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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Tuesday, 22 November 2005.

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SEANAD ÉIREANN

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Dé Máirt, 22 Samhain 2005.
Tuesday, 22 November 2005.
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Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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Paidir.
Prayer.
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Order of Business.

Ms O'Rourke: The Order of Business is Nos. 1 and 2. No. 1 is a referral motion whereby the subject matter of motions 11 and 12 on today's Order Paper are being referred to the Joint Committee on Communications, Marine and Natural Resources for consideration. Motion 11 concerns the postponement of the elections of the regional fisheries boards due to the recent Government decision to restructure the inland fisheries sector. Motion 12 concerns a change in the fees for licences issued or renewed on or after 1 January 2006. No. 1 will be taken without debate. No. 2, Irish Medicines Board (Miscellaneous Provisions) Bill 2005 — Order for Second Stage and Second Stage, to be taken at the conclusion of the Order of Business until 5.30 p.m., with the contributions of spokespersons not to exceed 15 minutes each and those of other Senators not to exceed ten minutes each, and the Minister is to be called on to reply not later than five minutes before the conclusion of Second Stage.

Mr. B. Hayes: On 12 December a new motorway will be opened between Kinnegad and Kilcock, of which I am sure the Leader is aware. That is great news for those who can afford to travel on it but I have a question for the Government. The toll on this new stretch of motorway will be €2.40 each way but there is a condition attached to the contract to the effect that if five cars or more are queuing at the toll booths at any given time, the barriers will automatically open allowing all the cars through. If it is possible to do that on a new stretch of motorway, why can the same rule not apply to those who are sitting in the largest car park in the country, the M50, on a daily basis? Every day commuters must sit in their cars on the M50 while approximately 100 cars queue to get through the toll booth. Why must drivers from Dublin, Kildare, Meath and other counties endure that when the practice on the new motorway will allow a much more con-

sumer friendly policy when it comes to opening the barriers? We need statements on that.

I am aware there is an historic problem to do with the contract on the M50, which other Senators have raised consistently in the House, but this discrimination regarding tolling policies must end. We must free up the space for those who have to use the M50 on a daily basis to commute across our city and introduce some equity to the issue of tolling. That is an issue I would like debated in the House if the Leader would be good enough to provide an opportunity between now and 12 December, when the new road will be opened.

On the second matter, I raised some time ago the problem of car trafficking North and South and homes being burgled to obtain keys to cars that are then stolen from outside people's homes. Will the Leader speak to the Minister for Justice, Equality and Law Reform to determine if a new law could be framed that would make breaking and entering with the intention of stealing car keys a new offence? That would be a serious deterrent to those involved in this activity. We also need greater co-operation between the PSNI and the Garda Síochána because as we saw in Firhouse last week, the car used in that double murder came from Northern Ireland. I ask the Government to take this issue seriously. Car trafficking North and South and into Britain is a major problem, not just here in Dublin but in other urban centres. Cars are being stolen to order and a new law must be framed to come down strongly on those involved in this type of action.

Mr. O'Toole: You may have noticed, a Chathaoirligh, an article in today's *Irish Independent* on school league tables which, more than anything else, shows how unreliable they are but that is not the point I wish to have discussed. I ask the Leader to provide an opportunity to discuss the fact that this country is developing into one where not just the quality of a school but the quality of education is determined by the letters after a person's name, which is appalling. I grew up around very educated people but 95% of them never went to third level. It is an appalling idea that our education system will be judged now on the number of students schools send to third level and, even worse, that people will be judged by the number of degrees they attain without any reference to the qualities we are trying to inculcate in a new generation of Irish people, qualities such as justice, mercy, tolerance, articulation, leadership, creativity and art history. They cannot be measured but they are by far the most important requirement. In a previous life I am sure the Leader would have agreed with me on that.

This country produced the Chieftains, Brendan Behan, senior civil servants, politicians and leaders of political parties who never had a third level qualification. I believe I am entitled to say

[Mr. O'Toole.]

that representing third level graduates in this august assembly. I would never have thought a third level qualification was an essential requirement to an educated person and it is appalling that we are going down that road. It is no wonder we are producing people who do not have time for or toleration or understanding of each other and all the difficulties our society is facing. I am sure the Minister for Education and Science will be happy to discuss this issue. Senator Ormonde shares many of my views on this issue, as I am sure does the Leader.

A month ago, I raised the need for a debate in this House on supports for alternative energy. I also pointed to the significant number of newspaper articles on the necessity of looking to nuclear energy as a means of dealing with our energy requirements. The British Prime Minister put forward the same proposal yesterday.

There is no doubt that there is major interest in this area. The debate I have called for should encompass an examination of wind energy for domestic uses, solar energy for heating and domestic uses, and proper incentives and supports for biofuels and alternative energy sources, be they wood pellets or whatever. The time for this debate is before the budget. There are actions we can take to deal with the problems relating to the Kyoto Protocol. Nuclear energy is not necessary at this time. I welcome a debate to focus people's mind on this issue.

Ms Tuffy: I support Senator O'Toole's comments on the school league tables published in various newspapers, some of which have indicated different results although published on the same week. Although the purpose of these tables is allegedly to provide transparency, they contain many inconsistencies. For example, a school may be included on the basis that it caters for repeat leaving certificate students but this may not be the case in another year.

The focus on these leagues tables ignores the reality that the vast majority of parents send their children to the local school, most of which are non-fee paying. These schools cater for the needs of their community and do not discriminate against children on the basis of nationality or special needs. We must provide far more support for such schools in terms of the funding of education.

It is reported today that the Minister for Justice, Equality and Law Reform is bringing a range of anti-crime measures, including electronic tagging, to the Cabinet. I was struck by his statement that he was still undecided on the merits of tagging and was unsure whether such a system would be less expensive than other measures, particularly in the probation and welfare service area.

Why is the Minister introducing measures of whose merits he is unconvinced? He seems to be introducing an increasing amount of legislation.

On the other hand, however, we discovered during last week's debate in this House that many of the measures included in the Children Act 2001 have not been implemented. Some of them, such as community service for youth offenders, are shown to be less expensive than the favoured method of dealing with the relevant crime, which is generally detention.

According to this morning's newspapers, the report of the Director of Public Prosecutions has highlighted that 40% of Garda files do not lead to criminal charges, mainly due to a lack of evidence. This shows that what is most needed is enforcement of laws already on the Statute Book and the provision of the necessary resources to deal with crime, as opposed to more window-dressing in the form of measures in which the Minister does not have much faith.

Dr. Mansergh: I strongly endorse what Senators O'Toole and Tuffy said about league tables. Newspapers publish copy tables and say it is the duty of the Government to publish accurate tables in their place. In Tipperary yesterday, the Minister for Education and Science strongly refuted the idea that the Government should provide any sanction to that proposal.

We should debate this as much for the benefit of the media as for others. It implies that the best or most worthy schools are those that send the most people to third level education and that others, which may be operating in the inner city or teaching people from deprived backgrounds, are the least worthy schools. The educational philosophy behind it is outrageous and encourages simplistic snobbery and one-upmanship. There are many good reasons people may not wish to go to third level. This matter must be thoroughly debated and the media pressure should be firmly resisted.

Mr. Finucane: I also read the Sunday newspaper that outlined the top 200 schools based on the criterion of what percentage of their pupils went to universities. What struck me was Senator Mansergh's comments on this article's creation of a type of snobbery. In the reality of modern Ireland, approximately 40% of all jobs are created in the building industry. Regarding crafts and the recent skills document, many of the skills we need are in the building industry and crafts area. The Leader may remember when we discussed apprenticeships.

Ms O'Rourke: Yes.

Mr. Finucane: I welcome the recent expansion of the apprenticeship concept as these are the types of skills required. I assure the House that there are people in the crafts area who earn far more money in the marketplace than many people with PhDs, those in universities and so on.

Ms O'Rourke: Yes. One cannot get them.

Mr. Finucane: This type of publicity in respect of leagues is erroneous as it depends on what percentage of pupils go on to attend universities. I appreciate that many schools are so broad based that they absorb the people who wish to go into the skilled areas in the marketplace where jobs exist. The reality is that it is often quite difficult to get jobs based on degrees.

Ms Ormonde: I reflect the views expressed by many Senators on the points system and league table. It worries me that we have this clinical approach to education. Young people of 17 or 18 years of age with leaving certificates behave as 12 year olds because they never had a chance to grow up in a natural way, think about themselves as people, know the values around them and be involved in other aspects of life rather than learning by rote in order to gain points for third level educations.

It concerns me that there is no educational philosophy. I would welcome a debate to squash what is occurring, namely, every school being measured by progression levels into third level education. If this is the way forward, I will fight it. I do not want a system of education that does not develop personalities and values in our young people. People of 21 years of age do not know how to behave. All that matters to them is that they have degrees or achieved a certain number of points. There is nothing wrong with getting points as long as one achieves a balance between identity, self-esteem, personality development and education.

Mr. Ross: I endorse Members' comments on the points system but will take it further. The logic of what Members are saying is that the points system should be abolished and replaced by something broader, namely, different types of criteria for judging people and different qualifications for entry to third level education, which I favour. I hope that those who knock the points system would also favour its replacement by a set of criteria that reflects the benefits of a broader education, which is important. It is a radical suggestion but is inexorably the logic of what is being said in the House today.

I thank Senator Brian Hayes for raising the issue of tolls on the new motorway. He is correct as we need an urgent statement from the Minister for Transport about what is happening in respect of the M50. I do not know whether the House is aware of it but talks have been taking place concerning the West Link toll plaza, to which the Senator referred, at a torturously slow pace between the National Roads Authority and National Toll Roads. NTR is dragging its feet and trying to delay matters as much as possible, at which it is being very successful.

The House should also be aware that the original agreement to which Senator Hayes referred ties the Government to an extraordinary degree. However, it contains an option of which the

Government should now avail. This is referred to as the nuclear option by those in the transport world. The option is for tolls on the M50 to be set at zero. It is in the Government's power, and nobody else's, and not National Toll Roads, to set the price of the toll. Under the agreement and at any stage it likes, the Government can set the toll at zero. This will obviously involve compensating National Toll Roads but it is time that option was considered and we moved inexorably to the buy-out that would follow.

The budget will be announced soon and the Government, for once, has an enormous amount of money. This is the time to do it. Every day, a massive clog occurs at the toll bridge. The Government has the money to buy it out; let us go ahead and do it.

Dr. M. Hayes: I too support those who asked for a debate on the values in the education system. It is a pity if we divert ourselves from that debate by having a witch-hunt in the press every time any of these issues is raised. Sadly what the press is doing is reflecting the values in the wider society, the schools and of the parents. The House should have a debate which reinstates the dignity of work so that people are not chasing after worthless university degrees because somehow, they are socially thought to be superior to the very skills that we need in society.

Regional technical colleges are the great glory of this country and drove the Celtic tiger. There is not one of them that does not want to be a university but, in my view, they should be going in the other direction and this is the debate the House should have.

Mr. U. Burke: I am in agreement with the statements of many Senators on the lists of feeder schools which were published yesterday and the farcical situation which has developed with regard to them. On close examination of the lists published yesterday in *The Irish Times*, I noted that one school which is known to me had a figure of 50% of its pupils going to third level institutions, despite the fact that the school has been closed for the past two years.

This is a list for the academic year 2004-05. All I can make out of it is the person who undertook the initiative in the first place is totally unaware of the reality or else misinterpreted the figures presented. If the statistics sourced under the Freedom of Information Act indicated that a student was enrolled in one school and went to another school for the final year from which he or she progressed into a third level institution, that means the whole thing is farcical.

These statistics clearly highlight the divisiveness within the educational system, whereby certain what are termed "top schools", fee-paying and otherwise, particularly in Dublin, are providing no facilities whatever for people with special needs—

Mr. B. Hayes: Hear, hear.

Mr. U. Burke: —and for children from disadvantaged backgrounds. Anything the Minister can do to divert attention from these feeder lists which are a farcical exercise is to be welcomed. Certain schools are at the top of this so-called league, while being socially divisive at the same time by providing no facilities for people with special needs who are as entitled as anybody else to proper facilities or even the best facilities in the country.

Mr. Norris: We in this House and you, a Chathaoirleach, have often spoken about the need to maintain the dignity of the House. May I commend the Leader who yesterday represented this establishment with extraordinary courage, patience and tolerance when she came under an onslaught from callers, some of whom were all right but some of whom were ignorant in the extreme in the personal grudge they had against the race of politicians. The Leader did a good day's work on behalf of all of us for which I thank her.

I was rather entertained earlier as I did not realise there were non-existent schools. Perhaps that is where I should send my non-existent children. I also noted there was not a single Protestant school among them. They are all single-sex schools and all, with one exception, I think, are run by members of religious orders. That is interesting in light of the kind of negative debate we have been having and in which I participated. It indicates the contribution that some of these people have made.

I ask for a debate on Tibet, if possible before Christmas. I attended a meeting in Edinburgh with the Dalai Lama and we drafted an Edinburgh declaration. It is rather long but I will try to digest it and put some of the points in a motion. This man has been abandoned. He is one person who stood for peace when everybody else around the globe was trying to achieve their objectives by violence. We should recognise that and help his people in their desperation.

We all received an interesting document from the Dublin City Business Association. The document refers to the drinks industry, its powerful lobbying, the destructive character it has taken on, the volume of sales, the targeting of vulnerable groups and associated crime. It also highlights the virtual disempowerment of local residential communities and local authorities to successfully object to the granting and renewal of alcohol licences within their area.

The document comes from a significant group whose members are not hysterics. These are people committed to the business life of our capital city. They have produced a three-page document indicating the damage that is being done by alcohol abuse and I would like this serious communication discussed in Seanad Éireann.

Mr. Coonan: I support my colleagues seeking a debate on education. I ask the Leader to extend that debate to agriculture because while the agricultural sector was never more educated, it was never more under threat than at present.

It is important that we have a debate on agricultural issues, particularly sugar beet and the WTO talks, to encourage and support our Minister in her fight to keep the farming sector alive. A recent report indicated the number of full-time farmers will have reduced from the present level of 40,000 to 10,000 by 2025 which spells disaster for this country. I live near Thurles, in Tipperary, which is still coming to terms with the closure of the local sugar factory. It is vital that we get behind the Department and the Minister to support the fight to keep the sugar industry alive in this country.

Dr. Mansergh: Hear, hear.

Mr. Coonan: It is vital for the farmers of this country. We need to debate the matter as soon as possible.

Dr. Henry: I add my support to the call for a debate on education. Of course one need not have had third level education to have an important job but one may be badly paid even though one's job is important. Perhaps one may not even have had second level education.

How many Senators read today's report in the health supplement of *The Irish Times* by Ms Katherine Holmquist about the level of education among cleaners in our hospitals? The article points out that their pay is €10 an hour at best, that many of them feel their literacy is so poor they could not go forward for promotion, that most of them are women and that a very large number of them left school before the age of 15.

We should examine this issue to see how the schools these people attended explain the fact that they ran into such a terrible situation. These people have values because many of them are heads of households which is why they must maintain themselves in these jobs. These jobs are important. Recently we spoke of the horrific hygiene report on hospitals. We concentrate on what people with third level education should be doing instead of trying to see how we could help those who, in fact, are trying to deal with cleaning up our hospitals. When we have that debate, I hope we will also consider those who do not get through second level education.

Ms White: I call on the Minister for Justice, Equality and Law Reform to urgently explain to the House why speed limits are not being obeyed throughout the country. Last week I drove to Athlone to give a speech on women in business. All the way there, I saw that every speed limit was broken, including those in the towns and villages I passed through. We are a laughing stock.

Every weekend people are being killed on the roads yet there is no outcry. Why is there no protest about the innocent people being killed due to lack of implementation of traffic laws by the Department of Justice, Equality and Law Reform and the Garda?

Mr. B. Hayes: Hear, hear.

Ms White: The rules of the road and speed limits are in place but they are not being implemented. Drivers know that nobody will catch them. The number of road deaths is at a crisis level.

An Cathaoirleach: I call Senator Cummins.

Ms White: I include the influence of alcohol in this regard. When one travels abroad, one does not see the blatant, in-your-face advertisements for alcohol one sees in Ireland. I went to a soccer match in Madrid at the weekend.

An Cathaoirleach: I call Senator Cummins.

Ms White: It is a very serious issue. I am seeking a debate on alcohol and its effect on road deaths.

An Cathaoirleach: Please, Senator White. I call Senator Cummins.

Mr. Cummins: A leading oncologist, a former consultant in Waterford Regional Hospital, in a recent open letter to the Tánaiste and Minister for Health and Children outlined the plight of cancer patients in the south and south east. The lack of designated beds in wards for cancer patients was highlighted. No dignity can be afforded to patients or their families in very difficult times, which is unacceptable in this day and age. He also highlighted the failure to extend BreastCheck to counties such as Waterford and stated that the late detection of cancers is costing lives. The sooner we have a debate on every aspect of cancer, the better. I call for that debate at the earliest possible date.

Mr. Scanlon: I support the call made by Senator Coonan in regard to agriculture. The Joint Committee on Agriculture and Food met last week in this regard. The devastating effect globalisation will have on this country is frightening. I am glad Senator Coonan stated there should be all-party support for the Minister for Agriculture and Food. The Government should remind Mr. Mandelson that he is Commissioner for the European Union, not the United Kingdom.

Mr. Quinn: It was reported today that the UK Government is planning to announce sometime this week its support for an investigation into new nuclear power stations. The aspect of the news-

paper report that struck me was the statement that stations are expected to be built on existing sites to reduce opposition and to speed up procedures. Senators Henry, Ross and Norris have in the past expressed their views on Sellafeld very strongly. This is the time for the Taoiseach to move — before announcements are made — so that we will not be trying to change something that has already happened but will influence it before the first decisions are made.

Ms O'Rourke: Senator Brian Hayes noted that the new stretch of motorway from Kinnegad to Kilcock will be tolled at €2.40 per journey and that the barriers will open if five cars or more are queuing. He asked that this should be applied retrospectively to the M50 tolling arrangements. The situation for anyone on that road is miserable. Even at noon today, as I travelled around the M50 roundabout, there were long queues for the toll booths.

Senator Hayes also raised the North-South car trafficking issue. He urged the Minister for Justice, Equality and Law Reform to introduce a new law to deal with thieves breaking and entering and choosing cars. There should be greater liaison between the PSNI and the Garda Síochána on this matter.

Senator O'Toole referred to the schools league tables. I fully agree with his comments. It was farcical and ludicrous. There is a school in a disadvantaged area in Athlone, St. Aloysius's, which was No. 4 in both *The Sunday Times* and the *Irish Independent*, but was not mentioned in *The Irish Times*. The school concentrates on repeat leaving certificates. It is admirable that there is a strong wish for more education among parents, but the idea that a school should be judged on the numbers that go on to third level is wrong. That should not be the basis for a league table. This is all being done under the guise of transparency, openness, freedom of information, etc., in an effort to ascertain how schools are run.

Schools are about imparting knowledge and life skills so that whole people emerge who have within themselves the necessary bulwarks to stand up to life. Senator O'Toole is correct in his comments. For a person to be valued on the basis of the letters after his or her name is ludicrous. The Senator spoke about toleration and understanding and said that such qualities are forgotten in the rat race that ensues.

Senator O'Toole also asked for a debate on alternative energy, including wind energy and the incentives for its use. The debate on the Book of Estimates is scheduled for Thursday when, as he knows, anything may be raised. Perhaps this matter could be brought up then.

Senator Tuffy referred to the schools league tables and noted that most schools are not fee paying institutions. I agree with her. The school to which I referred is not and nor are some others which were identified.

[Ms O'Rourke.]

Senator Tuffy also raised the issue of electronic tagging and suggested the Minister for Justice, Equality and Law Reform did not appear to be sure about it. She said it would be far better if existing measures were implemented rather than embarking on new ones. The Senator also expressed concern that in too many instances charges were not be made in respect of files sent to the Office of the Director of Public Prosecutions.

Senator Mansergh agreed with the comments on league tables. I agree with him when he said what is happening is an outrage against education philosophy. Unfortunately, this is also creeping into third level with the introduction of performance measurement and related appraisal initiatives. It is wrong when one reflects on the ideal of a university education. The Senator said this trend in the media should be resisted.

I could not agree more with Senator Finucane as regards crafts and apprenticeships. One can rarely get a plumber or a carpenter and they are paid enormous sums of money. Senator Ormonde decries the league table ethos that is emerging and says we should squash the opinion that only third level qualifications are desirable and worth fighting for.

Senator Ross spoke about a replacement of the penalty points system. Talks are in progress but they are excruciatingly slow and do not appear to be going anywhere. The Senator also spoke of what he termed a "nuclear option" to the effect that the Government can set toll charges at zero. He noted that the money for this was made available in the budget. Perhaps that matter, too, might be raised during the debate on the Book of Estimates.

Senator Maurice Hayes spoke of values in the education system, a matter we need to debate together with the chasing worthless university degrees. The House heard some comments on that last week when reference was made to the Barry McSweeney case.

Senator Ulick Burke referred to feeder schools and the ludicrous situation of a school which no longer exists but which the league tables indicate as a feeder school to universities. This is leading to social division in education and as the numbers game increases this will continue to happen. I commend the Senator for his comments on facilities in the so-called top posh schools for special needs pupils.

Mr. B. Hayes: Exactly, it is a disgrace.

Ms O'Rourke: They will not take them in because they might disturb their leisurely rise through the league table. Schools were never meant to be socially divisive, but rather places where people could assume an equality of purpose in their lives.

Senator Coonan spoke about the need for a debate on agriculture. The Minister and her col-

leagues are in Brussels. There was a strong call last week for a debate on agriculture this week. We spoke to the Minister but we were told that she would be in Brussels for a full week and that her Ministers of State would be with her. I received a note to the effect that statements on the WTO talks will be in the schedule for next week. The Minister was very keen to attend, but could not do so because of her commitments.

Mr. Coonan: We are very keen to hear from her.

Ms O'Rourke: I am sure that is the case. I thank Senator Norris for his kind comments. It was hard enough to keep my temper.

Mr. Finucane: Charlie McCreevy's friend was not very nice.

Ms O'Rourke: She was from Kildare. Senator Norris had a meeting in Edinburgh with the Dalai Lama. He also spoke about the Dublin City Business Association document, which is all about drinking and more drinking. Senator Henry called for an education debate. I read the report mentioned by the Senator and I thought the aspect on the cleanliness in hospitals was amazing. The women cleaners were concerned about their literacy skills and the fact that they were being paid very little.

Senator White spoke about the lack of observance of speed limits on our roads and how the laws are not being implemented. She went to Athlone to give a speech, which was appreciated there. I notice she went straight from there to Madrid to watch a match between Barcelona and Real Madrid. I hope she was supporting Barcelona.

Ms White: I was supporting Madrid; I was for Beckham.

Ms O'Rourke: Athlone one day and Madrid the next. There is nothing like name-dropping, it does a power of good.

Senator Cummins spoke about cancer, on which we have asked for a debate next week. Senator Quinn also wants a debate on Sellafield.

Order of Business agreed to.

Fisheries Orders: Motion.

An Cathaoirleach: I wish to announce a correction to the text of the motion as it appears on the Order Paper. The dates 17 and 18 November should read "22 November" in each case.

Ms O'Rourke: I move:

"That the proposal that Seanad Éireann approve the following Orders in draft:

(i) Regional Fisheries Boards (Postponement of Elections) Order, 2005,

copies of which were laid before Seanad Éireann on 22 November 2005,

(ii) Fisheries (Miscellaneous Commercial Licences) (Alteration of Duties) Order, 2005,

copies of which were laid before Seanad Éireann on 22 November 2005,

be referred to the Joint Committee on Communications, Marine and Natural Resources, in accordance with paragraph (1) (Seanad) of the Orders of Reference of that Committee, which, not later than 6 December 2005, shall send a message to the Seanad in the manner prescribed in Standing Order 67, and Standing Order 69(2) shall accordingly apply.”

Question put and agreed to.

Irish Medicines Board (Miscellaneous Provisions) Bill 2005: Order for Second Stage.

Bill entitled an Act to amend the Misuse of Drugs Act 1977 (as amended by the Misuse of Drugs Act 1984); to amend the Irish Medicines Board Act 1995; to amend the Control of Clinical Trials Act 1987; and to consequentially amend regulations that are either made under the Irish Medicines Board Act 1995 or referred to in section 34(4) of that Act.

Ms Feeney: I move: “That Second Stage be taken now.”

Question put and agreed to.

Irish Medicines Board (Miscellaneous Provisions Bill) 2005: Second Stage.

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

Minister of State at the Department of Health and Children (Mr. B. Lenihan): I am pleased to introduce the Second Stage of the Irish Medicines Board (Miscellaneous Provisions) Bill 2005 to the Seanad. In general terms, the Bill allows for the transfer of certain functions in respect of controlled drugs from the Department of Health and Children to the Irish Medicines Board for the improved operation of the board with regard to medicines and the control of clinical trials and amends the Irish Medicines Board Act 1995 with regard to medicinal products, cosmetic products, veterinary medicinal products, drug precursors and medical devices. Many aspects of the Bill are technical in nature and I will attempt to steer the Members through its main provisions in as clear a manner as possible.

The Bill provides for the Irish Medicines Board to act as the Irish competent authority for con-

trolled drug Incensing under the Misuse of Drugs Acts 1977 to 1984. The designation of the board as the competent authority is consistent with departmental strategy whereby executive functions which are not directly related to the mission or objective of the Department should be devolved to an appropriate executive agency. The Bill formalises the arrangements which have been put in place whereby staff at the board carry out this work and amends the Irish Medicines Board Act in order to transfer legal competence to the board to carry out licensing and inspectorial functions under the misuse of drugs legislation.

As far as clinical trials are concerned, the Bill also updates and consolidates the functions carried out by the board to conform to European Union legislation with regard to medicinal products, veterinary medicinal products and medical devices. The authority to enforce legislation relating to medicinal products is currently set out in a number of different regulations. The introduction of new provisions under the Irish Medicines Board Act 1995 and the Control of Clinical Trials Act 1987 will ensure that the authority for all of the regulations will be contained in the Act itself in a single piece of legislation. With regard to clinical trials, the Bill allows for appropriate provisions to be included in the Control of Clinical Trials Act 1987 to enable the requirements of the Act to be supervised and enforced.

Part 1 of the Bill deals with the preliminary matters; Part 2 amends the Misuse of Drugs Act 1977; Part 3 amends the Irish Medicines Board Act 1995; Part 4 amends the Control of Clinical Trials Act 1987; and Part 5 deals with consequential amendments to regulations made under section 32 of the Irish Medicines Board Act 1995 or referred to in section 34(4) of that Act.

Section 3 extends the powers available in the Misuse of Drugs Act to prohibit bodies corporate involved in the practice of community pharmacy, and their officials, from having controlled drugs following a conviction for an offence under the misuse of drugs or customs legislation. At present, these powers are available in respect of practitioners and pharmacists convicted of such an offence.

Section 14 of the Misuse of Drugs Act 1977 allows the Minister to grant licences or issue permits or authorisations for any of the purposes of that Act to attach or vary conditions to such licences, permits or authorisations and to revoke any such licence, permit or authorisation. It also provides for the making of regulations requiring the payment of prescribed fees in respect of the granting or issuing of such licences, permits or authorisations. Section 4 of the Bill amends section 14 to transfer these functions, which were previously carried out by my Department, to the Irish Medicines Board. It also provides that licences, permits and authorisations issued prior to the commencement of this section continue to be valid.

[Mr. B. Lenihan.]

Section 6 amends section 24 of the Misuse of Drugs Act 1977 to enable the IMB to authorise officers to carry out inspections under the Act and allows authorised officers of the Pharmaceutical Society of Ireland to inspect pharmacy shops. The term “practitioner” is also included in this section to ensure that registered practitioners, medical and dental, fall within the remit of this section so that records held by them with regard to their prescription, possession and use of controlled drugs can be subject to inspection should the need arise. Section 6 also provides that the appropriate warrants of authorisation, issued by the Minister, the IMB or the PSI, are provided to authorised persons carrying out inspections and that appropriate transitional arrangements for those persons with existing certificates of authorisation are in place.

Part 3 of the Bill contains all the amendments that are being made to the Irish Medicines Board Act 1995. Sections 8 and 9 of the Bill update the functions carried out by the IMB to conform to European Community legislation in regard to the various matters within the scope of the Bill. The principal functions of the IMB are being extended to include its designation as competent authority for the purposes of EU directives relating to medical devices, cosmetic products and precursor drugs and in respect of clinical trials for medicinal products for human use. Section 9 includes provision for the IMB to issue various export certificates in respect of the products and devices mentioned, as required by manufacturers exporting products to other countries. The IMB is required to have regard to any national legislation giving effect to such provisions.

Section 11 provides that the chairperson of the advisory committee for medical devices be an *ex officio* member of the board of the IMB. There is a similar provision in the legislation for the chairpersons of the advisory committees on human medicines and the veterinary medicines. Section 12 expands section 9 of the existing IMB Act to ensure that no refusal of a licence, authorisation or certificate on the grounds of safety, quality or efficacy can be made unless the appropriate advisory committee has been consulted.

Section 13 is amended to make better and more appropriate provision for the IMB to charge fees regarding its activities. Section 14 of the Bill amends section 32 of the existing IMB Act. It provides a clarification that sale and supply will not include administration and introduces a provision whereby regulations may be made to control administration if required. This section also enables the making of regulations in respect of the implementation of EU directives on medicinal products, medical devices and cosmetic products.

Section 15 inserts new sections, 32A to 32F, into the IMB Act in order to improve enforcement powers with regard to medicinal products, cosmetic products and medical devices. Section

32A defines the expressions used in the new sections. Section 32B provides for the appointment of authorised officers and sets out the various powers available to them. Section 32C provides for the taking and handling of samples of these products and devices. Section 32D provides for the certificate stating the results of any test, examination or analysis that it is sufficient *prima facie* evidence in a court.

Section 32E sets out the penalties for offences created by this Bill and allows the IMB, where it has seized stocks under the legislation, to seek orders from the courts to dispose of these stocks and, where appropriate, to recover the costs incurred from the offending company. Section 32F provides that summary proceedings for an offence can be instituted under the IMB Act up to two years after the date of the offence rather than the normal six months. These sections provide for better regulation in respect of medicinal products and ensures that the penalties available for breaches of the regulations are the same for all regulations relating to medicinal products.

Part 4 amends the Control of Clinical Trials Act 1987. Section 21 provides that the Act will not apply to clinical trials that are controlled under the European Community regulations of 2004 that deal with clinical trials and medicinal products for human use. Section 22 permits proceedings for an offence under the Control of Clinical Trials Act to be instituted up to two years after the date of the offence and provides that summary proceedings may be brought by the IMB.

Section 23 inserts a new section into the Control of Clinical Trials Act to improve enforcement and supervision powers for clinical trials falling under this legislation. This includes powers to inspect records held by practitioners in respect of clinical trials. With regard to clinical trials it is likely that most, if not all, records would be held for use in the course of a practitioner’s professional practice and that if a warrant had to be obtained for each occasion an inspection was required it would render the supervision of clinical trials impractical if not impossible. Therefore, warrants from the District Court are required only where a private dwelling is concerned. However, the section also provides that warrants will not be required for part of a private dwelling used for professional practice.

In Part 5, sections 25 to 35, inclusive, make consequential amendments to the various regulations in force under the Irish Medicines Board Act 1995, to which I referred in the sections concerned. Those amendments, which relate to enforcement, arise from the insertion of the new sections into the Irish Medicines Board Act.

The remainder of the Bill consists of the interpretation sections, which are sections 2, 8, 15 and 20, and those dealing with citation and constructions, sections 7, 19 and 24. Those are standard legislative provisions. A detailed explanatory and

financial memorandum was published and circulated with the Bill. The Minister estimates that no significant financial implications arise from those amendments and that the work entailed in these changes is, in the main, already performed by the Irish Medicines Board.

The Government intends to introduce several amendments on Committee Stage in this House, the first being an enabling provision for nurse prescribing. The Minister proposes a provision in the Bill which will allow us to introduce nurse prescribing on a statutory basis. It is not intended that all nurses will prescribe all drugs. Rather, it is intended to permit the introduction of a scheme for prescription for medicinal products, or certain classes of medicinal products, or certain controlled drugs, for example, in palliative care situations, to be issued in prescribed circumstances by certain registered nurses. The various circumstances and procedures to be complied with in the issue of such prescriptions will be set out in regulations under the legislation, and in accordance with the standards and requirements prescribed by An Bord Altranais.

Regarding meat-labelling, the Government proposes an amendment to the Health Act 1947. The amendment will allow for the extension of the beef-labelling requirements that currently exist at retail level to include a requirement for information on the country of origin of beef at the point of final consumption in the restaurant and catering sectors. The proposed amendment also includes a provision to enable us to make regulations to extend the requirements on labelling for poultry meat, pigmeat and sheepmeat to provide full country-of-origin information on all such meat at retail and catering level. However, EU approval will be required, and there is no precedent for this provision in EU member states. The Government also proposes an increase in the maximum fines for breaches of regulations on meat-labelling.

It is also intended to include an amendment to the Health Act 1947 to increase the maximum fines for breaches of the regulations on meat-labelling. The designation of the Irish Medicines Board as a competent authority regarding human cells and tissues will be addressed. An amendment to the Irish Medicines Board Act 1995 is proposed to designate the board as the competent authority, as required by EU Directive 2004/23/EC, which sets standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells for human applications. The scope of the directive does not apply to blood or blood products, organs or *in vitro* research.

A further Government amendment will provide that Customs and Excise officers at points of importation and exportation will be authorised officers under the Irish Medicines Board Acts for the purposes of carrying out inspections pursuant thereto. An amendment is

proposed to provide for the specific control of prescription medicinal products and for non-prescription medicinal products in pharmacies and, in the case of some products, for their availability in non-pharmacy outlets.

It is proposed to give additional powers to authorised officers to enable appropriate inspections to be carried out, including the effective supervision of the activities of those persons selling medicinal products by mail order, including the Internet. The Supreme Court has decided, in the case of *Vincent Browne v. the Attorney General and others*, that indictable offences created by EU legislation must be clearly and explicitly set out in primary legislation. Amendments are being proposed that will take the decision into account, meeting the standard set down by it and ensuring that breaches of any regulations made to give effect to Acts of the institutions of the European Communities relating to medicinal products for human use may also be prosecuted on indictment.

Section 66 of the Health Act 1970 made provision for dental, ophthalmic and aural health examinations for children. Under section 66, those examinations are confined to children of five years and under or children who attend national primary schools. The Minister intends to propose an amendment to provide for all children, regardless of where they are educated, to be eligible for dental, ophthalmic and aural health examinations, and for follow-up treatment.

As part of the ongoing review of eligibility to health services, officials at the Department of Health and Children have identified an issue with regard to section 67 of the Health Act 1970. This section provides for eligibility for dental, ophthalmic and aural services. At the time this section of the Act was commenced, in 1972, a statutory instrument was adopted by the Oireachtas limiting the application of the section to medical card holders. Provision of these services has been limited to medical card holders since that time.

The Department sought the advice of the Attorney General on this matter. His advice was that section 67 of the Health Act 1970 should be amended to provide legal clarity with regard to the issue of eligibility to dental, ophthalmic and aural services. An amendment will be proposed to provide such legal clarity. A more detailed analysis and description of the various amendments will be provided on Committee Stage.

It is the belief of the Minister that this Bill will succeed in consolidating and creating a stronger framework in which the Irish Medicines Board can carry out its business in relation to controlled drugs, medicinal products, cosmetic products, drug precursors, medical devices and clinical trials. The legislation, together with the amendments to be proposed on Committee Stage, will support the development of a more efficient, effective and patient-controlled health service. I commend the Bill to the House and I look forward to the ensuing debate thereon.

Mr. Feighan: I welcome the Minister of State to the House. This Bill is rather technical and was mainly drafted to bring our legislation on medicines and their control into line with that of the European Union. I welcome the Bill as it entails numerous proposals that will result in greater protection of the consumer. Over the years, the consumer has not always been to the forefront of legislation and it is therefore good to see legislation drafted to protect the consumer.

Section 3 reflects the changes that have taken place in the pharmacy sector over the years. These changes are sometimes regarded as progressive. Every small town and village used to have a pharmacy that was integral to the local community. One could walk into such pharmacies and seek advice, on a cut, for example. It seems one can no longer obtain such information, good or bad, from a pharmacist. Legislation introduced in this area has meant that voluntary advice is no longer offered. One must now go to a doctor and pay €40 or €50 for advice, after which one must visit the pharmacist. Although the legislation that has been introduced is to protect the consumer, we miss the opportunity to walk into a pharmacy and perhaps get a tablet for a certain ailment.

Local pharmacies were often owned by individuals or families. However, there has been an increase in the number of pharmacies that are part of chains owned by companies. Although this is also regarded as progress, we were much better off when pharmacists were running their own businesses. They would have been very aware of what was happening in their communities and would have been of service to them.

We now have chains of 15, 16 or 17 pharmacies, which are providing a competent service, but I cannot help but think that many of them are driven by financial concerns, as with most businesses. Many are only in the business to earn maximum profit. It would be nice if pharmacies were again run by individuals or families but this will not happen.

Section 3 extends the powers available to the Minister under the legislation to the groups or bodies corporate involved in the practice of community pharmacy. I welcome section 6, which amends section 24 of the Misuse of Drugs Act 1977, thus enabling the Irish Medicines Board to authorise officers to carry out inspections under the Act and the Pharmaceutical Society of Ireland to authorise officers to carry out inspections of pharmacy shops in respect of their handling of controlled drugs. I have always wondered what process was in place in this regard and I note the Minister has upgraded the inspection system.

It is comforting to know the Irish Medicines Board has the power to carry out inspections of pharmacy shops and to ensure they are handling drugs in accordance with the law. However, I am concerned about certain drugs and practitioners as they may not be covered by the Act. Will the Minister of State explain the law on inspections,

including in respect of alternative health practitioners and the drugs they administer in their shops? Over the years, we and many retailers have noted the various weights and measures that applied in respect of inspections by the former health boards. Senator Quinn would know they had vast powers. A health inspector can close down a grocery shop, public house or restaurant immediately if he finds it necessary. I always wondered what powers are held by those who inspect pharmacies. Can they close them down immediately if they find improper practices?

Another issue, which is probably not related to the Bill, concerns the fact that there may be too much regulation. There are many alternative remedies or drugs in existence and, in this regard, a few constituents complained to me about the regulation of St. John's wort. I cannot understand why it is only available by prescription, nor can I understand why the Irish Pharmaceutical Union has had a say in ensuring that this be the case. Vast numbers of people drive to Northern Ireland or fly to Britain and obtain as many boxes of the drug as they want, in Boots, for example, yet access to this remedy appears to be over-regulated in Ireland. It is cheap and is as effective as conventional medicines. We are doing ourselves a great disservice by ensuring that it be prescription-only. We may be over-regulating the sector. It would be much easier if one could go into a chemist and pick remedies off the shelves without requiring a prescription. Will the Minister of State explain to me and my constituents the position in this regard?

Does the Irish Medicines Board or the Department of Health and Children have any powers to protect consumers in regard to traditional medicines? Can officers carry out inspections of the practices of practitioners of traditional medicine? Has the Minister any plans in this area?

Mr. B. Lenihan: Is the Senator referring to herbal remedies?

Mr. Feighan: Has the Minister any plans to carry out inspections in the alternative medicine sector?

Section 9 updates Irish legislation to conform to European Union legislation, thus making the Irish Medicines Board the competent authority for the purposes of EU directives relating to medical devices. I welcome this. The Irish Medicines Board is being appointed to exercise powers under section 14 of the Misuse of Drugs Act in regard to the granting of licences and other authorities in respect of the manufacture, possession, supply, import and export of controlled drugs. I also welcome this but wonder if alternative medicines are covered under the board's power to grant licences.

Section 12 states that the board will not refuse to grant a licence or authorisation in respect of the manufacture or wholesale of medicinal products on grounds of safety, quality or efficacy

unless the advice of the appropriate advisory committee has been considered. Will the Minister of State outline who is on these advisory committees? How many committees are there and who appoints the members? Are they political appointments or are they appointed by the board?

Section 13 is one of the shortest sections and seeks to make better and more appropriate provision for the Irish Medicines Board to charge fees for its activities. How much will these fees be? Will the fees fund the board? I am concerned when I see fees mentioned in case they might be another stealth tax but I am sure that is not the case here.

I am pleased that the Government proposes an amendment to the Health Act 1947, as amended, regarding meat labelling. The amendment will allow for the extension of the beef labelling requirements that currently exist at retail level to include a requirement for information on the country of origin of beef at the point of final consumption in the restaurant and catering sector. This will be a relief to my constituency colleague, Deputy Naughten, who has lobbied strongly on this issue. It is also intended to extend the requirements for the labelling of poultry meat, pigmeat and sheepmeat to provide full country of origin information. The amendment to the Health Act will also increase the maximum fines for breaches of regulations on meat labelling. How much will the fines be?

The Minister said he intends to introduce amendments to the Bill to allow certain nurses and midwives to prescribe certain drugs. Such a measure is long overdue. There is a manpower crisis in hospitals and in general practice and it appears to have worsened as a result of the Government cap on recruitment to the health service, about which we hear a great deal. There are many well trained nurses who would have no problem prescribing certain drugs. Such a change would allow doctors to concentrate on more important functions. It would be a better use of human resources, particularly in view of the manpower crisis in the hospitals.

With regard to the Government's commitment to the Hanly report, does the Minister propose to amend the Bill to allow paramedics administer certain drugs? If the Government is committed to its proposals regarding accident and emergency departments and ambulance services, this legislation should cover paramedics and allow them to administer certain drugs. Will such regulations be enacted?

Section 15 makes much better provision for the enforcement and supervision of regulations made under the Irish Medicines Board Act 1995. Much has happened in the intervening ten years. The section will allow officers to carry out inspections and to take samples of medicinal products and medical devices. It is good that the IMB will have such powers. Sometimes we do not like too much power to be vested in one body but it is good that

this body will have the power to protect consumers.

Under Part 4, EU legislation supersedes Irish legislation with regard to clinical trials. EU legislation came into force in May 2004 on clinical trials on medicinal products for human use. The EU regulations replace certain sections of the Control of Clinical Trials Act 1987.

I welcome the Bill and look forward to receiving answers to the questions I raised.

Ms Feeney: I welcome the Bill. It is a technical Bill to clear up various conflicts between existing Acts and to accord recognition to EU regulations. I agree with Senator Feighan that it might appear, at times, that we are over-regulated. I certainly feel that way occasionally, particularly with regard to local pharmacies.

Not long after I was elected to this House, I put on record the great role of the local pharmacy in giving people advice. One could go to the pharmacist without consulting a doctor and be assured that one was getting good advice and being properly looked after. However, with the new regulations the pharmacist, although highly qualified and competent, no longer feels comfortable about giving such advice.

Consider the situation regarding St. John's wort. Approximately 18 months ago all Members were lobbied strongly about this product. I live in Sligo and people there can drive 30 miles to the Border and buy it over the counter in a health food shop. It is cheap and convenient but here the product can only be sold under licence.

On the Order of Business recently I raised the problem of paracetamol. The rules on the sale of paracetamol have been tightened a great deal in that one can only buy one packet containing 12 capsules in a retail outlet. One will not be allowed to purchase a second packet. I have no difficulty with that. Unfortunately, however, I encountered two serious cases of self harm by overdosing on paracetamol. The consequences of overdosing with something that is as readily available as paracetamol are terrible for the person's liver. The damage is done in the space of a few hours. However, people are not sufficiently educated to realise that such damage can be done.

Perhaps we should consider putting a clear warning on packets of paracetamol stating that it can kill. If the liver is damaged badly enough, a person can die from liver failure. The two cases I encountered during the summer ended very tragically. One of the people involved did not realise they would cause as much damage. This is an issue worth examining.

Like Senator Feighan, I have selected a few issues from the Bill which interest me. Section 2 in Part 2 extends ministerial powers with regard to companies owning pharmacies. They are extended to cover the officers of the company. This is most important because the new trend in this country is that we no longer have local, family run pharmacies. Fortunately, or unfortu-

[Ms Feeney.]

nately, competition is everything and the bigger pharmacies and chain pharmacies are taking over.

Section 4 permits the Irish Medicines Board to issue licences and permits. This function was previously carried out by the Minister. I welcome such moves whereby responsibilities are removed from the Department and stronger powers are given to the Irish Medicines Board.

Section 5 changes the rules on the cultivation of the poppy. I smiled when I read that section over the weekend because there was much debate in this Chamber last week on the so-called poppy and the thought occurred to me that regardless of from where one is coming, all our views on the poppy are changing.

Section 9 updates the functions carried out under the Irish Medicines Board Act 1995 and allows them conform to European Union legislation. I suppose eventually every area will come under EU legislation but the section is welcome because we should have a common trend across the European market.

Section 14 amends the Irish Medicines Board Act 1995 in such a way that it removes any confusion between the sale and supply of medicinal products and their administration. The Bill clarifies the position and ensures that regulations may be made to control administration if required. Section 15 proposes to tighten up the enforcement and supervision of regulations under the Act, which is necessary. The timing is right and I welcome the section.

Part 4 makes certain technical changes to the Control of Clinical Trials Act 1987. I was pleased to hear the Minister of State say it would also cover nurse prescribing. I am an advocate of nurse prescribing. As a former member of An Bord Altranais I am aware that eight to ten years ago, the board called for such a measure. It has been a long road for the board but I welcome mention of it here today.

Nurse education is ever-changing. Our nurses are now educated with a four year primary degree that is very scientific and medically based. I welcome this change, which I note is in the area of palliative care. Other areas might also be examined. I am aware that consultant rheumatologists would welcome their nurse practitioners being able to inject patients and even prescribe. Rheumatology nurses give injections to patients, which is unusual for them, but that was covered under previous legislation and is welcome also. As a former member I believe nurse prescribing will be welcomed by the Medical Council; I do not believe medics will have any difficulty with it. As Senator Feighan pointed out, it will help alleviate some of their heavy workload.

The introduction of the Bill is welcome. It is short in nature and technical in content but it is necessary. Apart from it being technical it is important legislation and I look forward to the Committee Stage debate and whatever amendments may be tabled.

Mr. Quinn: I welcome the Minister of State to the House and the Bill. The Minister of State said the Bill is largely technical and I accept that is the case. I want to use the occasion to make the case for adding another function to the role of the Irish Medicines Board, one I am sure it can discharge as effectively and efficiently as it has done for many years, along with all its other functions. The matter I want to raise concerns the drugs doctors prescribe for their patients, which represent a major and growing cost to our overall health services. I am concerned to ensure we get the best possible value for that spending but that does not appear to be the case.

I speak from a grocery background. A revolution took place on the shelves of grocery stores and supermarkets throughout Europe about 20 years ago with the arrival of what we call generic products, which were often practically identical to the highly branded product. They were often made by the same companies that made the top brands on the grocery shelves but they were sold at a much lower price and a battle ensued between the generic and the branded product. The revolution that occurred on the grocery shelves quickly moved on to the chemist shops and the pharmaceutical area but it has not been availed of correctly.

When a doctor seeks to prescribe for a patient, he or she often has a choice between a branded drug and a generic one, although that choice does not exist in all cases. The important point is that in most cases the only significant difference between the two drugs is the cost. Invariably, the branded drug costs much more than the generic one, and sometimes considerably more. That difference is paid ultimately by the taxpayer and the amount goes into the coffers of the big drug companies.

I want to be clear that I am not trying to undermine the business model of the giant drug companies. That model is based on the idea that they recoup the vast costs of research and development from what they charge for those drugs that make it to the market for the length of time they continue to enjoy patent protection. I have no problem with that and what I am suggesting is not a threat to that way of doing business. Generics come into the picture when the patent protection expires, which to the best of my knowledge is after 16 years. They do not have to carry the burden of recouping the research costs and therefore the prices they are sold at can often be much closer to the cost of producing the drugs, which invariably is much lower.

That whole process can be seen as a classic example of the patenting process working very well. In other words, the original inventor's costs are covered and he or she makes a profit in the short term while the public benefits from the advances in the long term. Understandably, the large drug companies do not like to see their revenues cut off in that way. Ideally, they would like to continue receiving premium prices for what

they produce, and to continue that indefinitely. They have a number of techniques to ensure that happens, one of which is to continue making small and largely insignificant changes to the drugs they produce, which allows them to claim that the tweaked drug is new and improved. Much of the time it is sheer marketing bluff.

Another technique they use is to expose medical practitioners to a blitz of publicity, pushing their wares. Any doctor — Senator Henry will be in the Chamber later — will speak of the pressure they come under from the big drug companies pushing them to use their products. That pressure is all one-sided. There is no corresponding marketing from the producers of generic drugs because their cost structure does not allow for large spending on marketing. The inevitable result is that we, the members of the public, end up paying far more for many drugs than we should pay to get the medical result we want. The individual patient is not directly involved in the process. Naturally, the patient leaves it to the doctor to prescribe what is best and often does not pay directly for what is prescribed. In most cases it is the taxpayer who ends up paying the bill.

It appears obvious that if we strive to improve our health service we should try to ensure that the money we spend on it is well spent. This is a clear example of throwing considerable amounts of money down the drain year after year, and those amounts are getting bigger all the time.

We cannot force doctors to prescribe one kind of drug over another. The freedom to choose a particular drug appears to be regarded as an important issue of clinical independence. That might explain the reason the Minister for Health and Children and the chief executive of the Health Service Executive restrict themselves to exhortations to doctors to use generic drugs more frequently. What I propose is a modest measure to back up these exhortations, which do not seem to be having much effect. The Irish Medicines Board should maintain a register of those drugs for which there is a generic equivalent, and it should be published on the Internet for the benefit of the medical profession and pharmacists. Such a register would be considered a statement by an authoritative and respected body that there is no significant therapeutic difference between these drugs, other than price. It would place the truth about the drugs that doctors choose in the public domain, and as such, would be a small but useful counterweight to the marketing efforts of the major drug companies as they seek to preserve their revenues. Doctors, moreover, would have a readily available reference to consult in ascertaining whether a generic equivalent for a particular drug is available.

Such a register could be set up and maintained at a tiny cost relative to the significant amounts that might be saved if the prescribing practices of doctors are changed. I accept we cannot do this by compulsion. This does not mean, however,

that we should not take every possible step to set out the facts of the matter and put them before the medical profession. I ask the Minister of State to consider this proposal. If necessary, I will put it forward in the form of a Committee Stage amendment.

It is interesting that the issue of subsidiarity constantly arises in the context of the EU. It encompasses the notion of bringing decision-making as close as possible to the citizen. Both Senators Feighan and Feeney observed that a person can buy St. John's wort off the shelf in the North but that strict conditions apply to its sale on this side of the Border. That is what subsidiarity is about, namely, the freedom for this State to take such decisions. There will always be differences in practice across the Border.

I did not expect the provisions on meat labelling to be included in this legislation and I congratulate the Minister on this welcome measure. This is a topic that is strongly debated in the United States of America, where retailers are battling against the obligation to disclose the country of origin, whether Canada, Mexico, Chile or elsewhere.

The Minister has acknowledged that this measure presents some difficulty in the context of our EU membership. The EU is quite restrictive in terms of the ability to specify an individual country within the Union and we may well encounter some difficulty in this regard. Even if the Minister does not manage to achieve what has been set out on this issue in legislative terms, the solution is for the matter to be determined by the marketplace. The market will decide the respective fortunes of those restaurants and hotels that advertise their willingness to disclose the source of the meat products they serve, whether chicken from Thailand or pork from Poland, and those that do not.

It seems the regulatory impact of which Senator Feeney spoke presents problems. Given that dangers arise every time we pass legislation without taking into account its costs and other consequences, some type of regulatory impact analysis should be done on a case-by-case basis.

Senator Feeney mentioned the restrictions in regard to the sale of paracetamol. The introduction of scanning has facilitated the management of such restrictions. For example, adherence to the legislation prohibiting the sale of alcohol until 12.30 p.m. on Sundays was simple because the scanning system could be programmed so that the bar codes on any alcohol products could not be processed before that time. A similar system can deal with those instances where a person attempts to buy multiple packets of a particular drug in respect of which quantity restrictions apply. Technology can achieve a great deal in this respect. On the other hand, however, a person who wants to cheat can easily visit several different supermarkets or chemists.

[Mr. Quinn.]

I welcome the Bill and thank the Minister of State for his efforts in this regard. It is interesting that he has added some extra elements we did not expect to see. The legislation deserves support.

Minister of State at the Department of Health and Children (Mr. B. Lenihan): I thank Senators for an interesting and substantive debate. I acknowledge their contributions and will address as many of the issues raised as I can. Senator Feighan asked about the powers of inspectors of pharmacy shops. Under the Irish Medicines Board Act 1995 and the Poisons Act 1961, these inspectors are employed by the Pharmaceutical Society of Ireland and are entitled to take prosecutions in its name. They do not currently have the power to close a pharmacy in the course of their inspections.

The Minister is in the course of preparing regulations for the purpose of implementing a recent EU directive on traditional herbal medicinal products. Enforcement in this area will be possible when those regulations are made and we will have an opportunity to debate this subject when they are drawn up. I was not clear whether Senator Feighan was raising a doubt about whether there should be regulation in this area but such regulation is imminent on foot of the EU directive.

Senator Feighan also raised the question of St. John's wort and the fact that, depending on one's location on this island, one will or will not encounter restrictions on its purchase. Many of us participated in that debate some years ago and, like the Senator, I was on the side of those who wanted greater liberalisation in this area. The problem throughout the health and medicinal sector is that of clinical and scientific independence. If the Oireachtas provides legislation for a medicines board, we are, perforce, obliged to accept its recommendations. We cannot substitute our view of what is good science and medicine for that of the board, even when, on occasion, the latter offends our common sense. That is the problem we face. The board took a view on this issue and the classification was assigned by it on the basis of its concerns about safety.

Senator Feighan also raised a question about the advisory committees set out under section 13. There are currently three independent advisory committees which provide scientific advice to the board as necessary. Members of these committees are appointed by the Minister on the basis of their expertise. The members of the advisory committee on veterinary medicinal products are appointed by the Minister on the recommendation of the Minister for Agriculture and Food.

In regard to offences for breaches of the meat regulations, it is intended that penalties in respect of meat labelling will be raised from the existing figure of £1,000 to a more effective penalty of €5,000. Queries were raised about the fees charged by the medicines board. In general, the policy is that the board should self-finance its activities. It is always expected that the fees will be set to reflect that arrangement.

In regard to the granting of licences for drugs other than controlled drugs, the licences referred to in the Bill related in the main to controlled drugs included in the UN treaties and not to other products. Senator Feighan also referred to paramedical qualifications. The Health and Social Care Professionals Bill 2004 is before the Dail and was dealt with at length in this House.

Senator Feeney raised the perils posed to human health, particularly the liver, by paracetamol. The Minister will ask the Irish Medicines Board to consider whether improved labelling can be used in that respect.

Senator Quinn raised the matter of generic drugs. I will reiterate a point of my reply to Senator Feighan, namely, that we are at a difficult intersection between law and our expertise and the expertise and clinical independence of people who make decisions in this matter. There is no doubt that Senator Quinn's case is powerful and there could be a substantial saving to the Exchequer were we to decide what drugs could be prescribed.

However, we cannot decide this but we can work on the problem. A great deal of information on it is in the public domain and a considerable amount of work has been done by the Department in the context of trying to improve clinical practice. If Senator Quinn has a proposal to make, the Minister will be receptive to examining it with great care and consideration. I have dealt with most of the issues raised by Senators and I thank them for their contributions.

Question put and agreed to.

Acting Chairman (Mr. U. Burke): When is it proposed to take Committee Stage?

Ms Feeney: On Tuesday, 29 November 2005.

Committee Stage ordered for Tuesday, 29 November 2005.

Acting Chairman: When is it proposed to sit again?

Ms Feeney: At 10.30 a.m. tomorrow.

The Seanad adjourned at 4.10 p.m. until 10.30 a.m. on Wednesday, 23 November 2005.