to all concerned.

Ms O'Rourke: I also wish to thank the Minister of State for coming before the House and remaining for all the sessions here. I also thank his officials, Ms Siobhan Barron and Mr. Brendan Sheehy who were present and listened to the debate throughout. I agree with Senator Terry that the Bill now differs from that which was originally presented in this House because the Minister of State, in meeting the DFI and the Taoiseach, has worked through many significant amendments which will make a great change in the Bill.

Some points struck me as Members discussed the Bill. For me, the implementation of this Bill has been a personal crusade stemming from circumstances in the wider Lenihan family and was a particular matter which I wished to fulfil. I was glad to be present here to do so. As I stated at the beginning, people with disabilities can come out of the shadows and into the sunlight, which is so important in so many ways. Many did not get the chance to do so. They were unable to do so because of circumstances and because the services did not then exist for such people as they do now, even before the passing of this Bill. I welcome this and for me, our debate on the subject was shot through with deep memories. Even if the sunlight is weak in the beginning, there will be good days for those who are able to walk in the sunlight, hopefully with better to come.

Make no mistake, but this will depend on resources. I do not know how it will be monitored and fulfilled and the question of money ran through the entire debate. We must ensure the funds are ring-fenced no matter how tight money becomes, even if there are earthquakes in the country morning, noon and night — which there will not be. This is why I wanted a subhead for money for disabilities in each sector, which could not be touched. No matter what happens, the able-bodied will always be able to look after themselves. However, I was keen on the creation of a subhead, entitled something like “cash for disabilities” which would ring-fence the funds. I was also keen on the idea of the commission,

where a man or woman would don the mantle of champion if the going became rocky for the provision of services. It would have been tied to the disability proofing idea, which would have been secured if the subhead with the money ring-fenced in it had been accepted. I do not know how we will act on Senator Kett's suggestion to monitor progress, but we must.

Disabled citizens are entitled to full access and usage of all services. That is the manner in which disabled citizens should be able to order their lives henceforth. I thank the Cathaoirleach, the Leas-Chathaoirleach and the Acting Chairmen who sat in the House as well as the Clerk of the Seanad. We sometimes overlook the work involved in the arrangement and compilation of amendments. I also thank Senators Terry, Tuffy and Henry, all of whom gave their time so unstintingly to this particular Bill.

Mr. B. Hayes: Hear, hear.

Ms O'Rourke: They did so without any suggestion of thinking “oh the Bill again”. They remained present and went about their business. I also thank my colleague, Senator Kett, who works in the area and who provided me with much wisdom. Sometimes, if I became bolder than I should, he stayed my hand. Everyone who participated in this Bill and stuck with it throughout the debate has done the State a great service.

Ms White: This is a landmark day in the history of the legislation produced by the Oireachtas. I compliment the Minister of State, his staff and everyone who brought this extraordinary legislation together including Members such as Senator Kett, who worked at it on a daily basis, Senator O'Rourke and Senators Terry and Tuffy, who put their hearts and souls into it.

Undoubtedly, people who are disabled were cruelly discriminated against. The same can honestly be stated about women, who were discriminated against when they were obliged to give up their jobs in the public service. When one has experienced discrimination oneself, one is more sensitive to others who are discriminated against.

The main point is that people who are disabled will be able to reach their potential, get a job and fully participate in society. It is forgotten that people do not only work for economic reasons but also for social reasons. I know from my experience as an employer that for people who have been excluded previously, socialisation is a major aspect of having a job. One meets people every day and socialises. From that point of view, as an employer, I feel that one of the major achievements of this Bill will be to help disabled people who have been discriminated against in the past to reach their potential, to fully participate in society and to feel they contribute to society.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): I thank

[Mr. Fahey.]

Members for the lively and interesting contributions they made to the debate on this important Bill. In particular, I thank the Opposition spokespersons who, as has been stated, put an enormous amount of work into this legislation. The legislation was complex and without having the significant backup which I enjoy as Minister of State, each of the Opposition spokespersons did an exceptionally good job. I thank them for the positive contribution they made to the Bill's improvement. I also thank Members on the Government side who have in no small way contributed to the Bill, particularly Senator Kett, who, as Senator O'Rourke noted, is involved in this area and is knowledgeable about it.

I was glad to be able to make further Government amendments to the Bill and to accept some of the amendments put forward in this House and in the Dáil. Many changes were sought by the DLCCG and we listened carefully to this group. While we were unable to agree to everything suggested by the group, we have tried to include as many of its requirements as possible.

I regret that we lost three members of the DLCCG when the Bill reached Committee Stage in the Dáil but I thank them for their active involvement in and contribution to the process. In particular, I thank the remaining four groups of the DLCCG and hope they will continue to work with the Government. They met the Tánaiste and Minister for Health and Children this morning and had a very positive meeting. They will have further meetings with the Tánaiste and Minister for Health and Children and the Minister for Finance. I intend to ensure dialogue continues so the rolling out of the regulations and standards will be the subject of ongoing discussions with the disability sector.

A number of changes are reflected in the Bill. The requirement that the liaison officer meet the applicant is a good change which reinforces the person-centred approach. Senator Terry tabled an amendment to insert a three-month timescale for completion into section 9 and I promised to consult the Parliamentary Counsel in regard to the regulation provisions in section 21. Section 21(a)(ii) allows for different periods for carrying out assessments and reviews in respect of different age groups and categories of disability. I have been assured this would adequately cover urgent cases which Senator Terry mentioned, particularly conditions warranting urgent response because of the age of the individual.

The amendment allowing for a complaint officer to specify timing of delivery of his or her actions will ensure the applicant will not have to go back to the end of the queue for assessments and services is an important one to which we agreed. The amendment requiring the report of the Health Service Executive to include additional information in regard to numbers receiving and awaiting assessments, numbers and profiles of applicants not receiving all their

assessment needs and the requirement that the report be published annually is an important one which will enable a comprehensive analysis of areas of unmet need to inform future planning of services. I thank Senators for tabling that amendment.

Expanding the provisions in regard to the sectoral plan of the Department of Communications, Marine and Natural Resources is entirely appropriate. There is a requirement on the six sectoral plan Departments to produce a report on progress made in delivering the measures in their plans not later than once every three years and to lay the report before both Houses of the Oireachtas. The provisions of the Broadcasting Act 2001 have been further amended so that access rules would include auto description as a means of making audiovisual programmes accessible to persons who are blind and partially sighted. These changes enhance the provisions and the positive action focus which is central to the measures contained in the Bill.

Obviously, it was not possible to deliver all the changes sought by the DLCCG but I can honestly say that I have learned much from the debates and consultations and many of the contributions are evident in the improved Bill. Without a doubt it is one of the most complex Bills which has ever come before the Oireachtas. It is cross-cutting legislation involving many Departments. The national disability strategy and the guarantee of additional funding for high-priority areas and services over the five-year multi-annual programme is a significant step towards achieving a better deal for people with disability. It is important not to look at the strategy in isolation but as a further progression of what has been achieved to date.

This is among the most advanced states in Europe in terms of anti-discrimination legislation. Our equality legislation covers disability among other grounds in regard to employment, vocational training and the provision of goods and services. We have structures in place to support the promotion and implementation of rights, namely, the Equality Tribunal and the Equality Authority. The National Disability Authority is active in supporting the development of standards in services and programmes for people with disability and related research.

Even where we have disagreed on proposed amendments, it has been clear that we agree on certain general principles. For example, I agree with Senator Terry on ensuring timely assessments for urgent cases. On the review of the operation of the Bill, we are of similar minds. On the definition of "disability", we have improved the Bill considerably from the way it was first published. On the essential point about the Disability Bill fulfilling a commitment to people with disability contained in An Agreed Programme for Government, in line with that commitment, it includes provisions for rights to assessment, appeals, provision and enforcement.

5 o'clock

The Seanad contributed significantly to this Bill. It is good legislation but I suppose it is only as good as its implementation. I take this opportunity to thank the staff of my Department. In my 23 years in the Oireachtas I have not seen departmental staff work as diligently on any legislation given the necessity to incorporate the work of 11 Departments. I take this opportunity to thank all the staff and Ann Doyle, who is not here today, in the section of the Department who have contributed so significantly to this Bill.

As I said, the Bill is as good as its implementation. I have met many people with disability since I took over this job last September. I concur with the views expressed by Senators from all parties that resources will be the key factor in determining how successful this legislation will be. There is no doubt that there are serious gaps in resource provision for people with disability. I have come across a number of cases in the past eight months when I have met parents of young children with severe and profound disability who are not getting the services they desire. As a society we have no option but to provide the resources required so that we can meet the needs of those people. It is my wish that this Government will commit to provide the significant resources which will be required over and above what the Minister for Finance has provided in the multi-annual programme. The Minister for Finance's heart is in the right place and he proved that as Minister for Health and Children and again in the last budget.

Equally important, in terms of extra money, is the need for fundamental reform in the way in which disability provision happens. It grew up on an *ad hoc* basis and was provided by the churches and by voluntary bodies at a time when the State turned its head the other way. As a result, we now need to start with a clean slate. Significant restructuring of the way services are provided is needed. There is unbelievable waste in some sectors of disability provision. There is inappropriate placement. It costs €900,000 per annum to look after one person because of his challenging behaviour. That is not acceptable. There is a better way and we must find it.

The combination of changing structures, rationalisation and putting in place better service delivery so that we can cut out inappropriate expenditure is as important as the need to provide the significant extra resources required to fulfil the considerable requirements and obligations set out in this Bill. Having brought the Bill through both Houses of the Oireachtas, I hope we will see those resources being put in place sooner rather than later. I thank the Acting Chairman and his staff for the successful passage of the Bill.

Inspector of Prisons Reports: Motion.

Dr. Henry: I move:

That Seanad Éireann notes the recommendations made by the Inspector of Prisons and places of detention for the year 2003-04; and regrets how few of the recommendations made by him in his first annual report for 2002-03 have been implemented.

I welcome the Minister of State at the Department of Finance, Deputy Parlon, to the House. Perhaps there will be more tranquility than if other Ministers had come in here. Sometimes the Minister of State has a better effect on me than others.

I tabled this motion because an issue that concerns me about the Houses of the Oireachtas is that we frequently commission reports which, when published, enable us for some reason to think we have done something. However, we have done nothing unless we look at the recommendations made in the report and discuss them. This is the reason I was very disappointed that last year the report by the Inspector of Prisons was not discussed. I was determined this year when the second report was published that it would be discussed here. I had similar trouble with the reports of the Inspector of Mental Institutions. It took me a couple of years to get them discussed. They had never been discussed in the Houses of the Oireachtas although they have been published for decades. It is important that we look at these reports.

I shall concentrate mainly on the recommendations made by the inspector. It is well to take the two reports together because the third recommendation of the 2003-04 report by Mr. Justice Kinlen is that there should be implementation of the recommendations in his first report or an explanation given as to why they are not being implemented. If one looks at the first report it is clear that little of it has been implemented. While I am interested in the amendment tabled by the Government it is not relevant to most of the recommendations. The first and more important recommendation the inspector would like to have implemented is that his position should be made statutory and independent. This is not a new idea by Mr. Justice Kinlen as it was suggested by the Whitaker report in 1985 that we should have an inspector of prisons and that person should be appointed on a statutory basis and independent. According to the inspector this can be provided for in a schedule to any Finance Bill and does not have to wait for a prisons Bill, although a prisons Bill has been published recently and this provision has not been included.

An independent budget could be provided each year by the Minister for Justice, Equality and Law Reform in consultation with the Minister for Finance. Mr. Justice Kinlen said it is urgent that this should happen. I agree with that recommendation. The more one reads through the reports the more one sees the difficulties Mr. Justice Kinlen had in regard to staff, office equip-

Question declared carried.

[Dr. Henry.]

ment and his relationship with the prisons inspectorate within the Department of Justice, Equality and Law Reform. Page 35 of the first annual report of the inspector of prisons and places of detention for the year 2002-03 reads:

The Prison Service and the Department of Justice, Equality and Law Reform have been slow to provide any information to the Inspectorate. The fact that they wanted me to take six months off to read myself into the job and wanted me to go on a tour of Western Australia and possibly New Zealand shows their peculiar mindset. While many interpretations will be put on these offers, I took them as meaning that I was not to do any real work.

He pointed out to them that he had already been called to the Western Australian Bar so that he had experience there and felt no need to go and could read himself into his brief in a much shorter period than six months. Also he has problems in that various civil servants decided what was appropriate for him to do. This got to such a pitch at one stage that he had to get a freedom of information order to find out what was in a memo that he considered was relevant to him between one civil servant and another within the Prison Service. That cannot be considered a satisfactory way for any system to operate and the sooner it is changed the better.

When the Council of Europe committee on the prevention of torture or inhumane and degrading treatment or punishment came here a few years ago it was told we hoped to have a prisons service Bill enacted during 2000. While Mr. Justice Kinlen was appointed inspector in April 2000 nothing has happened in the way of bringing forward this legislation. This is one of the most urgent issues that should be provided for in the prisons Bill.

An important issue in the reports is that Mr. Justice Kinlen keeps asking whether the taxpayer is getting adequate value for money considering that it costs over €50,000 per year to keep a person imprisoned. A huge amount of the money appears to be spent on administration. When we get down to the coalface there are other difficulties regarding remuneration or there are no people employed who could provide some of the services that are so badly needed.

The inspector was also told it was not appropriate for him to have anything to say about the prison overtime bill for prison warders or the dispute taking place with the Minister. One wonders what his role was given that he was effectively ruled out of dealing with these issues.

Another important recommendation is in regard to the Probation and Welfare Service. It has to deal with far more than prisons as it has to deal with family court cases. It is grossly understaffed. I am repeatedly told by those working in the service that they are stretched beyond all limits. The position in regard to the responsibility of the Department of Health and Children for

people with psychiatric illness is odd given that there are many reports telling us how many people in the prisons are in need of psychiatric treatment. As the Minister put it in a report, sometimes he is dealing with the mad and the sad rather than the bad. While I welcome any improvement made in the central mental hospital, the Criminal Law (Insanity) Bill is frightening legislation which provides care or treatment for prisoners who may be transferred as patients to a psychiatric institution. I regret that it has gone through this House in such a condition.

Some effort has been made on other very serious health issues. For example, Mr. Justice Kinlen pointed out that a fire engineer for the Prison Service should be appointed forthwith. He succeeded in getting someone from the Dublin Fire Service to look at how a fire would be dealt with in Mountjoy Prison where frequently there is only one stairwell and where prisoners could be in great danger. I do not think he got to see the report that was sent to Prison Service and appears to have been totally within its kin but not available to him. However, officials in Mountjoy Prison appears to have taken an initiative and are making an effort to implement further provisions in regard to fire safety in these old buildings.

Arising from a suggestion by Mr. Justice Kinlen, the prisons Bill contains a provision that bail applications, pre-trial sessions and so on could be heard by video link, as in Northern Ireland, or by transferring the prisoners concerned to Cloverhill Prison where there is a court within the prison. That would save a great deal on overtime and I understand that provision will be implemented. On the radio at lunchtime it was stated that some interesting changes are being made to the prisons Bill which, I presume, will come before the House shortly. One of these is that an ancient piece of legislation which provides that a person could bring in their bedding and furniture is to be removed from the Statute Book. It is a great pity those in the holding cells in Mountjoy did not know this because they have only a couple of benches and were not meant for people to sleep in them at night.

At present people are sleeping overnight in holding cells and, when they are full, in the reception area sometimes on very thin mattresses. While I do not want to malign the prison staff by saying the mattresses are dirty, some people who were held there have told me so. The inspector has said they are very thin and that duvets are distributed when it is time for them to go to sleep. What a pity they did not know of the legislation permitting them to bring in their furniture and a bed, as it would have made their position much safer. At the same time, it is ridiculous that more than 100 cells in Mountjoy are closed because of a decision of the previous Minister for Justice, Equality and Law Reform when he was cutting back on the amount of money being spent on prisons.

The inspector pointed out another problem. The visiting committees do not have up-to-date

rulebooks. While some rules applying to prisons and visiting committees exist, they are not in use now. It would be useful for the visiting committees to have a booklet produced. He also suggested that the visiting committees should comprise people from the locale of the prison rather than people transferred hundreds of miles across the country. It is wrongly suggested that these are political appointees, allocated to prisons far from where they live so that they can collect expenses. I am quite sure that is a very wrong assessment. I understood it was to avoid members of the visiting committees knowing the prisoners. It is suggested that the prisoners should be held in prisons as close as possible to the area in which they live so that family arrangements can be maintained as much as possible.

We have a major illiteracy problem in our prisons and yet we have cutbacks in the area of teaching. Even worse, within St. Patrick's Institution, training programmes are no longer taking place, again because of cutbacks. This is despite the significant investment by FÁS and others and is a grave mistake.

I am told psychologists are being appointed and the Government amendment to the motion "welcomes the appointment of psychologists to Mountjoy Prison, Dóchas Centre and Portlaoise Prison". However, the inspector believes the Minister is sometimes misinformed regarding the appointment of psychologists. For example, he was told that Dóchas, the women's prison in Mountjoy, had no psychologist. When he went to the prison he was told it had a psychologist. It transpired that both stories were true as the psychologist only came from the male prison to the female prison for one day, which is a completely inadequate way to deal with people most of whom are in prison as a result of various psychological problems. Arbour Hill prison contains more than 100 sex offenders and has a treatment programme for only ten. It is of no value to the prisoners to become involved in a treatment programme, as they will get no remission of sentence for doing so. While it is said that prisoners will get one-to-one psychological help, it is not true. They leave the place in very much the same state as they arrived.

The taxpayer is not getting value for money and I agree with the inspector's view that an outside business agency should be asked to assess what can be done to improve the efficiency of the Prison Service.

Mr. O'Toole: Before I begin I would like to digress somewhat. I congratulate the Minister of State, Deputy Parlon, on his spirited and very well placed defence of the OPW in the past 24 hours, which some people appreciate. While I would not have associated his party with a spirited defence of aspects of the public service, it is good to see. I say this from the heart. It is important that balance is provided when required and that people are not merely criticised.

When I first got involved with education for underprivileged and disadvantaged people in 1977, I discovered that 90% of the prison population came from easily identifiable areas covering approximately 5% of the area of the State. As well as the prison population coming from areas of serious underprivilege it is not without significance that the illiteracy levels in underprivileged areas is much higher than would be the case generally. The number of children with special learning needs is much higher in areas of underprivilege. When these factors taken together are applied to the points made by Senator Henry and considered in terms of the recommendations of the Inspector of Prisons a number of matters come to light.

I do not quite know what to make of the report of the Inspector of Prisons. Some very important matters, mentioned by Senator Henry, should be implemented immediately. I do not know what to make of a recommendation that a fax and Dictaphone machine be installed in the medical section of Arbour Hill prison. I sometimes lose the scale of it along the way. The recommendation that, except where it is not feasible for security reasons, Members of the Oireachtas should have access to visiting prisons is a very good idea. It is important for us to know what we are talking about when discussing these matters and this recommendation could be easily implemented. The Department of Justice, Equality and Law Reform always resists such recommendations and the last thing it ever wants is to have additional politicians poking their noses into its private business. I have said this privately and publicly to Ministers for Justice, Equality and Law Reform many times. We can be trusted to look around and see what is going on in the knowledge we will not come out with anything extra in our pockets. I ask that that recommendation be implemented.

The Judiciary and criminal lawyers should have the same facility and be invited to look around. Some members of the Judiciary have already said they would like to be in a position to understand prisons more clearly and some of them have done that. It would be very sensible for those three groups to visit prisons. I know there has been some conflict between the Inspector of Prisons, and the Department and the Minister, which is just politics and needs to run its course.

Somebody needs to consider these recommendations in the way Senator Henry has done and determine which are important to address. I will focus on the matters I believe to be important. The psychological issue is crucial. The problem begins with a reading difficulty, which creates all sorts of frustrations. My background is in the world of small business. From a very young age it was drilled into me that poor people are generally honest people. However, because prisoners tend to come from underprivileged areas, there is a view that people from inner city underprivileged areas are not to be trusted in some way. We should be aware that the opposite is the case in general. We must realise that people who

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live in the underprivileged areas, from which many of our prisons come, live in fear of their lives much of the time.

The level of recidivism among Irish prisoners is huge and indicates that imprisonment is not working. While I know this argument has been used many times and I do not want it to sound like cant, I do not see why people cannot serve an apprenticeship while in prison. Given the cost of keeping a prisoner in jail for a year, if we proposed putting the same amount into additional facilities, which I will mention shortly, it would make a difference. We should have a pyramid of issues that we should consider. On the first step would be the question of literacy, which the inspector has considered and which every report on prisons ever published has mentioned. While I know some of them are involved at the moment, what would it cost to appoint a small number of adult literacy educators on a structured and full-time basis and see whether it works?

We need to consider skills training for prisoners. I do not see why people cannot serve an apprenticeship while in prison. Why could they not do that and learn something? When such people came out of prison, they could actually work for themselves. They would not be looking for a job as they could do work. It is appalling and I wish the Minister of State agreed with this point. For the Inspector of Prisons to say that the prison library should be open more often than at weekends is terrible. The argument may be that there is little demand, but while it is not available, there will be little demand. One follows on from the other and encourages people.

A certain type of prisoner will use a facility like the Open University, and such a prisoner should be facilitated in every way possible. There is also the question of games training. There are pitches for games and so on. I know from 20 years of teaching and from a life spent dealing with people, that everyone has a skill of some description. If such a skill was discovered, it could make all the difference in the world. If an artistic skill or skill at games was discovered in a prisoner to be used in life outside prison, it would create a sense of confidence and success which might pull people away from recidivism.

Senator Henry made a point about family support for prisoners. They should be reassured that there is some level of counselling support for their families and their children. The Inspector of Prisons spoke about having access to facilities where the prisoners can meet their children in some sort of respectable area if they are visiting. That can be difficult at times due to security problems.

The transition period has to be dealt with very sensibly. The Prison Service should be allowed to talk to the public. Ordinary people do not understand the importance of day release. They think it is something that should not be done and never give a moment's thought to the impact of having someone locked up for a number of years who is

suddenly let out to fend for himself. Day release is an important part in the transition period from prison to the world outside. It is as important for us as it is to the prisoner.

I am happy to second the motion. I ask that someone take a serious look at the prison inspector's report. If there are things with which some people do not agree, let them say so, but let us establish an inspectorate and put in place the significant recommendations in the reports.

Mr. J. Walsh: I move amendment No. 1:

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

- supports the proposals of the Minister for Justice, Equality and Law Reform to replace Mountjoy Prison with a new state-of-the-art prison complex;
- supports the proposals of the Minister for Justice, Equality and Law Reform to provide new modern prison facilities to replace Cork Prison and Fort Mitchel Place of Detention;
- supports the Minister's proposals in the Prisons Bill 2005 to provide a statutory basis for the escorting of prisoners to and from prisons by persons other than prison officers and for the holding of pre-trial hearings through video conferencing;
- welcomes the proposals of the Minister for Justice, Equality and Law Reform to update and modernise the rules for the government of prisons and his proposal to include in those rules statutory provision for the inspector of prisons and places of detention;
- supports the proposals of the Minister for Justice, Equality and Law Reform to bring about greater cost efficiency in the management and operation of the prison system;
- welcomes the Minister's decision to establish a small working group involving departmental and probation and welfare service officials to build on existing work including the expert group report and the value for money audit of the service and to identify;
- the type of service that may be required in the future;
- their relative priority;
- the resource implications and different methods of providing the services;
- the research and evaluation available or required to determine the effectiveness of options;
- welcomes the appointment of psychologists to Mountjoy Prison, Dóchas Centre and Portlaoise Prison; and

—notes that the Minister for Health and Children is due to open in the Central Mental Hospital, in the near future, a 15 bed male unit to cater for prisoners with psychiatric illnesses.”

Minister of State at the Department of Finance (Mr. Parlon): I commend the amendment to the motion to the House. I welcome this opportunity to address the House on behalf of the Minister, Deputy McDowell, on the issues raised by the Inspector of Prisons and Places of Detention, Mr. Justice Dermot Kinlen, in his annual reports which have been published by the Department of Justice, Equality and Law Reform. Mr. Justice Kinlen was formally appointed to the post of Inspector of Prisons and Places of Detention for a five-year term with effect from 24 April 2002, following his retirement from the High Court Bench. The third annual report of the inspector for the year 2004-05 has been submitted to the Minister. The Irish version has just been finalised and both language versions should be available in the coming days on the website of the Department of Justice, Equality and Law Reform.

One of the recommendations in the third report is the privatisation of a prison on a trial basis. If it proves successful, the inspector recommends that all prisons, both public and private, should compete for contracts every five years. It would be interesting to hear the views of Senators on this recommendation. The Minister has presented a Bill to this House which would allow the outsourcing of prisoner escort services if prison officers do not agree to the proposals for organisational change which were negotiated and recommended by the executive of the Prison Officers Association. However, I am not sure if the Minister has contemplated going further and outsourcing the operation of an entire prison.

The Inspector of Prisons and Places of Detention has made a considerable number of recommendations in his reports aimed at improving prison services and conditions. The inspector is not alone in being concerned about living conditions for prisoners in our older prisons and about the shortcomings in prisoner care services and programmes. These are matters which were of concern to the Minister and the prisons authority interim board even prior to the publication of the inspector's reports. The inspector has referred specifically to the need to replace Mountjoy and Portlaoise prisons in his second annual report and has similarly expressed the need to replace Cork Prison in his report on his visit to that institution.

It is not possible to implement such recommendations overnight but significant progress is being made in each case. The first priority is to replace Mountjoy Prison. Significant progress is being made in implementing this particular recommendation of the inspector as it is not acceptable that prisoners have to continue to slop out every morning. Action must be taken. It is quite clear that the existing Mountjoy Prison

cannot be properly refurbished. It was estimated that to redevelop the existing site would cost over €400 million, take seven years to complete and cause very significant operational problems. That is not a viable option and it was certainly not what was recommended by the inspector. The Minister is to be commended for having the vision and courage to tackle this problem and I hope that he will get the support of this House for the action he is taking.

The new site purchased at Thornton is 150 acres in size, compared with roughly 20 acres at the Mountjoy site, giving considerable scope for developing humane state-of-the-art facilities in an uncrowded environment for the benefit of the prisoners and staff. Work should begin in the near future on the provision of new prisoner accommodation at Portlaoise Prison as the next phase of redevelopment is carried out. Planning work is being advanced to develop a new prison for the Munster region and allow the closure of Cork Prison, which was also recommended by the inspector. These are major undertakings involving replacement of almost 40% of the entire prison estate. They will take a number of years to complete but they will proceed as quickly as possible.

The inspector's recommendations are being implemented on an ongoing basis as circumstances and resources allow. This is particularly the case for the more straightforward recommendations such as the appointment of additional psychologists, improvements to prison accommodation, provision of safety and other equipment, improvements in record keeping and measures to frustrate the efforts of people who seek to make illicit drugs available to prisoners. For instance, the shortage of psychologists as identified by the inspector has been addressed by the recruitment of six additional psychologists to improve services to Mountjoy, Dóchas, St. Patrick's, Cloverhill, Midlands and Cork prisons. It is planned to hold another recruitment competition for clinical, forensic and counselling psychologists later this year.

Apart from his concerns about prison conditions, the inspector also made reference to the need for new prisons legislation. In particular, he recommended in his annual report that his office be established on a statutory basis. The question of a comprehensive new Bill covering all matters relating to prisons, including the establishment of the prisons inspectorate on a statutory basis, is included in the Department's legislative work programme. However, it will be some time before such comprehensive legislation will be completed, as it will involve the repeal and replacement of 17 Acts going back as far as 1826. Furthermore, parliamentary time is very limited —

Mr. Ryan: That is not the case in this House. We are very good at dealing with legislation and we would be quite happy to accommodate the Minister of State tomorrow.

Mr. Parlon: That is very good. Parliamentary time is very limited and the Minister has to focus on priority issues such as the Garda Síochána Bill and the Criminal Justice Bill. Nevertheless, the Minister has decided to provide a more immediate statutory framework for the work of the Inspector of Prisons by means of the prison rules. New draft rules for the government of prisons have now been finalised and are available on the website of the Department of Justice, Equality and Law Reform. Copies have been made available to Senators.

Mr. Ryan: On a point of order, can the Minister of State tell me where they have been made available? I checked with two colleagues and we have not seen them. The Minister of State should not make such assertions if they are not correct.

Mr. Parlon: The Senators will find them in their pigeon holes this evening.

Dr. Henry: Come on.

Mr. O'Toole: That is a classic.

Dr. Henry: Are they there now?

Mr. Parlon: Perhaps they are. I do not know. They were to be delivered.

Dr. Henry: They will be, not they have been. We must have accuracy.

Mr. Cummins: The pigeons will bring them.

Mr. Parlon: The difficulty highlighted by the inspector was that on the two nights of 18 December 2003 and 4 January 2004 there was significant overcrowding in the holding cells in Mountjoy Prison due to a high number of committals from the courts. The situation was quickly alleviated by the re-opening of a portion of the A wing of a prison which continues to be in use.

Following the rejection by ballot of the programme for organisational change, it has been very difficult to set aside time for staff training and development as the replacement of staff continues to occur on an overtime basis. Mandatory training on breathing apparatus and control and restraint modules has, however, been given priority.

I share the inspector's concerns about the committal to prison of people with psychiatric illnesses and agree that an effective mechanism to divert such people from the criminal justice system to psychiatric care services is most desirable. The matter is being addressed at executive level in the context of the implementation of the report on the structure and organisation of prison health care services. The Government established a special committee to draw up a service level agreement on the admission of mentally ill prisoners to the Central Mental Hospital and their treatment there. The committee comprises representatives of the Department of Health and

Children, the Irish Prison Service, the HSE, east coast area, and the Department of Justice, Equality and Law Reform. I have been advised by the Department of Health and Children that the implementation of phase 1 of the service level agreement has already commenced with the allocation to the Central Mental Hospital of additional revenue funding of €1 million and capital funding of €1 million in 2004. I am pleased to note that a 15-bed, male unit for the treatment of prisoners with psychiatric illnesses is due to be opened at the hospital in the near future while the recruitment of an additional 33 staff is currently underway.

In December 2004, the Government decided, in principle and subject to further study, that a new central mental hospital would be developed on the site acquired for the new Mountjoy Prison replacement complex at Thornton, County Dublin. I emphasise that the new central mental hospital will be a health facility providing a therapeutic forensic psychiatric service to the highest international standards in a state-of-the-art building. The hospital will remain under the aegis of the Department of Health and Children and will be owned and managed by the Health Service Executive. The Tánaiste has asked her officials to examine the option of providing a separate governance structure for the hospital by way of its own board to reflect its importance as a national, tertiary psychiatric service. It is intended to develop the hospital independently of the prison complex to replace Mountjoy Prison by means of a separate capital development project managed and directed by the Health Service Executive.

Since taking office, the Minister for Justice, Equality and Law Reform has placed a priority on the proper care and management of vulnerable prisoners with mental disabilities. He has been especially concerned to ensure the replacement of the existing padded cells used in our closed prison institutions with a more humane regime providing for better ventilation and lighting, diversion for prisoners and better monitoring by prison staff. Over the past two years, the Irish Prison Service has developed two new designs for such prisoners. These are close supervision cells and safety observation cells. The main additional features of the cells are new bed installations, new doors with better observation facilities, cell light as close to natural daylight as possible, a cell call system, televisions and in-cell sanitation. Special clothing for prisoners in such cells has been introduced. New guidelines have been issued to ensure the cells are used under strict supervision and only as a last resort. The changes will help greatly to meet the needs and respect the dignity and self-respect of prisoners in a manner consistent with their safety. The new cells were introduced to Cloverhill Prison in 2004 and will be introduced on a phased basis at the other closed prisons over the next 12 months at a cost of approximately €3 million.

The inspector has also made recommendations in his annual reports on the Probation and Wel-

fare Service. The Minister established recently a small working group involving departmental and Probation and Welfare Service officials to build on existing work, including the expert group report on the Probation and Welfare Service and the value-for-money audit of the service by the Comptroller and Auditor General. The group will identify the type of service which may be required in future, relative priorities, resource implications, different methods of providing the services and the research and evaluation available or required to determine the effectiveness of various options.

The inspector raised concerns about the independence of prison chaplains which, I assure the House, there is no question of diluting. While the head chaplain was offered an office at Irish Prison Service headquarters, the intention was to afford him the opportunity to have a greater influence on policy making at that level. There was certainly no question of seeking to compromise his influence as a chaplain.

There is already extensive use of video conferencing at Cloverhill Prison to accommodate prisoners due to appear at Cloverhill Courthouse. Officials from the Department of Justice, Equality and Law Reform and the Irish Prison Service participated in a committee headed by Ms Justice Susan Denham which published its report in January 2005. One of the main recommendations of the report was the establishment of a pilot programme by the Irish Prison Service and the Courts Service for the carrying out by video link of bail, remand and other pre-trial court applications involving prisoners. The Irish Prison Service is considering the recommendations in the report.

In addition, a building project involving the conversion of F block in Cloverhill to a set of video court booths is almost complete and is expected to be brought into use for legal visits and certain pre-trial court applications in October 2005. The Denham committee report also proposed draft legislation for the carrying out of bail, remand and other pre-trial applications over video link. In May 2005, the Minister presented the Prisons Bill 2005 to the Seanad and Senators will be aware that it contained provisions to give effect to the Denham committee's recommendations.

The inspector also referred to the existence of racism in the prison system. It is an unfortunate fact that racism is to be found in all walks of life and the Irish prison system is no more or less immune to such attitudes than any other aspect of Irish society or societies internationally. In recognition of this reality, the Irish Prison Service initiated independent research on racial and cultural awareness and communication in our prisons which was published in 2003. In keeping with the findings of the research the Irish Prison Service philosophy of treating all persons in its care with courtesy and respect, the service is reviewing its internal procedures for staff training and the processing of prisoner complaints. It is

policy to investigate all complaints, train staff in expected behaviours and develop a supportive environment for vulnerable prisoners from diverse ethnic backgrounds. Efforts are made to meet and respect the spiritual and other needs, including special dietary needs, of non-national prisoners.

The inspector made a number of observations on the Irish Prison Service headquarters, including reference to the number of staff employed. There are significantly fewer headquarters staff in proportion to total staff in the Irish Prison Service than in national prison services in other jurisdictions. Statistics for prison service staffing indicate that Prison Service headquarters strength is low by international standards.

The inspector referred to co-operation from the Department. When senior officials met recently with the inspector to discuss what further measures could be adopted to facilitate the flow of information, it was agreed that more regular meetings on matters of mutual interest would be held. I hope the issue has been resolved to the satisfaction of the inspector.

Mr. Cummins: I welcome the Minister of State to the House. I commend the motion and congratulate Senator Henry for putting it to the House this evening. It would be better if the Government were to put its hands up and accept it as recommendations have been made but not acted on. Instead, the Government side has moved an amendment to the motion to support proposals of the Minister for Justice, Equality and Law Reform on five counts.

The amendment invites the House to welcome the Minister's decision to establish another small working group, which is typical of the Government's record since it took office. Where we do not see proposals, we are invited to welcome a decision when no real decision has been made but for a decision to commission another working group report. It is Government by report. When an excellent report like that of Mr. Justice Dermot Kinlen is produced, we see very little action by Government. Government action is lacking in many areas, one of which, certainly, is the Irish Prison Service.

I wonder when the recommendations which have been made will be placed on a statutory footing. An inspectorate of prisons was established for England and Wales in 1980 and for Scotland in 1981, but, as usual, we lag behind in this very important area. It is all very well having reports of this nature but it is the response of Government to the recommendations that will determine their effectiveness. To date, that response has been very disappointing. The Government has failed to respond adequately to the many excellent recommendations of Mr. Justice Kinlen.

Serious concerns have been expressed about systems put in place within the Prison Service to deal with mentally ill patients. This matter has been raised by Senator Henry, in particular, on

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numerous occasions. Last year two people took their own lives in Arbour Hill Prison within days of being returned to the prison following short stays at the Central Mental Hospital. A third man transferred from the hospital back to the prison also attempted to kill himself but was saved by prison staff. It is very disturbing to read in the report of instances such as this in our prisons.

I welcome the Minister of State's reference to the appointment of additional psychologists in the Prison Service to work with inmates on a one to one basis. It is a cause of concern that so many people in prison are in need of therapeutic intervention. The Prison Service has no option but to accommodate any person given a custodial sentence by the courts but a decision on the long-term suitability of prison *vis-à-vis* a mental health institution should be determined at an early stage.

According to Mr. Justice Kinlen, the closure of Shanganagh Castle in December 2002 was a retrograde step. It left Ireland as the only member state in the European Union with no open facility for juveniles. This facility was described as a jewel in the crown of the Prison Service. There is no alternative at present but for juveniles to mix with the harder core offenders in St. Patrick's Institution. The opportunity for rehabilitation offered by Shanganagh Castle is no longer available. According to the report, the juvenile branch of the penal system is hopelessly inadequate. I am anxious to know how it is proposed to deal with this inadequacy in the system for juveniles.

According to the Irish Human Rights Commission, the independence, functions and powers of the Inspector of Prisons should be accompanied by an independent and impartial complaints mechanism for prisoners. It also states that there should be a long-term strategy to address conditions of detention. The Irish Human Rights Commission is gravely concerned that the overall conditions of detention in much of the prison system are unsatisfactory and do not comply with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment standards and developing requirements under Article 3 of the European Convention on Human Rights.

The report catalogues many incidents and makes recommendations on which we should act. Some of the recommendations will not require many additional resources and I cannot understand why they are not being put into effect. As Senator Henry mentioned, when the judge was appointed he was told he could take a holiday for six months. It is evident that there is no willingness within the Department for him to do an effective job, which he is doing under dreadful conditions. This situation must be brought to an end. We must put an inspectorate in place on a statutory basis and give Mr. Justice Kinlen the additional resources he requires.

The situation in Limerick Prison is highlighted in the report. Staff morale there has deteriorated as a result of budgetary cutbacks and some of these cutbacks affect services for prisoners. As part of the cutbacks there are no visits for prisoners on Tuesdays along with a list of other changes which the report states are not geared towards improving the morale of staff or the services to prisoners.

Many of the recommendations in the report of the Inspector of Prisons should be acted on as a matter of urgency and should not be put on the long finger. Obviously some of the recommendations will require additional resources but others could be implemented overnight if the willingness was there.

The recommendation that the Department of Health and Children take responsibility for prisoners with psychiatric illnesses, personality disorders and other disabilities, to ensure the services and facilities that are available to the public in psychiatric hospitals or units are also available to prisoners, is one that should be acted upon as a matter of urgency in light of some details which I highlighted earlier.

Recommendation 6.3, that juveniles should not be mixed with adult prisoners, is a point which must be acted on without delay. Recommendation 6.6 states that all committals to prison should receive a physical medical examination by a doctor and that this practice should be implemented immediately. This could be implemented without the expenditure of much additional resources.

I call on the Minister to implement the recommendations. However, there does not appear to be a willingness on the part of the Department to do so. If that is the case, the Minister should put up his hands and state he will not implement them rather than coddling people with proposals but doing damn all about it. I would have thought the Secretary General who has a deep interest in the penal system, as he worked in it, would want to have many of the recommendations implemented. I want to know why the recommendations have not yet been implemented.

Mr. J. Walsh: I welcome the Minister of State at the Department of Finance, Deputy Parlon, who has made his contribution to the debate. I join with other speakers in paying tribute to Senator Henry and her colleagues for seeking a debate on this important topic.

I remind Senator Cummins that the fact that we have an opportunity to discuss the issue is because the Minister of the day appointed an inspectorate in 2002.

Ms White: Hear, hear.

Mr. J. Walsh: That has led to these reports. It was a good initiative and obviously——

Mr. Cummins: It is not sufficient to appoint an inspectorate unless there is a willingness to act on its recommendations.

Mr. J. Walsh: —it will take time for the benefits of that to accrue.

I am also pleased to note the Minister of State's references to specific aspects of the first two reports on which the recommendations are already well in train. That is not to say there are not additional recommendations which we must accelerate in the interests of having a proper regulated Prison Service.

I was inclined to focus on the second report at the expense of the first but it contains some good recommendations. One of the recommendations related to Shanganagh Castle to which Senator Cummins referred. It was a prison which was closed because it was a dormitory facility. The inspector was impressed by its green open spaces which were considered conducive to the involvement of prisoners in rehabilitative activity, which is part of the purpose of the Prison Service. I highlight this point although the facilities at Shanganagh can no longer be used without major changes and a new building. When we build new prisons it is important to take into account that type of approach so that adequate facilities can be provided. We must avoid creating another concrete jungle such as exists at Mountjoy Prison which is antediluvian and must be replaced.

As a member of the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights which visited Mountjoy Prison a year ago, I would welcome the implementation of the plans for Thornton to ensure the new prison there will have all the facilities necessary to ensure a well-regulated, rehabilitative environment that will have a positive effect on many of the inmates who will go through that facility.

Portlaoise Prison, which was also mentioned, will also come up for retention. Perhaps because of the security problem posed by many of the prisoners in Portlaoise Prison, it might not be as easy to have as much open space. Nonetheless, the effort should be made because, to some extent, we are in a different political climate in respect of paramilitaries. This should be recognised in changes we make to ensure that those who are imprisoned are afforded opportunities to enable themselves to participate fully in society and live meaningful and useful lives rather than spending much of their lives behind bars. It is a matter for them to avail of these opportunities and the State should not fail in providing them.

The report mentions drug addiction among prisoners. I noted recently that it is reckoned that only 2% of the population in Massachusetts ends up in difficulty with the law. The authorities in that state try to target that 2%. It is very much an ethnic issue in Massachusetts while in Ireland is often an issue associated with disadvantaged areas, as Senator O'Toole stated. We should deal with the issue through our community policing programme, which is part of an integrated

approach to tackling crime. Prison represents the last step in this approach. When prison is required it means we may have failed to correct the activities of certain people such that they must, of necessity, pay their dues to society in prison.

I am informed that the authorities in Massachusetts stated 80% of the prison population in that state are either drug users or addicts. On visiting Mountjoy Prison, they were surprised at the level of drug use therein. I know there are difficulties associated with eradicating the problem. Undoubtedly, many members of the prison population are drug users. Drug use leads to much of the criminal activity in our communities. I am not sure how we should tackle the problem but a holistic approach is required to try to arrest the increase in the number of people using drugs and, as a consequence, finding themselves in prison.

The point is well made in the report that we should ensure prisoners are not unoccupied and that they are given useful and meaningful tasks to do. Work was referred to in the House. The annual cost of servicing each prisoner is such that there should be a payback. We exercise far too much discretion regarding what prisoners wish to do. There should be an onus on prisoners to work for a certain period of the week in productive employment to help meet the cost of their imprisonment.

It is good to note in the report that the morale of prison staff is quite high. I welcome this. My esteemed colleague Senator Cummins should note that one of the main recommendations of the report is that the inspectorate be established as a statutory and independent unit. This is now in train and a commitment has been made by the Minister to achieve this, which is to be welcomed.

A Senator referred to video linking for bail and pre-trial applications to court. It seems wasteful of prison officers' time and public moneys that people are transported long distances under guard to attend court given that we live in a new communications age in which video linking and conferencing is quite common and effective in the business world. Ways should be found to fully utilise this technology such that people would only end up in court during their trials, at which time it might be necessary for them to be present. This issue should be considered.

A recommendation of the first report is that juvenile prisoners should not be mixed with adult prisoners. I subscribe fully to this. I have seen evidence of people going to prison for relatively minor offences by comparison with other offences we hear about. As a consequence of their experience and the contacts they make in the prison system, they graduate to much more serious crime when released. This is a reflection on the system and therefore it is imperative that we use other ways of holding people to account for their crimes. Community service should be used more widely.

The restorative justice system, which operates in Tallaght and Nenagh according to my colleagues on the Joint Committee on Justice, Equality, Defence and Women's Rights, should

[Mr. J. Walsh.]

be rolled out to other areas. I was in Canada recently and noted this system was used fairly extensively in the area I visited. The Canadians highly commended its effects, particularly among ethnic populations. It was found that offenders' having to appear before their own relatives to explain a crime they committed and the embarrassment caused to their families all served as a force to reintegrate those offenders into society and dissociate them from criminal activity. This is a far more effective approach than putting offenders in an institution such as a prison.

I support the recommendation in the report that Oireachtas Members should have the right to visit prisons. This was highlighted by Senator Henry. Oireachtas Members should not be allowed to arrive at the prison gates in a taxi whenever they want but they should be allowed visit one day per month.

Coolamber Manor, a rehabilitation unit on a 150-acre site in Longford, is a model that should be replicated, as recommended in the report. It provides vocational training and intensive counselling. If we take this course of action, we will reap the benefits.

Mr. Ryan: I begin by quoting Mr. Justice Dermot Kinlen's letter to the Minister for Justice, Equality and Law Reform, which comprises the introduction to the second annual report of the Inspector of Prisons: "I am quite certain that many senior officials will not like much of my proposed Bill [to make his position statutory] as it will offend their basic mantra about power, secrecy, control and security". For many people, this sums up the fundamental problem associated with running a prison system in Ireland, that is, the culture of power, secrecy, control and security which the Department of Justice, Equality and Law Reform and successive Ministers from that Department have insistently defended.

The fundamental problem is that the Department, including the Minister, is affronted by the fact that somebody says it is not doing its job properly. It is extremely uncomfortable about the fact that somebody is allowed to consider what it is doing, cast a dispassionate eye over it and come to conclusions which, to the rest of us who read the report, are so obvious as to be similar to a poke in the eye to remind one of the problem.

Not all the recommendations in the report of the Inspector of Prisons require considerable effort to implement. When the inspector refers to the need to replace tiles in bathrooms or the fact that bedrooms look like they have not been painted in years, he is not referring to the need to make great efforts but to a failure of will. The report quotes the British Inspectorate of Prisons, which makes the very valid point that the traditional response of blaming the poor foot soldiers for everything is not the issue. It is a management issue concerning senior management in the Prison Service and is ultimately determined by the values that motivate Ministers with responsibility for justice. The humane rhetoric bandied about, particularly when there is a moment of

embarrassment from the European committee on the prevention of torture, does not get away from the fact that we require prisoners to live in conditions which the Inspector of Prisons, two years in a row, has described as being nothing short of abysmal.

He has identified the fundamental problem as being the culture in which the prisons are run. Manifestly, a so-called independent Prison Service is still firmly under the thumb of a Department, which, as he said, still operates with the basic mantra of power, secrecy, control and security. That really is what it is about. When one reflects on that culture one can understand why Shanganagh Castle would be closed. Open prisons are not exactly part of the culture of power, secrecy, control and security. They are the antithesis of that. If there were empirical evidence to suggest that this culture was necessary to achieve some worthy objective, we could all be persuaded. However, the fundamental fact about prisons is that apart from protecting people from others who are dangerous, by keeping them locked up, they do not work. They do not deter or rehabilitate people. They usually end up with people being more mentally and psychiatrically ill when they leave than when they arrived. More people leave prison with drug problems than had them when they arrived. Prisons do not work; they are utterly hopeless.

One could write a profound PhD thesis about the way in which societies — Ireland among them, although not particularly worse than anywhere else — believe in prisons and need them. Governments of all hues demand prisons when everybody can prove that they do not work. Increasingly I believe that the purpose of prisons is not to deter those who might end up there, but rather those who would never end up there. The purpose of prisons is actually to put manners on the middle classes by frightening them with the prospect of what might happen to them if they do not behave. The people who are most frightened of prison never end up there because of the combination of advantage in life, education etc.

These two reports contain a wonderfully eloquent statement of the frustration of trying to deal with a Department which cannot adjust itself. Every time I talk about issues like this I am conscious of the reminiscences of my friend in the Labour Party, former Deputy Eithne FitzGerald, and her struggles with a particular Department, using the Freedom of Information Act. The Department resisted and resisted, just as it did in many other matters. Until some Minister gets to the stage of saying, "Let us start all this again", recognising that many of the things the Prison Service does are unnecessary, resulting in unwanted expenditure, wasted money, poor services and at the end of it all the public is not more secure, nothing will change. Prisons serve one purpose only, to keep people who are dangerous off the streets. If we accepted that, we could look at how many prison places are needed, which is probably a fraction of the number we have. We could use the resources saved to deal

creatively with issues such as illiteracy and all of those matters.

It is extraordinary how little has been done. If Mr. Justice Kinlen keeps writing reports like this, his chances of getting a permanent contract with the Department of Justice, Equality and Law Reform will not only diminish, but will move into negative territory.

Mr. Minihan: I, too, welcome the Minister of State to the House. Like previous speakers I would also like to know the recommendations made by the Inspector of Prisons and Places of Detention for 2003 and 2004. Members should note that this is but one of 17 such reports received by the Department of Justice, Equality and Law Reform since the Inspector of Prisons, Mr. Justice Kinlen, was appointed. As Senator Ryan articulated, the issue of imprisonment is complex. It is an area that draws conflicting opinions and varying academic comment. Looking at the basics, the Council of Europe's annual penal statistics survey states that the Irish prison population rate is 78 per 100,000 inhabitants. This statistic shows that Ireland is well below the average European rate of 141 per 100,000 inhabitants. Even a basic statistic such as this can produce conflicting views. Does it mean there is less crime in this society than in others? Is the justice system more lenient? Are the detention rates lower? Are the conviction rates low, or even too low?

There are even conflicting views on the fundamental question of whether imprisonment is effective in reducing crime. For example, the former head of the New York prison system, Mr. Michael Jacobson, was in charge of that service when prison numbers fell, while at the same time crime also fell substantially. He urges community-based prevention and non-jail alternatives for some breaches of release conditions.

Mr. Ryan: Hear, hear.

Mr. Minihan: On the other hand, the director of criminal justice at Civitas in the UK has said that prison surveys reveal that the average prisoner commits approximately 140 crimes per year. Imprisonment prevents that crime, along with reassuring victims and the public in general that something is being done to tackle crime. The basic point is that criminal justice is a complex policy area. Imprisonment has provoked and continues to provoke charged debate across many modern societies and Ireland is no different in this regard. In 2002 the Government made ambitious and appropriate commitments as regards prisons in Ireland and their operations. I am satisfied that these provisions relate closely to the substance of Mr. Justice Kinlen's 15 recommendations.

These refer, in the main, to the demolition of certain prisons, inspections, visits, probation staff, rehabilitation, publication of rules, literacy and administration. The Minister of State has clearly articulated that we live in a time of decision and change as regards the Prison Service and that this period should be positive and constructive. The

objective is to modernise the fabric of the Prison Service, for conditions to improve greatly and time will be needed. It is an objective to which the Government and the Minister are committed. Mr. Justice Kinlen's report, of course, is part of that same process. It is a substantial document that deals with a broad range of issues.

Measures are already under way to address the most significant concerns as regards the conditions in prisons and places of detention. The Minister has set down two principal objectives in this area, namely, replacement of older prison accommodation, in particular at Mountjoy, Portlaoise and Cork and control of the spiralling prison overtime costs which absorb vast amounts of money. The House will be aware that the resources saved could be used more productively in providing for improved services for prisoners. Significant progress is being made as regards the replacement of Mountjoy and Portlaoise prisons as recommended in the report. Furthermore, good progress is being made on the development of a new prison on Spike Island to replace Cork Prison.

We must acknowledge that these are major undertakings, which together account for the replacement of almost 40% of the entire prison estate. Notwithstanding the intentions of the Independent group's motion, we must accept that this process will take a number of years.

With regard to overtime payments, we must commend the improvements which have taken place in making more of the prison Vote available to prison services. The shortage of psychologists, as identified by Mr. Justice Kinlen, has been addressed by the recruitment of six additional psychologists to improve services. This is but one example of resources being directed. A further new psychologist took up duty last month and another recruitment competition for clinical, forensic and counselling psychologists is planned later this year.

With regard to a comprehensive new Act covering all matters relating to prisons, the Minister has indicated it is unavoidable that it will be some time before such comprehensive legislation is completed. Mr. Justice Kinlen referred to the provision of a booklet on prison rules. I commend the Minister on his decision to replace the 50 year old prison rules and welcome the publication today of new draft rules.

I have set out the complexity of the challenge facing us regarding the prison sector. The Government has made ambitious commitments and is making good progress. On the specifics of the second report of the Inspector of Prisons, although the size of the task must not be underplayed, nor should the Minister's dedication to address the key issues of prisoners' conditions and the need to free up resources to continue to improve the prison sector. In this context, I support the amendment.

Mr. Bradford: I am glad to have the opportunity to say a few words on the motion and congratulate my colleagues on the Independent benches on introducing the subject for debate. It is

[Mr. Bradford.]

one of the regrettable features of politics here that the Government always says “Yes” and the Opposition “No” or *vice versa*. When I saw the text of the motion tabled by Senator Henry and her colleagues I wondered why the Government would oppose it. Unfortunately, in tabling the standard amendment full of platitudes and aspirations, some of which are positive, it has chosen to do so.

The question we must ask when reflecting on the report of the Inspector of Prisons is whether the Government’s promises will ever come to anything. Prisons and prisoners are sensitive issues. Politicians have, however, a duty to ensure that those imprisoned in any of the prisons throughout the State are treated decently and humanely. Prison is not simply a place of punishment but, more important, a place of rehabilitation.

A recent discussion by the sub-committee on human rights of the Oireachtas Joint Committee on Foreign Affairs on the issue of prisoners overseas was raised on the Order of Business this morning. The sub-committee was particularly concerned about conditions faced by Irish prisoners overseas. The Government and Departments of Foreign Affairs and Justice, Equality and Law Reform must take up some of the issues raised in this area. Before lecturing some of our European partners, particularly Britain, about the treatment of Irish prisoners held in their prisons, we must put our own house in order.

When one reads and reflects on the first annual report of the Inspector of Prisons and his correspondence with the Minister, one is forced to recognise that we have a long way to go. It is interesting to note Mr. Justice Kinlen’s comment that his report “may make disturbing reading”. He also states the public should realise the “problems of poverty, ignorance, homelessness and particularly drug addiction”. This debate should focus on how we address these four issues.

It is not politically popular to show concern for prisoners. At a time when law and order continues — correctly — to be a major public issue, there is never an outcry about the plight of prisoners and the conditions in which they are held. These issues are part of the equation, however, because if we convict persons for criminal offences and sentence them to terms of imprisonment, we should aspire to ensure that, having served their term in prison, they will have reformed to the maximum possible extent. Unfortunately, given the lack of facilities, resources and adequate training in many of our places of detention, the hope of rehabilitating many of our prisoners is wasted. This debate must focus on how we can respond in a meaningful way to the report and ensure its recommendations are implemented and genuine progress is made before the second, third and subsequent annual reports are published.

As an independent work, the Inspector of Prisons’ report can be accepted by every party in the House. In this context, the Government amendment must be viewed as a political

response, as is the way of all Governments. Nevertheless, we must recognise that every political party and all recent Governments have been responsible for the current plight of prisoners and the state of our prisons. This degree of shared responsibility is the reason we should be mature enough to accept this worthy motion, which simply notes with disappointment that few of the recommendations of the Inspector of Prisons’ first report have been implemented.

Reading page after page of the report’s general recommendations, it is clear they all make common sense and are impossible to oppose. I hope the Minister for Justice, Equality and Law Reform, who is not afraid to be politically different and courageous when necessary, will try to ensure the recommendations will be implemented. It would not mark a climbdown on the law and order front or be a sign of weakness on the part of the Minister or Government if they were to choose to treat prisoners in a fair and humane manner.

The most prominent issue in the minds of the public is the replacement of Mountjoy Prison. We all welcome this development and hope to see progress on it at the earliest possible date. In all the State’s prisons, of which Limerick, Cork and Portlaoise Prisons are the best known, improvements are needed in terms of staffing, facilities, counselling and resources. As the inspector stated, the issue of drugs, in particular, must be to the fore of our deliberations. It is difficult to accept that drugs can be so freely available to the prison population or to appreciate that we have yet to introduce a proper system of drug enforcement in our prisons. In addition to the requirement to address prisoners’ access to drugs, we must increase the resources allocated to trying to deal with the drug habit of prisoners. Clearly, it is preferable to deal simultaneously with the symptoms of the problem rather than tackling the availability of drugs alone. This and many other recommendations are contained in the report.

I reiterate my support for the motion, which every fair-minded representative would accept. I compliment the independent Inspector of Prisons, Mr. Justice Kinlen, for presenting such a substantial report in a very readable fashion, it should be on the desks of all Oireachtas Members. If we insist on everything in the report being put in place, not only will our prisons be better places for prisoners, society will benefit in the long run because those unfortunate enough to end up in prison will come out in much better shape and be much less likely to re-offend.

Ms White: I welcome the Minister of State to the House and I compliment Senator Henry for raising this matter repeatedly on the Order of Business.

On Monday, I met Mr. Justice Kinlen to get an update on the recommendations he made in the report on St. Patrick’s Institution and in his first two reports on prisons. Mr. Justice Kinlen is a *bête noire* for the Department of Justice, Equality and Law Reform. If the Department thought he would agree with everything it wanted, it was mis-

taken. He has had to send people to prison so no one understands the consequences of doing that better than him. In one of his reports he states that judges should justify the use of prisons because they are so expensive and seldom improve the prisoner.

The annual report of the visiting committee of St. Patrick's Institution for December 2004 found there were 182 inmates aged between 16 and 21, with 59 aged between 16 and 17. The idea of putting young people under 18 years of age into prison is savage. Generally, only the poor end up in prison. I will present a report on child care on Tuesday 28 June which will state that every child born in the State should have an equal opportunity and that no child born into a poor family should be deprived of developing his or her potential. The visiting committee of St. Patrick's Institution stated that basic literacy continues to be a problem at St. Patrick's and that a substantial number of inmates are unable to read or write. Sadly, their language skills are so poor that their ability to construct oral sentences is very limited.

We condemn people to isolation in prison cells, instead of using the prison system to educate them and help them to make up the ground they lost in the past. By rehabilitating them, we could enable them to get a job instead of offending again. When we look back at this in 30 years, we will consider what we are doing to be savage.

Mr. Justice Kinlen notes that the chaplain in St. Patrick's Institution, who regards himself as independent, stated he was concerned and distressed about the situation in the institution. He said it is run as a prison when it should be a rehabilitative centre to help people to find themselves so they can cope when they return to society. Locking inmates in their cells for 17 hours a day should be discouraged and activities should be encouraged to distract the inmates from crime.

When Mr. Justice Kinlen publishes his third report this week which we should study. It is a pity we did not have it in time for this debate. Vision is necessary. Politicians must change society, not act as dead-handed bureaucrats who interfere politically. We are here to change society.

I commend Mr. Justice Kinlen and thank him for the passion he has displayed as independent Inspector of Prisons since 2002. He asks that we, as legislators, ask the Minister to put his position on a statutory footing and make it independent. He also recommends that the probation service be independent, as it is in Northern Ireland. If we had real vision, the Minister for Justice, Equality and Law Reform would establish an independent authority for the Garda and an independent probation service that could work to rehabilitate young offenders.

In May 2002, Fr. Peter McVerry, SJ, accompanied the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment when it visited Ireland. He said many inmates interviewed by the delegation indicated they had reasonably con-

structive relations with most of the prison staff. In all three prisons the delegation visited, however, it heard complaints of verbal abuse. In Dublin it also heard complaints of physical ill treatment, kicking, slapping and rough treatment of prisoners by staff, frequently related to placements in padded cells, although that is now being dealt with.

The committee also noted with concern that there is no independent complaints board. Although we are not appointing a Garda ombudsman similar to the police ombudsman in the North, at least the three-person ombudsman committee will be independent of the Garda Síochána. There should be an independent complaints authority for those in prison so those investigating assaults on prisoners do not work in the prisons themselves.

I am glad Senator Henry tabled this motion. We should raise this issue again in the autumn and keep track of the third report. We must do everything we can to help those in prison and to protect their human rights so they can be rehabilitated into society.

Dr. Henry: I thank all Senators who took part in this useful debate. I thank the Minister for his speech except where he commended the amendment to the motion to the House. Senator Ryan once told me, as a compliment, that motions I put down are so anodyne that they do not need amending. I would have thought this was one of these cases. However, I regret the amendment was tabled because it is difficult to get issues such as prisons, mental health and so forth discussed in the House. Like Senator White, Members understood this is why I tabled the motion. I asked a month ago for it to be discussed but there was no action. I, therefore, decided to take on the issue myself. Members will remember the little red hen who said that it is best to do things oneself.

I thank Senators for their comments which have been useful. I am glad the Minister of State at the Department of Health and Children, Deputy Tim O'Malley, is in the House. One matter that does concern me is that the Central Mental Hospital will be transferred to the prison site in north Dublin. I am not enthusiastic about this. When the House debated mental health, I believed the understanding of the Minister of State was that it would not be transferred to the prison site. It is important to remember that a substantial number of people in the Central Mental Hospital have not been convicted or even accused of crimes. Putting them on a penal site is a retrograde step. The Minister of State at the Department of Finance earlier stated:

The Tánaiste has asked her officials to examine the option of providing a separate governance structure for the hospital, by way of its own board, reflecting its importance as a national, tertiary psychiatric service.

I am concerned that it is only an option.

There are some concerns about the prisons being disposed of by the Minister for Justice, Equality

[Dr. Henry.]

and Law Reform. Shanganagh Castle is worth an enormous amount of money. Senator Jim Walsh and other Members were right to raise the issue of work. At one stage, Shanganagh had an admirable horticulture centre from which the prison sold the produce. Due to cutbacks this had to be stopped. It is difficult for people coming out of prison to get employment. If anyone is like me, people are desperate to get gardeners. People who can grow almost anything or can get employment in horticulture centres are invaluable. It was a great sadness to me that this happened at Shanganagh and in St. Patrick's Institution.

I recall Mr. Justice Kinlen's remarks about value for the taxpayer. A sum of €9 million was spent in St. Patrick's Institution on a facility which was supposed to take on 12 to 16 year olds. Senator White will be appalled by this. However, from what I understand the place is empty. As Senator Cummins stated the amendment is simply a set of proposals. It is a little like the part of the speech that stated we have been provided with copies of the rules. Apparently we have been but we did not know this because they were downstairs. Using the term "will be" would have been more honest.

When will these bricks and mortar proposals come to fruition? There is so much in Mr. Justice Kinlen's report that could be implemented in the meantime. I agree with Senator White that his position should be made statutory immediately not just for his sake but in order that the inspectorate can become independent. It does not appear to be functioning properly.

Recently, I visited the maximum security prison in Spoleto, Italy. I was interested to see how much of the prison is run by the prisoners. These people are serving horrific sentences, many of whom have served 25 years of a 30-year sentence. This place really meant business but a large amount of work there was done by the prisoners. Payments were made for these jobs. As one person there told me this is important because when a child of an inmate is making his or her first holy communion, it is good that the prisoner can give him or her a few bob. It is good to make people as much a part of society as possible. I used to go to the plays in Mountjoy Prison where many of those participating would not give even their first names. Nowadays, many will give even their surnames. They thank, say, Bernadette, their fathers, mothers and the families for their support while they are in prison. They have a pride in what they are doing. Did the Minister of State see some of those prisoners taking the leaving certificate in Mountjoy Prison on television recently? They all gave their full names, explaining what they were doing.

All Members are agreed that rehabilitation is the important matter. One can put people in prison. It gets them out of the way for a certain length of time. However, it is an expensive way of doing so. It would be easier to employ people to whom prisoners were handcuffed and send them around on an eight hourly basis. We are spending huge amounts on running prisons. I accept there are vicious and violent people in prison. However, there are also many Senators would like to see out of prison, playing a more constructive part in society.

Amendment put.

The Seanad divided: Tá, 26; Níl, 14.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
MacSharry, Marc.

Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Níl

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Burke, Ulick.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.

Hayes, Brian.
Henry, Mary.
McCarthy, Michael.
O'Toole, Joe.
Phelan, John.
Ross, Shane.
Ryan, Brendan.

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

Amendment declared carried.

Motion, as amended, put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: At 10.30 a.m. tomorrow.

Adjournment Matters.

School Accommodation.

Mr. McCarthy: I wish to share my time with Senator O'Toole.

An Cathaoirleach: Is that agreed? Agreed.

Mr. McCarthy: I welcome the Minister and thank her for taking this Adjournment matter. I also thank the Cathaoirleach for allowing me to raise this important issue on the Adjournment. Essentially, it relates to Scoil Phádraig Naofa, St. Patrick's boys national school in Dunmanway, County Cork. There is a plan to extend the school to include a hall, a computer room, a resource teaching room, a storeroom and a staffroom. However, in the short term, in 2002 the school was given a commitment that a Portakabin for resource teaching would be on the agenda. It received documentation from the Department to proceed to a stage where it could employ an architect-designer, engage in the planning process, obtain planning permission and obtain a fire certificate. The Department also advised it to comply with the regulations that it should stay within the specified criteria and that it should invite at least three tenders for the Portakabin.

I do not need to tell the Minister, either as Minister for Education and Science or as a former teacher, of the importance of resource teaching in the school. The fact that it currently *7 o'clock* takes place in the staff room is inappropriate and is unhelpful to the development of the children. Given that teachers do an important job in difficult circumstances, it is not good enough.

There was a change of principal in the school and the new principal pursued this issue but was informed that the school would be obliged to re-apply. The school authorities re-applied and were then told that no funding was available. In other words, a situation arose where the Department had advised the school to proceed to planning stage but after the change in personnel at the helm of the school, it was told that funding was no longer available. Mindful of the fact that Senator O'Toole will also make a contribution, I appeal to the Minister to examine this worthy request from Scoil Phádraig Naofa for a Portakabin for resource teaching. That is the board of management's primary objective. I have met the teaching staff and parents in respect of this case and I appeal to the Minister to show her better nature and grant the funding for the resource teaching Portakabin.

Mr. O'Toole: I also welcome the Minister and thank Senator McCarthy for providing me with the opportunity to say a few words on this issue. I know this school well and have visited it many times. In an earlier age, it gave Sam Maguire to the world. More recently, Senator McCarthy and I today received a note from the school's principal, Miss Burke, asking how she could explain to the parents and teachers that their school can be deprived of a classroom at a time when apparently the Minister does not spend all the money allocated to her Department.

I am aware that the Minister receives such requests all the time but this is a school with a strong local community which is determined to make progress. The parents and teachers are trying to do their best for the school and are trying to create the space for a resource teacher at a reasonable level. At one point, the Department told the school that it would receive a Portakabin. It was refused and subsequently the school authorities were informed — this is heartbreaking — that they had no sense and should have applied for an ordinary classroom in the first place as if they had done so, they might have been offered a Portakabin.

The Minister and I have discussed this kind of event — which is unhelpful and difficult — many times on an informal basis. I do not know what to tell teachers in that situation. Senator McCarthy and I have discussed the issue, but how does one explain it in this day and age? This is not a large request and I ask the Minister to be generous and give it her best shot.

Minister for Education and Science (Ms M. Hanafin): I thank Senators McCarthy and O'Toole for raising this issue. I imagine that Senator O'Toole is more aware than Senator McCarthy of the pressures regarding capital expenditure. At the outset, I should point out that there has been no underspend in respect of capital expenditure. Any underspending took place on the current side and may have been an overestimation in respect of teachers' salaries and pensions to those who might have taken pensions but did not because they were waiting for benchmarking awards, etc. Any capital underspend from last year was carried forward to this year as part of the sum of €50 million. It is wrong to attempt to link two totally different matters to each other. It is also important to state that—

Mr. O'Toole: This is how people read the situation. That is the request which we received today without any discussion.

Ms M. Hanafin: I am sure Senator O'Toole will go to great pains to point out to them that there has been no underspend in capital expenditure, that the Department carried forward €50 million into this year and that this year alone, €270 million will be allocated to primary schools and €223 million to post-primary schools—

Mr. O'Toole: I will convey the Minister's full reply.

Ms M. Hanafin: —which is an increase of 14% on the 2004 allocation. The Members will be aware that I have made a number of different announcements regarding buildings. They include the following: 141 major building projects which are already on site and a further 28 due to commence in the coming weeks; a total of 122 major school building projects which will prepare tenders and move to construction this year; and a total of 192 primary schools which have been invited to take part in the small and rural schools initiative and the devolved scheme for providing additional accommodation. Up to 120 schools have been given approval to rent temporary premises pending delivery of a permanent solution to their long-term accommodation needs and 43 schools have been authorised to start architectural planning of their major projects. A total of 590 schools were given approval for small scale projects under the summer works scheme and I hope to announce more tomorrow. A total of 124 schools have been approved to move through the architectural planning process with immediate effect. Undoubtedly, the schools building and modernisation programme has seen both an increase in overall funding and major improvements in the administration of funding.

However, another announcement, which does not refer to school buildings but which has had a direct impact on schools such as St. Patrick's boys school, is the announcement of 660 extra teachers to deal with special needs and resource teaching. The easy thing to do would have been to decide not to supply the teaching resources until the buildings were ready. Unfortunately perhaps, children needed to receive the teaching allocation. Consequently, I have provided the teachers even though the Department is aware that there are schools and circumstances where they do not have bright new classrooms. Surely it was more important to put the resource teaching and special needs teachers in place so that the educational needs of the children could be met. This is what has happened in some schools. While some schools are attempting to find space for those teachers, they would prefer to have the teachers rather than empty buildings.

St. Patrick's school is one such school. This school, with 90 pupils, has a principal, three main-stream teachers and a permanently-based resource teacher. Enrolments have decreased slightly from 112 to 90 pupils but I can understand that the school authorities would like to have space for the resource teacher. However, every school in the country will face that pressure. One in five primary schoolteachers now deals with special needs. These are all extra requirements, not only in our schools but also as a pressure on our building programme. My priority was to put the people in place in order to meet the children's needs and to allow the schools be as flexible as possible in providing the space. We will get around to providing the space requirements as well.

As far as applications for temporary accommodation were concerned, many of them pertained to special needs, but the Department was obliged to give priority to classrooms. Temporary accom-

modation was needed for developing schools where classes were needed. Hence, it was not possible to approve all the applications received. However, I am conscious of the fact that because of the extra resources put into special needs, the extra teachers appointed and the additional posts going into disadvantaged schools, more pressure will be put on space in many schools. For that reason, we must consider the school in the context of the school building and modernisation fund for next year.

School Books.

Ms White: I thank the Minister for coming before the House this evening. Just as Senator McCarthy pleaded with her earlier, I also wish to plead with the Minister. I have examined three reports on guidelines on Traveller education in primary schools, guidelines on Traveller education in second level schools and one on pre-schools for Travellers. I have two Traveller friends who are sisters. One of them who lives in a caravan in the south east does not wish me to use her name. However, last weekend her child, who is 12 years old, came home from school with a €70 bill for school books. In theory there is support for Travellers but it was inhumane and cheeky of a teacher to send such a bill to a person who lives in a caravan and comes up to Dublin from Wexford to get people to give her financial support to keep her children going. How could a school teacher do such a thing and expect this woman to get €70 for books?

This lady has a child in secondary school and a child in national school and she is doing her level best to educate them. Her child in secondary school wants to work for Travellers when she leaves school. The lady told me that last year the child was very conscious that the teacher had let the other children in the class know the child had got books cheaper or for free. I know most teachers and principals are very decent people and are sensitive. However, there must be some way to ensure the teacher does not make the child feel inadequate or discriminated against when the child is making such efforts to go to school given the cost of uniforms and books. This is a compassionate issue and I will leave it up to the Minister.

Ms M. Hanafin: I thank Senator White for raising what is obviously a personal issue for her friend. I would be very upset and disappointed to hear of any teacher who would embarrass a child in such a way. I hope the mother of the child would have the confidence to deal with the school in respect of the issue.

Ms White: She would not have the confidence.

Ms M. Hanafin: That is certainly not the way a child should be treated.

Additional funding is provided to schools in respect of Traveller pupils by way of *per capita* grants. It is given in a flexible manner so boards of management have discretion as to how

additional support can be provided to Traveller children.

At primary level, where a school has been allocated the support of a resource teacher for Traveller pupils, an enhanced level of capitation grant, currently ranging from €284 to €383.86 depending on the age of the child, is payable in respect of each Traveller child enrolled. This grant is payable in addition to the standard *per capita* rate of €133.58. This rate has been significantly increased in recent years from €57.14 in 1997 to over €133, which is an increase of over 134%. The school has certain flexibility with enhanced capitation which it is getting for Traveller children.

At second level, in addition to the standard *per capita* grant of €286 per pupil, an additional grant of €427 per pupil is paid in respect of Traveller children bringing the *per capita* grant to €713 per pupil per annum. That money is paid directly to the school in respect of the individual Traveller child. Schools have also benefited from increases in the *per capita* grant which was introduced in September 2000 under the school services support fund initiative and it now stands, with effect from January 2005, at €145 per pupil. The additional capitation grants paid in 2004 in respect of Traveller children amounted to €2.5 million at primary level and €0.88 million at post primary which is an overall total of €3.38 million.

My Department also operates a grant scheme towards the cost of providing school text books for pupils from disadvantaged families in primary and post primary schools which also benefits Traveller children. For the purposes of this scheme, a disadvantaged pupil is a pupil from a family where there is genuine hardship because of unemployment, prolonged illness of a parent, large family size with inadequate means, single parenthood or other family circumstances, such as substance abuse, which would indicate a similar degree of financial hardship.

Principal teachers administer the book grant schemes in schools in a flexible way under the terms of the schemes based on their knowledge of particular circumstances in individual cases. I hope it is done in a sensitive way. As these schemes are administered at the discretion of the school authorities, we do not have specific data on the level of book grant aid directed towards Traveller children, either generally or specifically.

A higher rate of grant is paid to primary schools which operate a loan-rental scheme and also to schools which are included in my Department's disadvantaged areas scheme. Post primary school authorities may also use the annual grant for the establishment of book loan-rental schemes. In addition, my Department provides seed capital towards the costs of establishing book rental schemes in schools designated as disadvantaged and schools which participate in other schemes designed to combat educational disadvantage.

The school book grant is paid in June each year in respect of the following school year. For the coming school year, €3.86 million was paid in respect of 2,719 schools. Under the second level scheme, grants totalling approximately €6.6 mil-

lion were recently paid to eligible schools and VECs. That amounts to a figure over €10 million.

In regard to the provision of school uniforms, the Health Service Executive agencies administer the back to school clothing and footwear allowance scheme on behalf of the Department of Social and Family Affairs. The purpose of this scheme is to assist qualifying recipients, namely, persons in receipt of certain social welfare or Health Service Executive payments with the cost of school clothing and footwear. The scheme is available to all families who are recipients of a qualifying payment which contains an increase in respect of the child and who satisfy the means test. The allowance is payable in respect of each qualified child.

In addition, the Health Service Executive may, under the supplementary welfare allowance scheme, in any case where it considers it reasonable, and having regard to all the circumstances of the case, assist people with once-off expenditure which they could not reasonably be expected to meet out of their weekly income.

We are currently developing a five-year Traveller education strategy, the aim of which is to achieve equality of access, participation and of outcomes for Travellers for education in the context of lifelong learning. The strategy will map out the way forward in regard to Traveller education taking account of the complexity of the issues involved, the history of provision and the existing measures. It will mark out the challenges for the future and identify ways to approach those challenges. I thank Senator White for her interest.

Ms White: Is the scheme transparent?

Ms M. Hanafin: The scheme is flexible. The money is given to the schools so that they, knowing the individual circumstances of their pupils, can be sympathetic to them. They do not account to the Department for each child or how much each child gets. It is school-based because the school knows the child's circumstances.

Ms White: Why would a particular school send a bill for €70 home with a child?

Ms M. Hanafin: Maybe it did not understand the circumstances.

Hospitals Building Programme.

Mr. Finucane: It is nice to see the Minister of State again. I was not allowed to raise this issue on the Adjournment yesterday but I believe there has been some good news on it. I will not say I was the catalyst for it as a result of raising it yesterday as I believe it was in the public capital programme. I am pleased there has been some positive news because I have consistently raised this issue. I raised it when I was a Member of the Dáil and I have raised it on the Adjournment in the Seanad on successive occasions.

In 2002 a project team considered a 12-bed-room unit for the elderly mentally infirm in St. Ita's Hospital in Newcastle West. I believed it was

[Mr. Finucane.]

a desirable proposal because it was wrong that doors in wards in St. Ita's Hospital, which does tremendous work, had to be locked to keep people from wandering off. I and the staff of the hospital, who do great work, could see the necessity for this unit.

Since 2000 I have raised this issue and have been told about progress in the Department which seemed to be very slow. I watched a succession of Ministers visit the constituency. If they came to Newcastle West, St. Ita's Hospital was naturally part of the tour. The former Ministers for Health and Children, Deputies Cowen and Martin, visited the hospital as did the Taoiseach prior to the last general election. The Minister of State, Deputy Seán Power, visited as did his predecessor, Deputy Callely. I am sure others visited as well who I could not monitor. I would not always be consulted about such visits.

Minister of State at the Department of Health and Children (Mr. S. Power): I am sure the Senator does not miss much.

Mr. Finucane: The original proposal was for a ten-bedroom unit which was modified to a 12-bedroom unit by the project team. I understand from the announcement that it has probably been scaled back to an eight-bedroom unit. The projected funding in 2002 was €1.7 million but it may have increased given the lapse of time. Although money for the unit would be provided through the public capital programme, I would like to see a commitment in regard to staffing and equipment, both of which are required to get this unit up and running. I am interested to hear the Minister of State's response and particularly an indication as to when construction will commence on this eight-bedroom unit.

Perhaps I can digress a little because there was other positive news for St. Ita's Hospital today. A great movement at local level was spearheaded by a local committee for the provision of a hospice on the campus of the hospital. That it has been allocated funding for a four-bedroom unit within the hospice is welcome. I compliment Fergus Scanlan and the local group and all the people in west Limerick on their commitment to and respect for the hospital given the amount of fund-raising done locally. They have been rewarded for their efforts by the Health Service Executive. I appreciate my Adjournment matter was in regard to St. Ita's hospital and the unit for the elderly mentally infirm, but I had to make that point also.

Mr. S. Power: I thank Senator Finucane for raising this matter as it provides me with an opportunity to outline the need for an Alzheimer's unit at St. Ita's Hospital at Newcastle West. This is an issue in which Senator Finucane and some of his Oireachtas colleagues have taken a great interest for a number of years.

The provision of health services in County Limerick is a matter for the Health Service Executive, mid-western area, in the first instance. In 2000, as part of the national development plan, it was agreed that a project team be established for the development of a ten-bed elderly mentally infirm unit at St. Ita's Hospital, Newcastle West. The project team subsequently decided that the development should be increased to a 12 bed unit. The scope of this development is in keeping with the objectives laid down in the report, *The Years Ahead — A Policy for the Elderly*, and will comprise bed accommodation and ancillary facilities initially for 12 in-patients, including up to a maximum of four dedicated respite beds.

Provision has been made for this development within the health capital investment framework, 2005-09. Planning permission for the proposed development has been obtained from the local planning authority. The former Mid-Western Health Board submitted documentation to the Department of Health and Children in regard to this project with a request for approval to seek tenders for construction of the unit. The management and delivery of health and personal social services are the responsibility of the Health Service Executive under the Health Act 2004.

In the letter which issued yesterday to the Health Service Executive, the Tánaiste has conveyed agreement that the executive is now authorised to proceed with the programme of works for 2005. The Senator is already aware that this project is included in that programme. I understand from the Health Service Executive that the project will now be progressed. However, I cannot give an exact date but the money has been provided and I will ensure there is no further delay in progressing the matter.

Mr. Finucane: Can the Minister of State give an indication as to the amount of funding that will be provided?

Mr. S. Power: I do not have the figure but I can send it to the Senator.

Mr. Finucane: Will it be an eight-bedroom unit rather than the original 12 bedroom unit?

Mr. S. Power: The Senator mentioned the possibility of the unit being an eight-bedroom unit and that was news to me. I will have that matter clarified for the Senator and the total amount of funding.

Mr. Finucane: The Minister of State has probably got that information in his supplementary response and he can let me have it.

Mr. S. Power: I have given the Senator the exact information available to me. I will make further inquiries and contact the Senator tomorrow.

The Seanad adjourned at 7.25 p.m. until 10.30 a.m. on Thursday, 23 June 2005.