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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*

(OFFICIAL REPORT—*Unrevised*)

Tuesday, 20 *June* 2006.

SEANAD ÉIREANN

Dé Máirt, 20 *Meitheamh* 2006.
Tuesday, 20 *June* 2006.

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Paidir.
Prayer.

Business of Seanad.

An Cathaoirleach: I have received notice from Senator Browne 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 allow the Askea girls' national school, Carlow, to retain its 11th mainstream teacher in light of the fact that there are 307 students enrolled in the school for September 2006 and they had 291 students in September 2005.

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

> The need for the Minister for Education and Science to give an update on the schemes a parent of a child in a special needs school might access during the summer school holiday period to ensure continued classes, tuition, supports, etc., and whether schools can be requested to continue classes for the child concerned and on what basis.

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.

Mr. Dardis: The Order of Business is Nos. 1 to 4, inclusive. No. 1, European Communities (Amendment) Bill 2006 — Second Stage (resumed), to be taken on the conclusion of the Order of Business and to conclude not later than 4 p.m., the contribution of Senators not to exceed eight minutes each and Senators may share time, the Minister to be called on to reply not later than five minutes before the conclusion of Second Stage; No. 2, International Criminal Court Bill 2003 — Second Stage (resumed), to be taken at 4 p.m. and to conclude not later than 5.30 p.m., the contribution of Senators not to exceed eight minutes each, Senators may share their time and the Minister to be called on to reply not later than five minutes before the conclusion of Second Stage; No. 3, Land and Conveyancing Law Reform Bill 2006 — Order for Second Stage and Second Stage, to be taken from 5.30 p.m. until 7.30 p.m., the contribution of spokespersons not to exceed 15 minutes, and all other Senators not to exceed ten minutes each, and Senators may share their time. In the event that no further speakers are offering, the Minister to be called on to reply not later than five minutes before the conclusion of Second Stage. I am not saying that Second Stage may necessarily conclude and if speakers are still offering we will resume the discussion later; and No. 4, National Economic and Social Development Office Bill 2002 — Committee Stage (resumed), to be taken at 7.30 p.m. and to conclude not later than 8.30 p.m.

Mr. B. Hayes: Will the Government provide time this week, either today or tomorrow, for the Minister for Transport to give a full statement to the House on the situation surrounding the 238 speeding convictions that were thrown out of court in Wicklow last week? We now face an horrendous situation. When the country moved to metric speed limits, as I understand it, it was necessary for a by-law to be established in each local authority area to allow those new metric speed limits to apply. However, the Department of Transport advised local authorities that there was no need to do this at the time.

There is now a lacuna in 29 of the 34 local authority areas. Many other persons will presumably seek in court to make null and void the speeding offences with which they have been charged. What is the position of the accident-prone Minister for Transport on this matter? Will he tell the House if the Government will appeal these cases to the High Court and the Supreme Court? Does the Minister take political responsibility for the advice he gave the various local authorities when the metric system was first introduced? What is the current position?

We have heard nothing from the Minister on this issue since last Friday, although it affects virtually every local authority area. We must get our act together on road safety and ensure the law is properly enforced. Once again the incompetence of the Minister for Transport and virtually every other office holder in the Government comes to the fore. When the former Taoiseach, Mr. Haughey, referred to this as the worst Government in the history of the State, how right he was.

Dr. Mansergh: Who is the Senator quoting? What is his source?

Mr. B. Hayes: The Senator's own newspaper is the source.

Dr. Mansergh: Which person?

An Cathaoirleach: Senator Brian Hayes, on the Order of Business.

Mr. B. Hayes: I would not question the nice people who write for such a newspaper.

On a second matter, the Garda Síochána Act passed the Seanad and Dáil in June of last year and has been in place for 12 months. Section 36 of the Act is supposed to allow the establishment of joint policing committees. Not one joint policing committee has been established in that 12-month period despite the fact there was cross-party support for such an initiative and everyone believes it to be a good idea and similar to what is taking place in Northern Ireland in terms of the district partnerships.

The Minister, Deputy McDowell, lectures the Garda representative organisations on the importance of Acts passed by the Oireachtas and the need for those Acts to be enforced with regard to the Garda reserve. However, he is not implementing a vitally important section of the Act establishing joint policing committees. When will we see this happen? Will the Acting Leader organise statements on the matter?

Mr. O'Toole: No. 9 on the Order Paper is a Bill in the name of Senator Coghlan and I which arose due to a difficulty arising from the Official Languages Act, particularly with reference to the decision to change the name of the town of Dingle-Daingean Uí Chúis to An Daingean. The House might note that in the meantime Kerry County Council has decided to conduct a plebiscite of the people of that town to establish their views and to facilitate a decision in this regard.

The intention of our Official Languages (Amendment) Bill 2005, which we have chosen to hold back for the present, is to take note of the views of local residents. However, the Minister has stated that this plebiscite will have no legal standing and that he is prepared to ignore it, despite the fact the Official Languages Act, which he used to change the name to An Daingean, allows him to change it back.

The House will be pleased to hear that last week the Dingle GAA club, established for a century, changed its name to Dingle-Daingean Uí Chúis, as did the local regatta club and various other groups in Dingle. I have no doubt what way the people will speak on this issue.

We would like to know — I am sure Senator Coghlan shares my view — whether the Government will accept the views of the local people. A detailed plebiscite will take place in October, involving a seven-stage process in which people will be asked whether they accept the dátheangach version of the name of the town, Dingle-Daingean Uí Chúis. If that is the case, will the Government accept that this is the way forward? I look forward to hearing the Government's view, which would be helpful to Senator Coghlan and me in deciding whether to proceed with the Bill.

That is all I will say as I do not want to open up the debate. The information sought is important and it is not unreasonable to ask for it. I know the Taoiseach and Government would not be unreasonable in this regard but there is one person in Government who is extraordinarily unreasonable.

Mr. B. Hayes: Name and shame him.

Mr. O'Toole: I welcome, as we all should, the decision announced by the Government at the weekend to invest millions of euro in research and development in third and fourth level education. I also welcomed it when it was announced in a broad sweep at the time of the budget. However, it is difficult to relate it to the group standing outside Leinster House today representing a 16 year old school with 250 pupils, which cannot get a school site or approval from the Department of Education and Science.

Education must begin at the first step of the ladder. If a successful and well-run school which is conducting its business properly, such as Gaelscoil Sáirséal in the Cathaoirleach's county of Limerick, cannot get support on these kinds of issues, there is no point going to the top deck. The Minister should explain to the House how we will have a run all the way through, so a viable school will get the support to which it is entitled.

Ms Tuffy: Yesterday was the 61st birthday of Aung San Suu Kyi, the leader of the National League for Democracy in Burma and Nobel peace prize winner. She has been detained under house arrest by the Burmese military for the past three years and has been detained for nearly 11 years overall by the same regime. Can the Acting Leader inquire as to whether there is anything this House can do to put pressure on the relevant authorities to have Aung San Suu Kyi released? She is being detained because she has the popular support of the people of Burma. We have the benefit of living in a democratic country and the Leader of this House is a woman. We, as Members of the Seanad, could make representations to the Burmese authorities and also to the United Nations to help bring about her release.

Today's *Irish Examiner* has a front page report on a study carried out by Trinity College's anti-bullying centre. It measures the levels of bullying in primary schools and the figures are alarmingly high. The study covered over 2,000 pupils in a number of counties, the nationwide study is yet to be conducted, and it found that almost one in five girls and more than one in three boys have been physically attacked in the past three months. Approximately 20% of girls and 30% of boys have been bullied in this period. The report suggests that new forms of bullying are emerging, for example one in ten pupils has been victim of bullying by text message over the past three months. This is an important issue as, if it starts at primary school level, it could be very difficult to eradicate. We have brought in reforms to deal with issues such as bullying in the workplace, the Defence Forces and so on. It is important that we deal with bullying at its roots especially in the

case of young children and take whatever actions are necessary to address the issue. The Department of Education and Science formed a task force to report on the issue which made recommendations earlier this year, however, Mr. Stephen Minton, who carried out the study with Trinity College was pessimistic about these recommendations and is reported as saying many would remain unaddressed. I hope this is not the case and I would like the Minister for Education and Science to debate the issue in this House at her earliest convenience.

I support Senator Brian Hayes's comments on the joint policing committees and I point out that Oireachtas Members will be entitled to sit on these committees which is important because we have a national and local viewpoint. To give credit where it is due, Senator Terry Leyden was the first person to question the fact that Oireachtas Members were originally not included and amendments in this House ensured they would be. This is a very important initiative by the Minister and he must ensure it is implemented nationwide as soon as possible.

Labhrás Ó Murchú: It is time to invite the Minister for Community, Rural and Gaeltacht Affairs, Deputy Éamon Ó Cuív, to discuss in this House language equality legislation and the official working status of the Irish language in Europe. These two developments have given a huge boost to the promotion of Irish and had unanimous support throughout the Oireachtas. Polls have indicated there is great goodwill among the public towards these issues also.

There are many elements to the language equality legislation such as drawing up the programme for the provision of a bilingual service by over 600 agencies throughout the country and the filing of biannual reports. Obviously we cannot have Seán Ó Curraín anseo, but it would be worthwhile for the Minister to discuss these issues with us because some time has elapsed. On the point raised by Senator O'Toole, I do not know if he realises he is doing such a good public relations job for An Daingean. It will be the best known location in the world as a result of the debate.

Mr. O'Toole: In case the Senator is ever looking for it, it is approximately eight miles from Tullamore.

Ms Feeney: It is seven miles actually.

Labhrás Ó Murchú: I had a call from the *New York Times* asking how the matter was progressing and what the views in the country were. I do not think the people of An Daingean or Daingean Uí Chúis need have any worries from now on because the destination is so well known throughout the world.

Ms White: Hear, hear.

Mr. J. Phelan: I agree with Senator Brian Hayes on the points he raised concerning the dismissal of a number of proceedings during the past couple of weeks in Wicklow in respect of speeding fines. It would be appropriate, given the number of anomalies in the speed limit system, if the Minister for Transport were to come into the House to discuss the fiasco that has emerged during the past ten days or so.

I agree also with Senator Brian Hayes in respect of the local policing committees. The Minister for Justice, Equality and Law Reform has been forthright in his views, as usual, regarding the Garda representative associations and the implementation of the Garda reserve. I support the Garda reserve but on the issue of policing committees the Minister has been found wanting. These committees should be set up as soon as possible.

I wish to bring to the attention of the Acting Leader and the House, the plight of the group from a gaelscoil in Limerick whose members are outside the gates of Leinster House today. While we all welcome the weekend announcement by the Government of additional funding for third and fourth level education, it is disgraceful in this day and age that this school and others do not have adequate school buildings, despite advances in that area.

The Acting Leader may have more success in contacting his party leader, the Tánaiste, regarding the workers in the former Comerama plant in Castlecomer, County Kilkenny. In December 2002, at a meeting I attended along with all other Oireachtas Members from Carlow-Kilkenny, including those from Fianna Fáil, the Tánaiste gave a commitment that the workers would be covered by the new redundancy payments legislation which was going through the House at that time. The workers and their families took a particular course of action which saw the closing down of that factory before the end of 2002 because they were given a commitment by the Tánaiste. That commitment has been reneged upon and those people are down almost €1 million in redundancy payments.

That is a very significant sum for any group. It is certainly significant in the town of Castlecomer which has had much unemployment in recent years since the closure of the coalmines and many other local businesses. I have raised this matter at every opportunity when various other Bills were going through the House. I resent the attitude of the Tánaiste. By her remarks and her failure to honour her commitment she is calling me a liar. I know what I heard at that meeting as do the other Oireachtas Members who were present. I wish the Tánaiste would honour the commitment she gave to the workers on that occasion.

Ms Ormonde: I welcome the Government decision in respect of significant funding for research and development. It will be a great boost for education and training and the business

[Ms Ormonde.]

world. For too long we have been in a vacuum in establishing links. This is a golden opportunity to open up all the institutes and to enable third level students to move on to postgraduate research and development. It is a great boost on which I congratulate the Government.

Mr. Coghlan: I support the views expressed by Senator O'Toole on the Official Languages (Amendment) Bill 2005 which is No. 9 on the Order Paper. As Members of the Oireachtas we pride ourselves on our support for, and the value of, democracy. Kerry County Council's proposal for a plebiscite in October is the essence of democracy.

Mr. O'Toole: Hear, hear.

Mr. Coghlan: The people of the area will be asked to have their say. It behoves us all, including the Minister, to respect the wishes of the people in this matter.

Mr. B. Hayes: Hear, hear.

Mr. Coghlan: Dingle has for centuries been known as Gaeilge as Daingean Uí Chúis and nothing else. The proposal and the plebiscite is for Dingle — Daingean Uí Chúis. Nothing could be better. I look forward to hearing the views of the Acting Leader on the matter. I ask him to utilise his relations with the Minister in this regard. If the Minister comes before us, as Senator Ó Murchú has proposed, perhaps he will discuss this matter as well.

Last week on the Order of Business I referred to what I called "State paintings". These are the paintings taken out of the Great Southern Hotels which are now in the ownership of the Dublin Airport Authority. They were removed for valuation with a view to their disposal. The value put on them by de Vere's, an eminent house in this city, is a very reasonable €100,000.

Some of the paintings were with CIE before a previous Government decision to hive them off. Will the Acting Leader ensure that other State institutions have the first call on them? The valuation has been established by an expert, and this can be respected. The amount involved is not unreasonable. It is very important, and in the best interests of the State, that these paintings remain in State ownership. This is particularly because of the contributions by the State, through grants, towards the original purchase of the paintings.

Dr. M. Hayes: Will the Acting Leader pursue with the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, questions which have been raised by both Senator McHugh and myself regarding progress on the removal of roaming charges for mobile phones on the island? The Taoiseach may be reporting on the matter to the National Forum on Europe next Thursday. It is an important issue for people living along the Border.

I will offer a cautionary tale to Senators Ó Murchú and O'Toole. There was a controversy over whether Derry should be called Londonderry or Derry, and some thought it may be called, by means of compromise, Londonderry-Derry. It is now jokingly known as "Stroke City", which is a fate I would not wish on Dingle. For the innocent people of the north west, the word "stroke" has only one primary meaning. In the case of Dingle, a back translation might be "Dingle — Baile na Seafta".

Mr. O'Toole: There will be no stroking. It will be all one word.

Mr. U. Burke: The dramatic increase in bullying at school referred to by Senator Tuffy cannot go unnoticed. The response of the Minister and the Department of Education and Science to the task force report of early 2006 is totally inadequate. The provision of a learning support classroom for bullies in schools is a total failure on the part of the Minister to respond nationally to the developing situation.

Currently, 30 schools in the country have this facility, inadequate as it is. Some 720 national schools throughout the country have had no response whatever to this problem. In the 33 schools outside Dublin where the survey was done, with approximately 2,350 students, a third of girls and 44% of boys were either verbally or physically abused. A scenario is developing which needs urgent attention. The failure of the Minister to give the attention should be taken to task.

It is important action is taken, as Senator Tuffy stated. If students lose out in the early stages of education, they lose out altogether. If children are bullied at primary school level, they will carry the traits of it into second level and beyond. Other research into the tragic deaths that have occurred of young people around the country has shown that suicide can be traced back to bullying in school which resulted in a loss of confidence. I urge the Acting Leader to make immediate contact with the Minister to ask her to implement the recommendations of this year's task force report on a national basis as a matter of urgency. This matter is too serious for it to be allowed to continue with only a pilot scheme in place.

3 o'clock

Mr. Hanafin: I would welcome a debate on bullying which would be most useful. This is a serious problem that requires urgent attention. However, I hope we would approach it in a logical, reasonable and objective manner. Any other approach would be most unhelpful.

I also note that the European Parliament has given funding for embryonic stem cell research and I request a debate on this issue. Embryonic stem cells have a pluripotency by their very nature; in other words they must multiply and divide

because of the baby's life cycle. Up to now, scientists have been unable to prevent this happening, and if they were able to do so, it would possibly cause other problems. It is beyond me how funding consistently goes to this research which is proving so unproductive.

Mr. Feighan: Last week I highlighted the fact that up to 100 drug dealers living in Spain appear to be untouchable. Resources must be put in place to deal with this issue and legislation must be enacted on a Europe-wide basis so that we can deal with these people. More drugs than ever are now coming into the country.

Last weekend the killing occurred of a small-time player in the drugs industry. This was the 29th such killing so far this year. We are facing a major crisis in the Garda. We need extra gardaí. Currently a great deal of overtime is available to gardaí but they are close to burnout as they are dealing with these serious crimes every day. These young men and women are putting themselves in dangerous situations on a daily basis and they cannot carry on like that. They need more help and assistance. I call for a debate on the increasing levels of gun and drug crime and how best we can approach this serious and escalating matter in a united way.

Mr. Dardis: The Leader of the Opposition, Senator Brian Hayes, and Senator John Paul Phelan, raised the issue of speed limits and those people who appear to be escaping sentencing in court. In one case the recorded speed of a defendant was an astonishing 200 km/h. I am not fully familiar with the detail of whether the Department advised that it was not required of the local authorities to implement the by-laws, because from my experience as a local authority member, the local authority always introduced by-laws where changes were taking place.

I fully agree that this is not acceptable. I also agree that the law must be regularised to ensure that people who are in breach of speeding restrictions are subject to penalty. I think that is what we all want. There have been many debates in the House on road safety where we have pointed out the dangers of excessive speed. I will bring the matter to the attention of the Minister for Transport and ask him if he will come into the House to debate it in detail.

Senator Brian Hayes, together with Senators Tuffy and John Paul Phelan, also raised the Garda Síochána Act and joint policing committees. I do not know what is the position but I will bring the matter to the Minister's atttention. There can be a difference between a Bill and what is enacted. Just because a section forms part of a Bill may not necessarily mean its provisions are enacted.

Mr. B. Hayes: Section 36 was enacted.

Ms White: It is the law.

Mr. Dardis: I understand it is proposed to commence the section but that is a slightly different matter from having it in the Act. I will bring the matter to the attention of the Minister. I agree that the committees should be established. We had a similar situation in regard to the health boards. Those committees are now being set up and the same should apply in this case. A valuable contribution can be made by both local and national public representatives in terms of guiding the Garda in regard to policing priorities. It will be a useful process.

Senators O'Toole, Ó Murchú, Coghlan and Maurice Hayes referred to the Official Languages (Amendment) Bill 2005, in the names of Senators O'Toole and Coghlan, with particular reference to the case of Dingle-Daingean Uí Chúis. Due regard should be given to the results of any plebiscite that is conducted because it will be an important statement of the wishes of local people. However, there could potentially be chaos if this were to be done for every town. There must be some degree of consistency. Within Gaeltacht areas, nevertheless, if people exercise their franchise and there is a conclusive verdict, it should be accepted and implemented.

Mr. Coghlan: Hear, hear.

Mr. Dardis: I will bring this matter to the attention of the Minister. I will not comment on the point made by Senator Maurice Hayes about Derry-Londonderry, or "Stroke City".

Mr. Coghlan: It is outside the Acting Leader's jurisdiction.

Mr. Dardis: Senators O'Toole, Ormonde and John Paul Phelan raised the matter of the billions of euro being earmarked for research and development under the new national programme. This is to be welcomed as a key component in ensuring the State can maintain its competitiveness internationally. It is an area that has been neglected in the past, even within the private sector, and funding has been inadequate by international standards.

I am not familiar with the details of the school to which Senator O'Toole referred. However, I am aware there has been enormous progress nationally in the provision of school buildings and sites. Perhaps it is a question of taking one's place in the queue and not trying to gazump——

Mr. O'Toole: This school has been waiting for 16 years.

Mr. Dardis: ——others by protesting outside the gates of Leinster House. However, I am not familiar with the circumstances of this particular school.

Senator Tuffy raised the case of Aung San Suu Kyi. Her plight has been addressed at meetings of the Oireachtas Committees on European

[Mr. Dardis.]

Affairs and Foreign Affairs. The Minister for Foreign Affairs has been consistent in his support for her and in petitioning the Burmese authorities for her release from custody. The EU regards this as a suitable matter for sanctions within the broader context of human rights abuses in general within Burma. It is unacceptable that the leader of an opposition party should be under house arrest. The democratic principle should apply there as it does in this State.

Senators Tuffy, Hanafin and Ulick Burke raised the serious issue of bullying. The findings of the Trinity College study on the incidence of bullying in primary schools are worrying and must be acted upon. I will bring to the attention of the Minister the need to implement the recommendations of the departmental task force. It is important to note, however, that school authorities and parents also have a responsibility in this area. The State has an important role to play but it does not bear exclusive responsibility. I am aware of schools, at both primary and secondary level, where innovative and effective programmes have been put in place to deal with bullying. For those schools that are minded to do so, there is much they can do themselves to tackle the problem.

Senator Ó Murchú spoke about language equality legislation and the implementation of the successful all-party motion of this House in regard to the recognition of the Irish language at European level. I will ask the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, to come to the House and debate this issue.

I am unfamiliar with the case of the Comerama workers in Castlecomer to which Senator John Paul Phelan referred, but I will bring it to the attention of the Tánaiste and Minister for Health and Children, Deputy Harney. I do not accept that the Tánaiste ever accused Senator Phelan or anybody else of being a liar, as he suggested. This matter relates to the Tánaiste's previous ministry but I am sure she will speak to the Minister for Enterprise, Trade and Employment, Deputy Martin, in an attempt to resolve this matter.

Senator Coghlan spoke about what he refers to as "State paintings", an issue I read about in the newspapers at the weekend. Regardless of whether the paintings are in the custody of the DAA or CIE, if they are public property, they should remain in public ownership. It is quite appropriate to send them to de Vere's for valuation, for insurance purposes, if nothing else. However, I fully accept that where provenance can be proven and the paintings are definitely State property, they should remain in public ownership. There may be some private paintings on display in those places, but that is a separate issue.

Senator Maurice Hayes referred to roaming charges for mobile telephones, which has been raised by several other Senators. I will endeavour to find out if the Minister for Communications, Marine and Natural Resources can come to the House to clarify the situation.

Senator Hanafin referred to bullying. He also raised the matter of embryonic stem cell research and the recent decision by the EU to allow such research to take place. My understanding of the issue is that the EU has allowed funding for research in those jurisdictions which allow such research to take place. It is up to each jurisdiction to decide for itself whether it will allow such practices. There is a live moral debate surrounding this issue. It has been suggested that as much can be achieved with adult stem cells as with those from an embryo, although I do not know if that is true. It is clear that the potential benefits of stem cell research are enormous, whether conducted on adult or embryonic cells. However, the destruction of embryos is something that most Irish people would find abhorrent. The issue is a complex one.

Senator Feighan raised the issue of drug dealing, as he has done on numerous occasions in the past. We are all horrified by the number of gang-related killings that have taken place recently. The Minister for Justice, Equality and Law Reform and the Garda Commissioner have been to the Coolock area to determine what can be done. The situation is very serious and it appears that human life is of very little value to some of those involved. They acquire guns and if somebody offends them, that is sufficient reason for them to take away a life. That cannot be condoned by anybody. The question of the control of guns must be addressed. I will endeavour to organise a comprehensive debate in the House on this serious matter.

Order of Business agreed to.

European Communities (Amendment) Bill 2006: Second Stage (Resumed)

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

An Cathaoirleach: Senator Lydon has two minutes remaining.

Mr. Lydon: I thought I had seven minutes remaining.

An Cathaoirleach: On what basis?

Mr. Lydon: I thought each speaker had 15 minutes and I only spoke for four or five minutes the last day. I ask the Cathaoirleach to check again.

An Cathaoirleach: The Senator has already spoken for six minutes and the allocation for each speaker was eight minutes.

Mr. Lydon: I spoke last week about what the Bulgarians are doing and now wish to turn my attention to the Romanians. The Romanian

Government is aware that remedying all the remaining issues and continuing the internal preparations in all areas remains the priority. It is committed to completing all internal preparations in order to meet the 1 January 2007 accession objective.

Following the comprehensive monitoring report of the European Commission, issued on 16 May, the Romanian Government adopted a concrete plan of priority measures, a to-do list for remedying the issues that were still of concern in internal preparations. An in-depth presentation and discussion of the action plan took place on 7 June 2006 with the Commission in Brussels. The to-do list focuses on the key areas pointed out by the monitoring report of the Commission in internal preparation, namely, the four red flag areas identified in the agriculture and taxation fields.

Even if the fight against corruption and reform of the judiciary no longer represent issues of serious concern to the Commission, they are still very high on the Romanian Government's agenda, and special emphasis is placed on their achievement. Therefore, specific measures with regard to those two fields have also been included in the action plan to provide further tangible progress on the ground and ensure the irreversibility of the reforms.

The plan establishes for each issue precise measures to be accomplished, together with strict deadlines, as well as institutions in charge of their achievement so that progress can be seen in all those areas by the time of the Commission's autumn report.

Regarding agriculture, the action plan focuses on the full functioning of the paying and intervention agencies and finalisation of the integrated administration control system, IACS, as well as on the rendering and collection system. Concrete measures are being implemented, including filling vacant positions in the two paying and intervention agencies, to be finalised in September 2006. A tender has also been issued for the necessary software for the IACS system, which is also due to be finalised by the autumn.

With regard to the sanitary and veterinary field, Romania will send all information regarding the rendering system in the country to the Commission this month. By the end of the year, two important measures will also be finalised. These are completion of the rendering facilities system and the destruction of fodder stocks based on animal proteins.

Preliminary testing of the compliance of the tax collection system in Romania with those used in the European Union will take place in July. Testing is to be completed by October 2006. Work is in progress regarding a law on financing political parties, as well as one on verifying statements of assets, conflicts of interest and incompatibilities that will establish an agency for checking declarations of assets and incompatibilities. The deadline for adoption of the two draft laws is the end of August.

The institutions in charge have already begun work in the spirit of the to-do list since publication of the Commission's monitoring report. Several important outcomes have already become visible, especially regarding justice reform. The criminal code and criminal procedures code have already been adopted by the Parliament.

Romania focuses well on areas where further efforts are needed, so-called yellow flag issues, to strengthen its capacity to function effectively within the EU after accession. To that end, the action plan was adopted. Romania is working closely with the Commission to advance its preparation for accession further. In that context, monthly reports will be sent to the Commission's services regarding progress in internal preparation. Furthermore, several peer review and evaluation missions will take place during the period to allow thorough assessment of the situation. Romania is convinced that based on solid progress in internal preparation, the Commission's next evaluation on 26 September will note decisive advances in all those areas and convey a message of support regarding its objective of joining the EU on 1 January 2007.

The forthcoming accession of Bulgaria and Romania to the EU will mark the completion of the Union's fifth enlargement, increasing its membership from 15 to 27. It is a wonderful project. Since the Commission's monitoring report in October 2005, both countries have significantly reduced the number of issues to be addressed. Some of the problem areas that remain are common to the two, particularly regarding implementing the necessary arrangements for the disbursement of EU funds. In agriculture, the two countries are working to establish a proper, integrated administration and control system.

Ireland believes that Bulgaria and Romania must make full use of the time available to address the remaining issues so that they can join the Union as planned on 1 January 2007. We look forward to working with them as equal partners in a successful Union of 27 member states. I thank the Cathaoirleach for his indulgence.

An Cathaoirleach: The Senator did very well.

Dr. Mansergh: That was a great impression of Dr. Garret FitzGerald.

Mr. B. Hayes: Or perhaps Mr. Alan Clark. I wonder if Senator Lydon might run that by us again. I welcome the Minister to the House.

I recall the first time I visited Romania. I had been hoping to fly to Bucharest from London but missed the flight and ended up in the Hungarian capital of Budapest. I was driven in a car for ten hours between Budapest and Timisoara, the place where the revolution that ultimately ended Ceaucescu's military dictatorship began. I recall crossing the border between Hungary and Romania at

[Mr. B. Hayes.]

3 a.m. in the car. It took us 40 minutes to get through. I said to myself that if ever there were an example of a country needing to open its borders, engage with its neighbours and allow economic and personal freedom, it was Romania. It is a great country, about which I know little. I feel great affinity with the many democratic political forces that have attempted to bring about normal democracy since the end of Ceaucescu.

Romania is a landlocked country which deserves to become a member of the EU and whose people, like the people of Bulgaria, deserve to become EU citizens. We must remember that in putting this legislation through both Houses and allowing our Government to sign up to the end of the accession process to allow for Romania and Bulgaria's entry into the EU in January of 2007 or 2008, depending on the final decision taken this year, it will be a very good day for the EU. It will be something in which all of us can take pride, particularly in light of the number of people from Romania who have come to this State in recent years for all manner of reasons. I, like my colleagues, welcome this very much.

I wish to make three points about the accession process which occurred from 1990 to the conclusion of talks between both countries last year. Structural Funds and financial assistance to economies which are effectively transforming themselves from command economies can cause a considerable amount of difficulty within these economies. It can be argued that if Romania had taken the tough economic decisions taken by Hungary after the fall of the Berlin Wall, it could have been among the second or third group of accession countries which joined the EU. Both countries are very similar but Hungary took very tough economic decisions after the fall of the Berlin Wall which Romania chose not to take, thus effectively postponing the date of its entry into the EU possibly by approximately ten years.

We do not do enough to extol the importance of economic transfers to EU citizens. If ever there was an example of redistribution within Europe, it can be seen within the EU where the old economies have been forced to pay more to help transform economies like those of Ireland, Portugal, Romania, Hungary and other eastern European countries within the EU. This is an example of where radical sums of money have been transferred from the centre of Europe and the old economies to the east and west to encourage the radical and necessary transformation of the economies in these regions.

The EU does not do enough to explain to its citizens and people outside it borders the extent to which international norms, rights and obligations affecting all EU citizens are not simply worldwide rights but are EU rights. It is arguable that the EU has a much more fundamental notion of human rights than that found in, for example, the US and that the question of guaranteeing these rights is much more substantial than it is in many advanced countries, particularly the US. We must explain this to our citizens, be profoundly proud of these achievements and tell applicant countries which will soon be full members of the EU that these are not simply universal rights but specific rights which apply to the EU.

The transformation of its economy has been very difficult for Romania. I visited the country approximately eight years ago and saw how it was grappling with this problem. Tough decisions were not faced up to at a much earlier stage and matters were not helped by the fact that a multiplicity of parties were in place after the fall of Nicolai Ceaucescu. Ireland has an excellent opportunity to extend our trade with Romania and Bulgaria and these countries have the same opportunity to extend their trade with us. I understand that our trade with both countries has tripled in a very short period of time. Given that we must export more and more of our goods and services to remain competitive, we must realise that the new countries coming into the EU offer great opportunities for our own exporters.

I recently met a friend who used to employ six people in a company that provided design work to various businesses in the Dublin area. He has decided to relocate his business to Prague. He is in constant e-mail contact with six or seven people who work for him on a *per diem* basis to service Irish businesses. This might be difficult for the six or seven people in Dublin who lost their jobs, but it makes the point that if we are in one economy and trading market and we are to keep our economy competitive, these are the competitive edges that constantly come to the fore.

A difficult decision must be taken by all governments on whether to open their labour markets to both of these new countries. However real or imagined the displacement argument is, we must tread carefully in respect of this issue. There is a perception that too many of our economy's manual skilled and non-manual skilled jobs are being taken by people who understandably migrate to where there are job opportunities. Unlike the last wave of accession countries, Romania and Bulgaria are large. We must weigh the balance before making a final determination on whether all labour markets within the European Union will be opened from day one, given the number of potential workers within both of those countries.

Moving from a military dictatorship has been difficult for Romania and we should not forget that when Ceaucescu first came to power, he was seen as a local nationalist leader who stood up to the Soviet power of the time. Subsequently, a terrible cloud fell on the people of that great country for a number of decades. For them and their friends in Europe and beyond, it is a matter of great pride that they are taking their rightful place within the largest and most powerful economic club that, as an international organisation,

is universally recognised as embracing human rights, freedom and democracy. It is a great day for those countries and we must help them to make the transformation as others helped us.

Ms Ormonde: I welcome the Minister of State and I also endorse this Bill's subject matter, the provision for the accession of the republics of Romania and Bulgaria. This will give effect to an enlargement that must be completed by December 2006.

Last week, I visited Lithuania and Latvia as a member of the Oireachtas Joint Committee on European Affairs and witnessed their transformation from a commitment to the communist regime to their current situation. Despite having full membership of the EU, many problems remain. This made me consider the difficulties experienced by emerging democracies and how they will shape up in the years ahead.

I remember the fall of Ceaucescu many years ago. I welcome this opportunity to say how important it is that Romania and Bulgaria become members of the EU. During recent years and the preparations for accession, issues have been red flagged. I noted in the Minister of State's speech that the number of major issues in respect of Romania has been reduced from 14 to four. In Bulgaria the outstanding issues have been reduced from 16 to six. The main areas of concern to member states are progress in judicial reform and the fight against corruption and organised crime, which are still prevalent in both countries. In addition, there are concerns over measures to combat trafficking and the integration of minorities.

Lithuania and Latvia are new member states which acceded to the EU in 2004 and still have many problems as emerging democracies. Many new parties have formed, eager to make a name for themselves and become the key parties of the future. The governments in both countries are about to collapse and are trying to reform with a mixture of small parties. We should be concerned about the administrative structures in Romania and Bulgaria. Both have emerged from communist regimes and still display mindsets from that era in the way they deal with Structural and Cohesion Funds and the bureaucracy of the European Commission. Latvia's entry into the euro was rejected because it had not done its homework so detailed preparation is necessary for accession.

What does the future hold with regard to enlargement? When do we cry "Stop" and say "Enough is enough"? The public is concerned that the EU is becoming too big and unwieldy and, while there is a need for a common purpose on crime, the threat of terrorism and energy, as well as on the emergence of the growing economies of India and China, people are concerned over the ratification of the constitution and the future of enlargement.

I welcome Bulgaria and Romania's accession applications, but their ratification does not necessarily mean all the problems will have gone away, even though the accession of new countries in 2004 was a success, especially in the way it allowed for the free movement of people into this country. Bearing in mind the days of Ceaucescu, who would not welcome the emerging democracies of Romania and Bulgaria? However, many details still require to be worked out. It will not be an easy transition and people in every member state question whether, if enlargement goes any further, the structures of the European Commission will be able to cope. That is for a future discussion but the Bill before us today is to ratify the accession of Bulgaria and Romania to the EU.

Dr. Mansergh: I welcome the Minister of State and his officials. I welcome this Bill and the fact that public opinion, as reflected in the Oireachtas, is still overwhelmingly positive, despite some of the fears expressed by the previous speaker. I am sure that fact is intimately connected with the success of our economy, which means we do not have too many grounds to be fearful.

This Bill which deals with EU enlargement to include Bulgaria and Romania, is a reflection of the enormous success of the European Union in overcoming the division of Europe in a peaceful and harmonious fashion. Notwithstanding certain problems, previous enlargements proved to be overwhelmingly positive experiences. It is quite wrong to say that, in the 1960s, the Europe of the six was a harmonious place. It could be argued that it endured the most bitter divisions of all, when disputes between General de Gaulle and the Commission led to an empty chair policy.

The Minister of State noted that the origins of this process date to 1990 and the Irish Presidency under the late Charles Haughey. I remember a debate at that time in which the French argued for a Europe of concentric circles, with a core membership and outer rings of countries associated to various degrees. I am glad that debate has been resolved in the way it has, namely, by the inclusion as full members with full rights of all the countries of central and eastern Europe, when they are eligible.

Senator Brian Hayes was correct to draw attention to the importance of redistribution but it is also important to note the effect of relatively small, in a global sense if not for the recipient countries, redistributive amounts, which were catalytic both for us and the Mediterranean countries, and which are now to be received by the countries of central and eastern Europe. I am pleased we have also given some bilateral assistance.

I hope it will be possible for Bulgaria and Romania to complete the preparations for accession by 1 January 2007. I have never been to Romania but have visited the capital of Bulgaria,

[Dr. Mansergh.]

Sofia, and was impressed. I would be very pleased to welcome both countries into the EU.

The Minister of State's speech made passing references to some of the outstanding problems. The issues of corruption, criminality and trafficking arose momentarily in an Irish context last year in connection with the fallout from the Northern Bank raid and the suggestion that some moneys might be laundered via Bulgaria. That underlined the point that for Bulgaria to deal effectively with such matters is of interest to the entire European Union and not just Bulgaria. The same is true of the call for agricultural procedures in Romania to be put in working order. As Romania is an agricultural exporter it is of interest to every agricultural country in Europe.

The Minister of State cited the impressive growth in trade between Ireland and Romania and Ireland and Bulgaria, which I am sure will be greatly built upon, as it has been with other countries of central and eastern Europe once they became full members. I also suspect both countries will become attractive for tourists. My father attended an international conference 30 years ago in Bulgaria and was very impressed with the Black Sea resorts. That will be good for us and will extend, mentally at any rate, the type of places to which we will be willing to go.

The Government is right to be cautious about when, and under what conditions, to implement the free movement of workers. These two countries have substantial populations. There is no doubt we took some risk in 2004, but our studies and European ones show it has been very beneficial to Ireland. I am not convinced, however, that we should push our luck too hard. I would not want to second-guess the Government as it is a matter for it and its various expert agencies to study closely what is the right decision for this country. I would not attempt to prescribe it.

The Minister of State raised the question of future enlargement. This must be done carefully and gradually as it has been to date. After all, it took the countries which first entered into relationships with the European Union in 1990 some 13 or 14 years before they could become full members. It is extremely important for the reasons stated by Senator Ormonde that countries only become full members when they are fully prepared, will not have a destabilising affect on the existing Union and will not undermine confidence in it.

With that very important caveat, I must say I have the vision of General de Gaulle that the eventual boundaries of the European Union should probably stretch from the Atlantic to the Urals and the Caucasus. That leaves a question in regard to what to do about Russia given that it stretches to the Pacific but I suppose I am thinking of countries such as Ukraine.

Despite fears expressed about the increasing unmanageability of the Union in the absence of the EU constitution, it seems to have operated so far reasonably smoothly and harmoniously. However, that cannot be taken for granted and the Government is correct to be committed to the constitution and to hope that conditions and circumstances, particularly in the two countries which rejected it, change to allow adoption of all or most of it.

I am glad the Finance Ministers changed their minds about Slovenia joining the eurozone, which I raised on the Order of Business. As it was 0.1% out on its inflation figure, it was not going to be eligible to join but the Finance Ministers have thought better of that attitude, which I welcome.

Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen): I thank Members for their contributions today and on Wednesday last. I am heartened to hear such broad support for the European Communities (Amendment) Bill 2006. As Members will know, Ireland has always been an enthusiastic participant in the European Union. We actively supported the fifth expansion of the Union and we look forward to its completion with the accession of Bulgaria and Romania.

It is interesting that Ireland held the Presidency on 1 May 2004 when the last ten countries acceded to the Union. I have been impressed by the level of goodwill towards Ireland which is evident among Ministers from those countries. To some extent, that goodwill arises from the fact Ireland held the Presidency at that time and did a particularly good job but also from the fact we shared our experience and expertise with them as we have done with Romania and Bulgaria. Undoubtedly, many benefits have flowed to them and to us arising from that.

As the Minister of State, Deputy Treacy, said last week, 17 countries have already ratified this treaty. It was dealt with in the Dáil on 24 May. The Commission's report of 16 May, which is the most recent one, commended both countries on the progress they have made and, as a number of Members mentioned, there are some outstanding problem areas which, hopefully, can be addressed before the accession date of 1 January 2007. Clearly, there is a possibility of having that date postponed if necessary.

Senator Brian Hayes referred to the level of trade between Ireland and Romania which, traditionally, would have been quite small — as low as €5 million per annum in 1992. It was well over 30 times that last year with a 75% increase in trade in 2005 over 2004. That is an extraordinary level of growth. Likewise, growth in that year of trade with Bulgaria was of the order of 11%. Clearly, there is considerable potential for growth in that area and for benefits for Ireland and the two accession states.

The movement of workers is a matter of concern to the Department of Enterprise, Trade and Employment. Ireland was one of three countries which allowed free access of workers from the ten

accession states from the date of accession. The other two countries were Sweden and the UK. It is interesting that a recent Commission report found that the three countries enjoyed a considerably better employment performance than the 12 countries which had employment restrictions. I am glad to note that at least four of the other countries have now decided to allow full freedom of movement for people from the ten countries.

The Minister for Enterprise, Trade and Employment, Deputy Martin, introduced an amendment to the Employment Permits Bill with an enabling provision which has three options in regard to whether workers from Romania and Bulgaria will be allowed access to Ireland. The three options are as follows: free access, as has been provided for the other ten states; the grant of a permit on foot a job offer; or continuation of the present regime with a requirement for employment permits. As Senator Mansergh and others have said, a number of matters must be considered and the Government will make a decision later in the year, or at least in advance of the accession of the two countries, on how best to proceed. I welcome the comments of Senator Brian Hayes and Mansergh in that regard. We have the national interest to consider as well as other considerations and the Government will give very careful thought to the matter.

Another Commission paper worthy of mention is that which found that all member states benefited from the last enlargement. Many concerns have been expressed — for example, in regard to the ratification of the EU constitution and the difficulties which arose in France and the Netherlands. There were also difficulties in regard to the adoption of the budget. At that time Members will remember there were all types of dire warnings about the future of Europe. Thankfully, the difficulties in regard to the budget have been successfully resolved and I am sure the other matters will be resolved.

The recent Commission paper found that all member states benefited from the last enlargement, which is very encouraging. The stability helped to multiply trade and investment. It provided opportunities for companies in the existing states to expand into the other ones on a much more positive basis than many would have expected with many more benefits flowing to the host and the accession countries arising from that. It has led to a far stronger and more dynamic euro economy. In view of the challenges to the economy of Europe, not least from China and India and the traditional economic power blocs of Japan and the United States, it is very important the European economy is able to prosper and move forward in a very dynamic way. The dynamism which has flowed from the accession of the new states has been very encouraging and has benefited Europe enormously.

Undoubtedly, there are questions surrounding Commission membership and issues which have been dealt with in regard to membership of the European Parliament and decisions at Council of Ministers level which require ongoing examination to come up with a model that best serves the interests of the people of the European Union as a whole. That is something that must be dealt with over a slightly longer period. It must also be dealt with carefully and proactively. There will be substantial challenges to the economic well-being of the Union if we choose to stagnate and do not face up to the fact that there are considerable economic power blocks in other parts of the world. These are areas of the world where the pace of development is truly astonishing. We must match it and better it, if possible.

As Commissioner Rehn made clear last month, it is entirely feasible for Bulgaria and Romania to accede by 1 January. There is no doubt but that in the coming months both countries will intensify their efforts to make this a reality. Both countries will benefit from EU membership and will, in turn, make a positive contribution to the Union, as indeed Ireland has done for the past 33 years.

Question put and agreed to.

An Leas-Chathaoirleach: When is it proposed to take Committee Stage?

Mr. Lydon: Tomorrow.

Committee Stage ordered for Wednesday, 21 June 2006.

Sitting suspended at 3.50 p.m. and resumed at 4 p.m.

International Criminal Court Bill 2003: Second Stage (Resumed).

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

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): I thank the Senators who have contributed to the debate. The breadth of the exchanges is an indication of the potential contribution of the International Criminal Court in protecting those often without a voice from the most heinous of crimes to threaten the international community. The opening speech recalled the difficult birth of the Rome Statute and the many atrocities which occurred from 1948, when the idea of an international court was first raised, to July 2002, when the statute came into effect.

Enactment of this legislation will ensure Ireland can comply with its obligations under the Rome Statute and co-operate with the International Criminal Court in ensuring that those responsible for such atrocities can no longer escape punishment for their crimes. Unlike previous tribunals, the Rome Statute could potentially apply to any state party. While we may consider that the statute could never be applied to Ireland, its existence and our obligations to the

[Mr. Fahey.]

International Criminal Court ensures that we do not become complacent in our dealings with these offences.

Senators will recall that the Bill in summary provides for new offences of war crimes and crimes against humanity and consolidates the existing offence of genocide under the Genocide Act 1973 while at the same time establishing the practical framework for providing assistance to the International Criminal Court in the investigation and prosecution of International Criminal Court offences. The types of assistance likely to be provided to the court include an accelerated mechanism for the arrest and surrender of persons wanted in connection with International Criminal Court offences, requests for freezing and confiscation of property and provision of evidence during investigations. In addition, the Bill also provides for the necessary practical arrangements should the International Criminal Court ever sit in the State.

The Bill is based on the principle of complementarity, which underpins the operation of the International Criminal Court. The effect of this principle is that the International Criminal Court is not a substitute for national criminal justice systems in that it will only take on an investigation where a state is unwilling or unable genuinely to carry out the investigation or prosecution. The Bill provides that persons before the Irish courts in connection with the domestic prosecution of an International Criminal Court offence have the same rights as are available under any criminal prosecution in the State.

The Rome Statute enshrines a similar standard of rights for any person coming before the International Criminal Court. For persons coming before the Irish courts in connection with the International Criminal Court request for surrender, the Bill also provides that the High Court has the powers of adjournment, remand and bail, including but not limited to the powers of the High Court in criminal matters. In addition, the statute places particular emphasis on guaranteeing the interests of victims of crimes before the International Criminal Court.

Senators made a number of suggestions regarding possible amendments to the Bill, some of which, while worthy of consideration in their own right, go beyond the main objective of the Bill which is the implementation of the Rome Statute. Broader provisions may be considered at other times in the context of other legislative measures. In this regard I would like to address some points raised during the course of the debate on specific provisions of the Bill and the implementation of the Rome Statute.

Senators Cummins and Henry raised the issue of the delay in publication and enactment of the Bill. Senators will recall that the Bill was preceded by a constitutional referendum in 2002. The necessary legislation implementing the referendum was not enacted until March 2002 because of a challenge to the referendum. Ireland ratified the statute on 11 April 2002 and was among the group of 60 state parties that brought it into force. Given the complexity of the statute a detailed consultation process was necessary between the Department of Justice, Equality and Law Reform and other Departments and State organisations. Following this consultation process the Bill was published in August 2003 and would have been enacted in previous parliamentary sessions had it not been for the pressure of other legislative measures. However, now that the Bill is concluding Second Stage, in the interest of the early enactment I ask all Senators for their assistance in bringing it through the House.

Senator Norris made reference to the possible extension of the definition of war crimes in the Bill and, in particular, to the inclusion of the provisions of Article 8.2(*b*) of the statute. Section 6 contains a number of definitions including one of war crimes which is linked directly to the relevant Article 8.2 and encompasses all of the elements that are in that Article except 8.2(*b*)(xx), which will have to be included by way of amendment under Articles 121 and 123. Until such an inclusion by way of amendment is undertaken by the parties to the statute it would be premature to include such a proposal and it would not accurately reflect the definition of war crimes. It was for this reason the Parliamentary Counsel crafted the current definition.

The extension of the jurisdiction of the International Criminal Court to other crimes was raised by Senators Cummins and Norris who suggested the State should consider a provision to allow for the extension of the jurisdiction of the ICC to other war crimes, for example, where the State ratifies an international instrument that provides that particular offences are contrary to international law. The Attorney General advises that such a proposal would run contrary to the Rome Statute as it would, arguably, amount to an attempt to extend the jurisdiction of the ICC beyond the range of offences which are currently covered by the statute. If the state parties to the statute wish to extend the jurisdiction of the court at a future time then the present legislation can be amended to do so. There may be further difficulty with this suggestion in that it may breach Article 15.2.1° of the Constitution by amounting to an unauthorised delegation of legislative power. As a constitutional referendum was required to ratify the statute Article 29.9, because it effected a limited transfer of sovereignty, the proposal may also represent a breach of this article as it purports to extend the jurisdiction of the ICC in a manner beyond that contemplated by the constitutional licence granted under the constitutional amendment.

A number of Senators raised the issue of a prohibition on conscription to armed forces. They urged that measures be taken to increase the age of prohibition on conscription to under 18 years of age rather than 15. The definition of war

crimes in section 6 of the Bill, which includes the conscription of children, references Article 8 of the Rome Statute, therefore the threshold of 15 years of age is that agreed following negotiation of the statute. It is not open to us to renegotiate the terms of the statute at this stage and it would serve no purpose for Ireland to define the war crime of conscription of children in a way different to the statute. I should stress, however, in terms of general recruitment to the Defence Forces, there is a framework of safeguards in place to ensure that the recruitment of personnel under the age of 18 is not forced or coerced. These safeguards include, *inter alia*, voluntary recruitment, selection on suitability, a requirement of proof of age, parental consent for applicants under 18 years of age and all recruitment campaigns being informational in nature. As a further safeguard, members of the Defence Forces under 18 years of age are involved only in training and cannot be sent on active duty overseas.

Senator Norris mentioned the wider community was not consulted prior to the publication of the Bill and referred, in particular, to the Human Rights Commission. Senators will recall the provisions of the Rome Statute were approved by constitutional referendum in 2001 following a lengthy debate. The Bill facilitates the practical implementation of the statute and goes no further than providing the minimum necessary to fulfil our international obligations and for this reason the Human Rights Commission did not receive a copy of the Bill. Under the provisions of the Human Rights Commission Act 2000, the commission may submit views on the Bill at any time for consideration.

The Bill is broad and wide-ranging and has already taken into account the published views of international organisations in supplying the implementation of the International Criminal Court. It also benefitted from legislative precedents enacted in other jurisdictions. In addition, Ireland's endorsement of the International Criminal Court has also been informed by discussions at the time of the referendum. The Bill attempts to bring these various concerns together in implementing the requirements of the Rome Statute, however I will consider any amendments to it in light of the requirements of these requirements.

Senator Henry raised the issue of the proposals in the Criminal Justice Bill 2004, relating to forensic samples and she had concerns on the taking of such samples. The Criminal Justice (Forensic Evidence) Act 1990 provides for the taking of certain bodily samples. Samples such as blood are taken with written consent and these are referred to as intimate samples. Other samples may be taken without consent, such as hair other than pubic hair, and these are referred to as non-intimate samples. The Criminal Justice Bill 2004 makes a number of amendments to the Criminal Justice (Forensic Evidence) Act 1990. It proposes to reclassify saliva from an intimate to a non-intimate sample which, in effect, means the consent of the detained person would no longer be required to take the sample of saliva. As saliva is most usefully taken by way of mouth swabs, it is also proposed to classify a mouth swab as a non-intimate sample.

The Bill will clarify that hair samples other than pubic hair can include root hairs but will add safeguards, such as that hair samples must be cut or plucked individually. It also provides that the period for which samples may be retained before being destroyed is to be increased from six months to 12. The Bill will provide for an increase in the penalty applicable to a person obstructing a garda in attempting to obtain a sample. It is proposed to provide clarification that reasonable force may be used in taking fingerprints, palm prints and bodily samples where consent is not required.

All senators raised the issue of the position of the United States on the International Criminal Court. Of the signatories to the statute that have not ratified it, only two countries, the United States and Israel, have purported to unsign the statute, each stating that it did not intend to become party to it and accordingly no legal obligations arose from their signatures. US objections to the ICC are based on the view that the independence of the ICC prosecutor could lead to politically motivated prosecutions of US citizens and, in particular, military personnel. Ireland, its EU partners and other states believe that the concerns of the United States are unfounded. With regard to the carefully drafted provisions of the Rome Statute, the Government has previously expressed the hope that all states will support the court and assist it in its work. The Council of the European Union has expressed the hope that a broader dialogue could be developed with the United States on matters relating to the ICC, including the US re-engaging in the ICC process.

The recent referral by the UN Security Council of the situation in Darfur to the ICC could be seen as making a significant shift in the US Administration's approach to the ICC as it moves the Administration from a position of active opposition to the very existence of the court to a position of acquiescence in its existence. While not voting in support of the referral the US abstained and did not veto the resolution at the Security Council. I consider that this Bill sends a clear message to the perpetrators of these international crimes that Ireland will not shirk our international obligations in safeguarding international peace from atrocities inflicted on countless innocent persons in war-torn jurisdictions.

This Bill adds another voice to that of the international community in seeking to bring the perpetrators of these crimes to justice. It is also a statement of our support for the International Criminal Court and of our commitment to ensuring it receives the assistance necessary to meet

[Mr. Fahey.]

the challenges of the Rome statute in investigating and prosecuting these crimes.

I commend the Bill to the House and thank Members for their contributions.

Question put and agreed to.

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

Mr. Kett: Next Tuesday.

Committee Stage ordered for Tuesday, 27 June 2006.

Sitting suspended at 4.25 p.m. and resumed at 5.30 p.m.

Land and Conveyancing Law Reform Bill 2006: Order for Second Stage.

Bill entitled an Act to provide for the reform and modernisation of land law and conveyancing, to repeal enactments that are obsolete, unnecessary or of no benefit in modern circumstances, to amend the Registration of Title Act 1964 and for related matters.

Mr. J. Walsh: I move: "That Second Stage be taken today."

Question put and agreed to.

Land and Conveyancing Law Reform Bill 2006: Second Stage.

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

Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey): I am pleased to introduce in the Seanad the Land and Conveyancing Law Reform Bill 2006. The Bill contains proposals for a comprehensive, radical and far-reaching reform of our land and conveyancing laws, many of which date back to feudal times. Before outlining its main provisions, I wish to briefly explain the background to the Bill's preparation and publication.

The Bill is the outcome of an innovative joint law reform project — launched in late 2003 — between the Department of Justice, Equality and Law Reform and the Law Reform Commission. Its primary purpose is to comprehensively reform and modernise all our land and conveyancing laws. It does so by repealing, in whole or in part, numerous pre-1922 statutes that still apply in this area, the earliest of which date from the 13th century. It replaces these statutes with provisions more suited to modern conditions. The joint project is part of a larger reform programme, which includes the modernisation of land registration structures and procedures under the recently-enacted Registration of Deeds and Title Act 2006, and which has as its ultimate goal the implementation of a comprehensive system of e-conveyancing of land.

During the Second Stage debate on the Registration of Deeds and Title Bill in this House last year, the Minister outlined his intention to reform and modernise both our land registration systems and structures and our substantive land and conveyancing laws. The Minister has already delivered on the first of these objectives, as that Bill has recently been enacted and it establishes the Property Registration Authority to manage and control the Registry of Deeds and the Land Registry as well as updating the law relating to the registration both of deeds and titles. This Bill delivers on the Minister's second objective, reforming and modernising the substantive law.

Given the scale and ambition of the joint project, a strategic and research-intensive approach has been adopted by my Department and the Law Reform Commission from the outset of the project. Its first phase involved the screening of pre-1922 statutes with a view to identifying those which could be repealed without replacement, and those which needed to be updated or replaced with provisions more suited to modern conditions. The results of this exercise, and the reform recommendations emanating from it, were published in the Law Reform Commission consultation paper Reform and Modernisation of Land Law and Conveyancing Law, which the Minister launched in October 2004.

Publication of the consultation paper was followed by an extensive consultative phase, which included a conference in November 2004 at which distinguished experts in land and conveyancing law, both from this country and abroad, discussed future reform options in the light of experiences gained from reform initiatives in comparable common law jurisdictions. Arising from publication of the consultation paper and the conference proceedings, valuable submissions were received from representative bodies involved in the conveyancing system and from other relevant stakeholders.

The third phase of the project involved preparation of a draft Bill to give effect to the reform proposals which had been adapted, where appropriate, to take account of submissions and comments received during the consultation process. The Law Reform Commission report, Reform and Modernisation of Land Law and Conveyancing Law, which the Minister launched in July 2005, contained the text of a draft Land and Conveyancing Bill.

With the agreement of the Attorney General, the Minister wrote to the president of the Law Reform Commission late last year suggesting that given the unique collaboration and expertise involved in preparing the draft Bill, finalisation of the Bill for publication and presentation could best be achieved through the good offices of the commission and the continued involvement of those most closely associated with its preparation.

The commission readily agreed to this and the Bill before us today has been prepared by a drafting group which has met under the aegis of the Law Reform Commission.

The Minister wishes to place on the record of the House his sincere thanks, and that of the Government, to the president of the Law Reform Commission, the Honourable Justice Catherine McGuinness, and her predecessor in office, the Honourable Justice Declan Budd, as well as the other commissioners, for their enthusiastic commitment to and support for the joint project. Thanks are also due to Professor John Wylie, the foremost expert in the land and conveyancing laws of these islands, for his work and sustained interest in the project and Mr. Marcus Bourke, former Parliamentary Counsel, who assisted in the drafting process. The Minister also acknowledges the input of the commission's substantive law working group, which brings together many of the stakeholders and experts in the land and conveyancing law area.

I wish to speak on the general subject matter of the Bill and explain its scope and structure. Land is a finite and scarce resource and prior to the development of a money-based economy it was by far the most important source of wealth. Not only that, land ownership was a key determinant of social standing and political influence and power. Not surprisingly perhaps, the owners of land sought over the centuries to ensure that the land remained within the family from one generation to the next. However, a new class of wealth emerged in the aftermath of the industrial revolution and barriers to the operation of a free market in land were gradually removed. Eventually, by the end of the 19th century, land was seen as another, but no longer the pre-eminent, source of wealth and prestige.

It is hardly surprising that the development of land law and conveyancing practices over the centuries reflected these societal tensions as well as economic and social changes. Moreover, much of our land law can really only be understood in the context of our historical experience of dispossession followed by repossession. Conquest by the Normans in the 12th century led to the gradual introduction of the feudal system of land ownership and, eventually, by the beginning of the 17th century, displacement of the old Brehon laws. From the 16th century onwards confiscation of land from the native owners was accompanied by successive plantations of English and Scottish settlers. The late 19th century witnessed improvements in the rights of tenants and, eventually, restoration of much of the country's agricultural land to tenant farmers under various land purchase schemes.

While this Bill does not deal with the various land purchase Acts, one positive feature of that legislation is worth noting in the present context. The land purchase Acts provided loans for tenant farmers to purchase their holdings from landlords subject to annual repayments in the form of land purchase annuities. As these schemes involved the advancing of large amounts of public funds, it was considered that title to the lands in question — which formed the security for the loans and which might have to be sold in the event of default — should be secured by means of registration.

Arising from this, the Local Registration of Title (Ireland) Act 1891 established the Land Registry and provided that the registration of title was compulsory in all cases where land was purchased under the land purchase schemes. All of this land has remained within the registration of title system. The ongoing significance of the 1891 Act is that approximately 85% of land in the State — including almost all farmland — is now registered in the Land Registry. I will return to this registration issue in due course.

It is difficult in practice to draw a clear and rigid distinction between land law on the one hand and conveyancing law on the other. In general terms, land law deals with different types of ownership of land, and the rights relating to each type, while conveyancing law is more concerned with the transfer and disposal of land and rights relating to it, for example, by sale, lease or mortgage. In effect, they are two sides of the same coin and it makes good sense to deal with them in a single Bill rather than in separate sets of proposals.

Our land law and conveyancing law is a complex mixture of statutory provisions, common law and equity. Successive layers of statute law, the earliest of which dates back to the 13th century; common law, that is, the judge-made rules enforcing legal rights that emerged from the common law courts; and equitable rights and remedies developed by courts of chancery in response to shortcomings in the common law, have resulted in an unnecessarily complex code, much of which is difficult to apply to modern conditions. There is general agreement that the law needs to be reformed in order to meet the needs of a vibrant market economy in the 21st century.

This Bill does not set out to "codify" all our land and conveyancing laws into statutory form. This would have involved attempting to distil and convert all relevant common law and equity into legislation. Apart from the effort involved, such a project would have taken a considerable number of years and such a codification would increase the rigidity of the law and remove the flexibility and adaptability which is such a positive feature of our legal system. In particular, the ability of the courts to exercise their equitable jurisdiction in response to changing needs and circumstances must be preserved.

Moreover, while every effort has been made both to simplify the law and update its language, it has been necessary to bear in mind that many technical terms in this area of the law have acquired a specific meaning and are commonly used and understood as having that meaning. Changes in language could lead to confusion or,

[Mr. Fahey.]

more seriously, have an impact on substantive rights in land law. It could also result in the abandonment of relevant case law and have other unintended consequences. As the Law Reform Commission emphasised in its report, Statutory Drafting and Interpretation: Plain Language and the Law, while the use of plain language is desirable, this end should not be achieved at the expense of legal certainty, especially where certain words and grammatical constructions, though not in common use, have acquired a fixed and clear legal meaning.

The radical and far-reaching reforms set out in the Bill have the following objectives: updating the law to accommodate modern conditions; simplification of the law to make it more easily understood and accessible; simplification of the conveyancing process, particularly the procedures involved, in order to reduce delays and associated costs; promoting extension of the registration of title system in the Land Registry; and, facilitating the introduction of e-conveyancing of land as soon as possible. Moreover, the draft Bill represents a substantial contribution to the process of regulatory reform — including the repeal of obsolete and outdated statute law — to which the Government committed itself in the White Paper, Regulating Better.

I do not propose to enter into great detail on the Bill today, not least because it is accompanied by a comprehensive and highly informative explanatory memorandum, at the request of the Minister. Those Members who may be familiar with Professor Wylie's texts on Irish land and conveyancing law will undoubtedly detect his hand in the memorandum.

Part 1, relating to preliminary and general matters, contains definitions of various terms used in the Bill and general provisions which are common in legislation of this nature. As I mentioned earlier, section 8 repeals — in whole or in part — approximately 150 pre-1922 statutes which are listed in Schedule 2 and which stretch back over the centuries to feudal times. It is a remarkable feat of drafting and legal expertise that the Bill, while repealing so many old statutes, manages to restate the new law in a Bill of 124 sections and a few Schedules.

Part 2, comprising sections 9 to 14, contains important provisions which reform and modernise the ownership of land. In particular, it removes the remaining vestiges of the feudal system of landholding introduced by the Normans to Ireland in the 12th century. For example, in so far as it survives, the concept of 'tenure', whereby all land was held from the Crown, is abolished. This concept is not compatible with the relationship between the State and its citizens as set out in the Constitution. Also abolished are methods of landholding developed over the centuries to meet the needs of earlier times but which are no longer of relevance to modern conditions or will cease to have significance as a result of other provisions of the Bill. This applies to "fee tails", "fee farm grants" and "leases for lives".

On the other hand, the Bill retains the concept of an "estate" in land which was also part of the feudal system but which remains a central and useful feature of the modern system of land ownership. The idea of dividing ownership according to different periods of time is what makes land ownership under a common law system so flexible. It is based on the fundamental principle that what is owned is not the physical entity, that is, the land itself, but rather an estate giving substantial rights in respect of the land, such as the right to occupy and use it, or an interest giving less substantial rights in it, for example, a right of way over a road on the land, or a right to cut and take away turf. The full ownership of any particular area of land comprises these various estates and interests, including equitable interests such as those existing under a trust of the land. It is worth noting that Article 10.1 of the Constitution refers expressly to "estates and interests" in the context of natural resources.

The number of these various estates and interests that will exist in respect of a particular area of land will vary from case to case. As I mentioned earlier, as part of its objective of simplifying the law, the Bill substantially reduces the number of estates that can be created in future. For example, it provides that the only legal estates which may be created or disposed of are the freehold estate, meaning a fee simple in possession, and the leasehold estate, meaning a tenancy in the modern sense of a relationship between landlord and tenant.

Part 3 introduces a substantial simplification of the various rules concerning "future interests" in land and, in some cases, such interests in other property. Future interests are interests which do not "vest" in, that is, come into the possession of the persons entitled to them until sometime in the future, usually because the land or other property is vested in someone else in the meantime. The early common law had difficulty with what are referred to as "contingent" future interests where, in addition to prior interests having to run their course, some other condition had to be satisfied or event had to occur before any vesting took place. The disposition could not vest until that contingency had been met.

In early times, the common law was concerned that this might result in a period of time when the land would be vested in no-one and so feudal dues payable in respect of the land could not be collected. This resulted in the development of complicated rules designed to avoid such a gap in what was referred to in feudal times as the "seisin" of the land. These rules were known as the common law contingent remainder rules. Later, as settlements and trusts of land and of other property became more sophisticated, the courts developed a range of other rules designed to

restrict the ability of owners to determine the ownership of property far into the future.

The Law Reform Commission concluded in an earlier report that all these rules had served their purpose and that they now give rise to unnecessary complications in the law. It recommended that the various rules should be abolished, but subject to an important qualification. Given that the abolition of the various rules would enable owners to create settlements and trusts determining the ownership of property far into the future, there could be a risk that future owners might find themselves saddled with an unsuitable scheme of ownership. In order to provide a means whereby future generations might secure a modification to a scheme set up many years previously, the commission has recommended that abolition of the rules relating to future interests should be accompanied by the enactment of provisions to permit the variation of trusts. I intend to provide for the variation of trusts by means of an amendment to the Civil Law (Miscellaneous Provisions) Bill 2006 which is currently awaiting Second Stage in the Dáil.

Part 4 provides for a radical overhaul and simplification of the law relating to settlements and trusts of land. Currently, many settlements do not involve use of a trust. Instead, the land is given by a deed or will to different persons in succession. Sometimes a trust is used and the land is instead given to trustees to be held by them on trust for the beneficiaries. The type of trust used may vary from one case to another. In some cases, the trustees may be required to retain the land, in others, the trust may require the trustees to sell the land at the earliest opportunity, invest the proceeds and hold those investments instead for the beneficiaries.

The law governing settlements and trusts has become complicated. One reason is that while the Settled Land Acts 1882 to 1890 apply to settlements without any trust — usually referred to as a "strict settlement" — and trusts to retain land, they do not apply in the same way to trusts for sale. Part 4 clears up this confusion by replacing the Settled Land Acts with a single and much more straightforward trust of land scheme. An important feature of the scheme is that the legal title to the land will always be vested in trustees and they will have full powers of dealing with it and using it for the benefit of the beneficiaries.

Part 5 deals with powers relating to both land and personal property, especially powers of appointment. These powers are commonly used in family settlements and trusts where, instead of allocating property directly to named beneficiaries, the owner gives another person — called the "donee" of the power — a power to "appoint", that is, select from a group of potential beneficiaries — called the "objects" of the power — which of them should become beneficiaries and in what shares. In general, this part does not deal with the other common power to deal with property, the power of attorney. The law on such powers was modernised by the Powers of Attorney Act 1996. Nor does it deal specifically with various powers to deal with property held by persons such as trustees, which is currently governed by the Trustee Act 1893; personal representatives, which is governed by the Succession Act 1965; and mortgagees, which is covered in Part 9 of this Bill.

Part 6 deals with the law relating to co-ownership of land, that is, cases where the legal title to the land is vested in two or more persons concurrently. Two types of co-ownership remain common nowadays — joint tenancy and tenancy in common. The key feature of a joint tenancy is the so-called "right of survivorship" whereby on the death of a joint tenant, that owner's interest ceases and the land becomes vested in the surviving joint tenants. This process continues until the land becomes vested in the last surviving joint tenant as sole owner and the co-ownership ends. In the case of a tenancy in common, on the other hand, each tenant has a distinct but undivided share which can be inherited on that tenant's death by persons named in his or her will.

One of the important aspects of the law of co-ownership is the right of severance of a joint tenancy, that is, when a joint tenancy is converted into a tenancy in common. Unilateral severance is permitted under current law. This has significant consequences because it means the tenants lose the expectation that one of them will, as the last surviving joint tenant, end up as the sole owner of the land. In order to remedy this, the Bill prohibits unilateral severance of a joint tenancy without the written consent of the other joint tenants. This part also updates the law relating to partition of land by co-owners.

Part 7 provides for a substantial overhaul of the law relating to appurtenant rights. These rights are extremely common with respect to land and usually exist as between neighbouring landowners. They permit one landowner to do something on a neighbour's land or entitle that landowner to prevent the neighbour from doing something on the land. The most common categories of such rights are easements and *profits à prendre* and these are dealt with in Chapter 1. An easement is a right such as a right of way or right of light over neighbouring land. Although the categories of easement are generally settled, courts have made it clear that the listing is not necessarily closed and new rights with similar characteristics may be recognised as changes in society require, for example, the right to park a vehicle.

A *profit à prendre* is the right to go onto someone else's land and to take from it something which exists on it naturally, such as the right to mine or quarry, cut timber or turf, graze animals on grass, fish and hunt wild game. Such profits are frequently enjoyed by a neighbouring landowner and are therefore appurtenant, but they can also be owned "in gross", that is, by a person who is not a neighbour and who may own no land

[Mr. Fahey.]

other than the profit exercisable over someone else's land.

Chapter 2 prohibits the creation of rentcharges, which is another type of right that may be owned in respect of someone else's land. A rentcharge, which is to be distinguished from a rent payable by a tenant under a tenancy, is a rent charged on land to provide an income or regular payments to the owner of the rent charge. In the past, rentcharges were created in family settlements in order to provide an income for members who were given no other substantial interest in the land, for example, the siblings of the family member, usually the eldest son, who was given a life interest in the land, but they are no longer common.

6 o'clock

Chapter 3 provides for a new statutory system to deal with problems which frequently arise with regard to party structures such as party walls and fences separating neighbouring buildings or lands. It is designed to regulate the rights of the neighbouring owners, especially where a dispute occurs over repairs or works which one owner wishes to carry out. The provisions will also extend to situations where, strictly speaking, there may not be a party structure but the buildings are so close to the boundary line that work such as repairs cannot be carried out effectively without access from the neighbouring property. The provisions will enable one landowner to obtain a District Court works order permitting such access under certain conditions.

Chapter 4 remedies a long-standing defect in existing law, namely, the limited enforceability of freehold covenants affecting land. Such covenants are frequently entered into when a landowner sells part of the land to someone else. The purchaser will often covenant to restrict the use of the land purchased and to undertake various positive obligations relating to building and repairs. Unlike leasehold covenants which generally bind successors in title, freehold covenants are enforceable against successors in title to a limited extent only. In effect, only the burden of negative or restrictive freehold covenants pass to successors. Chapter 4 changes the law substantially to bring the enforceability of freehold covenants, whether positive or negative, into line with that of leasehold covenants.

Part 8 deals with contracts and conveyances relating to land and replaces the provisions of the Conveyancing Acts 1881 to 1911 and various other pre-1922 statutes with reformed provisions more suited to modern conditions. While it is designed to prepare the ground for eventual electronic conveyancing, this part of the Bill also contains provisions for the interim period before a fully electronic and paperless system of conveyancing becomes operative. Until then, written documents and deeds in the traditional form will continue to be used.

Chapter 1 contains detailed provisions concerning contracts relating to land, such as contracts for sale. Chapter 2 deals with title matters, in particular, the deduction of title by a vendor and investigation of title by a purchaser. Chapter 3 deals with deeds and their operation, including the formalities for proper execution of deeds and the effect of particular provisions in deeds. Chapter 4 deals with the contents of deeds, in particular, the statutory provisions to be implied in them, while Chapter 5 contains some general provisions concerning conveyancing.

Part 9 introduces substantial simplification and modernisation of the law of mortgages. In particular, it assimilates the law relating to unregistered land with registered land by making a charge the sole method of creating a legal mortgage. Mortgages by conveyance or assignment of the borrower's estate or interest in the land, or by demise in the case of leasehold land, are abolished. This does not affect the security interests of lenders. The Bill also introduces provisions to ensure that lenders' remedies to enforce security are exercised only when appropriate. Part 10 deals with judgment mortgages and replaces, with substantial modification, the provisions of the Judgment Mortgage (Ireland) Acts 1850 and 1858.

Part 11 contains substantial consequential amendments to the Registration of Title Act 1964. Schedule 1 contains various consequential amendments to other statutes, including the Registration of Title Act 1964. Schedule 2 contains repeals of numerous pre-1922 statutes falling into different categories in Parts 1 to 4 and some Acts of the Oireachtas in Part 5. Schedule 3 sets out the different classes of covenants for title implied in conveyances under sections 77 and 78.

I wish to explain why certain matters which featured in the draft Bill contained in last July's report are not contained in this Bill. Provisions relating to adverse possession of land, which we discussed here on a previous occasion, have been omitted in light of the United Kingdom's appeal of a European Court of Human Rights ruling in a case relating to adverse possession to that court's Grand Chamber. This case, in which the ECHR has reversed a House of Lords decision, raises important issues relating to operation of adverse possession law and may, depending on the Grand Chamber's ruling on the appeal, have implications for the operation of adverse possession law here. It would, therefore, be prudent to await the outcome of the United Kingdom's appeal against the original ECHR decision before proceeding with any reforms in this area.

Proposals relating to the sale of land by auction have been overtaken by the report of the auctioneering, estate agency review group which contains, *inter alia*, recommendations relating to the conduct of auctions and other sales of land. Proposals on these matters will be included in future legislation which will establish the property services regulatory authority to supervise and control the provision of property services by auc-

tioneers, estate agents and property management agents. The Government's legislative programme foresees publication of this Bill in 2007.

The proposed amendment to the Succession Act 1965, which was intended to clarify aspects of succession law relating to the simultaneous death of joint tenants, has already been included in the Civil Law (Miscellaneous Provisions) Bill 2006. Various changes of a less substantial and technical nature have been made in response to various submissions received following publication of the draft Bill in the July 2005 report.

The reforms to the substantive law set out in this Bill will, together with those already enacted in the Registration of Deeds and Title Act 2006, provide a sound foundation for future e-conveyancing. However, the Law Reform Commission has concluded that an efficient and comprehensive e-conveyancing system can operate only in respect of registered land and the Minister agrees with that conclusion. One of the key tasks, therefore, of the property registration authority established under the Act will be to promote and extend the registration of title.

The Minister has extended compulsory registration of land to counties Longford, Roscommon and Westmeath with effect from 1 April last. Those counties have now joined counties Carlow, Laois and Meath as compulsory registration areas. Much more needs to be done, however, and the Minister will be asking the property registration authority to adopt a strategic and urgent approach to extending compulsory registration in its first strategic plan under the new legislation. Increased registration of title will, in turn, mean less need for, and the eventual closure of, the Registry of Deeds, the tercentenary of which falls next year. The registry has served a useful purpose for 300 years but e-conveyancing requires conclusive registration of ownership and that need cannot be met through the registration of deeds.

Concerns relating to access to documents in the Registry of Deeds and their preservation were raised with the Minister in this House on a previous occasion. Arising from this, he commissioned consultants to carry out an assessment of the building at Henrietta Street to evaluate its suitability for housing this valuable and irreplaceable archive and to identify options and make recommendations for improved access to, and better protection and preservation of, its documents. This exercise has been completed and the Minister intends to make the consultants' report available in the near future.

I thank the Law Reform Commission for its commitment and support for the joint project and all those who contributed to the preparation and publication of this Bill which will, when enacted, bring benefits for home purchasers and the business community alike by improving conditions for the purchase and sale of land and by reducing the delays and costs that so often accompany the conveyancing of land. I commend the Bill to the House.

Mr. Cummins: I welcome the Minister of State, Deputy Fahey, and his officials to the House. Fine Gael welcomes the introduction of this legislation. There can be no doubt that if any area of the law needs reform, it is that of conveyancing and property. We have long campaigned for legislation such as this, and I stress that we very much support this Bill. I am aware the Minister for Justice, Equality and Law Reform, Deputy McDowell, has been a driving force behind this legislation since his time as Attorney General in 2002, and I also pay tribute to him. It never ceases to amaze me that in this country we continue to rely on archaic laws and statutes that not only predate the establishment of the State but stretch back to the 12th or even 11th century. The sooner that we legislators deal with that, the better for clarity and expediency.

Before I discuss the Bill, I would also like to pay tribute to the Law Reform Commission for all the work that it has carried out on the issue. I have said before in the House that I have great regard for the commission, a body from which many State agencies and State-sponsored bodies might learn valuable lessons. Under the Honourable Ms Justice Catherine McGuinness of the Supreme Court, as president, and her only full-time colleague, Patricia T. Rickard-Clarke, the Law Reform Commission has successfully implemented a programme of research and investigation into the law that has been second to none. Its rate of delivery of sound, considered and detailed reports on important areas of law reform has been admirable, as well as infinitely valuable to us Members of the Oireachtas. I pay thanks to it.

The role of the Law Reform Commission was unfortunately highlighted recently in the controversy over section 1(1) of the Criminal Law (Amendment) Act 1935 and the Supreme Court judgment that struck down that part of the Statute Book. It behoves us as Members of the Oireachtas to ensure that the recommendations in the reports of the Law Reform Commission are more speedily and sincerely considered and implemented where necessary. I understand that Professor John Wylie, perhaps the leading expert on property in Ireland, is effectively leading the charge on this issue, along with the mammoth team of lawyers and researchers that form the land law working group in the Law Reform Commission. He has been responsible for the guts of the Bill, and I had the pleasure of hearing him before the Committee on Justice, Equality, Defence and Women's Rights some months ago.

I am aware of the Trojan work being done on land law and conveyancing. This area of law is complex, and the Law Reform Commission's report does not make for easy reading. There very much remains a role for plain English in conveyancing. Despite the progress that we make in

[Mr. Cummins.]

the legislation, it is still very heavy and complex, making it extremely difficult to peruse. Nevertheless, everyone will welcome the end of such terms as fee simple, fee farm grants, and the ruling in Bain *v*. Fothergill, which mean nothing to ordinary laypeople. None of us will miss the 150 statutes that this Bill's passing will repeal, such as the Maintenance and Embracery Act 1634 and the Clandestine Mortgages Act 1697. I acknowledge that many of us would wish that our mortgages were somewhat more clandestine.

A reading of Schedule 2, which lists the repealed statutes, shows just how archaic Irish law has been in this area. When we find that we must abolish statutes that have been in effect since the time of King Edward I, we know that action is long overdue. I see that the Statute De Donis Conditionalibus 1285 is finally leaving us for good, along with the Statute Quia Emptores 1290 and the Illusory Appointments Act 1830. While it is easy to see how outdated many of those Acts are, some will ring true. One can only imagine what injustices were executed under laws with such names as the Tithe Arrears (Ireland) Act 1839, the Settled Estates Act 1877, and the various pre-Famine Crown Lands Acts. Those form part of our history, and the past is undoubtedly where they belong.

The Bill deals with so many different areas of land law that it represents a comprehensive review of Irish property law. I particularly welcome the proposed changes to land ownership in part 2. Extraordinarily, until this Bill passes, Irish people will not own their properties absolutely. Despite our now spending remarkable sums on houses and land in this country, when we buy a house, we still owe fealty to the Crown for ownership of the property. In essence, there currently exists no such thing as absolute ownership of land or property in Ireland, but fortunately the Bill will redress that situation. The State will now finally be enshrined as the alternative to the Crown in such matters.

Section 9 will abolish feudal tenure, a long-overdue and extremely important measure. Perhaps I might ask the Minister when it is intended to deal with the vexed question of ground rents, which still causes problems in many parts of the country.

There may be scope, in the aftermath of the Bill's commencement, for further review of the terminology used in legal matters in general and specifically as far as property law is concerned. Despite this reforming legislation, part 7 deals with an area with which the Minister even had difficulty, appurtenant rights and *profits à prendre*, terms that are a far cry from the kind of language that we would like to see in the area to demystify land law for ordinary people. Similarly, it is fair to say that a non-lawyer reading section 63, on escrows by bodies corporate, would be puzzled as to its meaning.

During debates in this House on the Registration of Deeds and Title Bill 2004, I raised the issue of land registration, introducing amendments on Committee Stage to encourage movement towards the eventual registration of all lands in Ireland. I believe it a very important goal on which the Minister might once again focus his attention after the Bill's enactment. I also welcome the abolition of the creation of rent charges and a clear statement that extant rent charges will now have the status of simple contract debts. Section 47 establishes an important change to the law regarding the enforceability of a freehold covenant, abolishing the ruling in Tulk *v*. Moxhay. I would also like to mention the new protections for purchasers laid down in section 57. In the light of recent examples of fraud and questionable practice, it is a very important section.

I look forward to examining some of the measures contained in the Bill in greater detail on Committee Stage. However, I warmly welcome it, both for its specific achievements and for the broader policy objectives that it realises. Fine Gael supports this legislation, which is practical, modernising, clarifying and pragmatic. We will support the Bill and look forward to improving it on Committee Stage.

Mr. J. Walsh: I welcome the Minister of State to the House and the Bill itself. The area is undoubtedly very complex, as Senator Cummins said. It requires simplification, and the Bill represents a step in that direction. The fact that 150 pre-independence statutes will be abolished by the Bill and that we are venturing back to early Norman times to bring about a self-contained statutory approach to land ownership and conveyancing is to be welcomed.

As the Minister of State noted, the Bill deals with various facets of ownership and transfer of land. Ownership is probably a critical area. Fee tail, the fee farm grant and leases for life are to be abolished. Fee tail, which was one of the last remaining benefits for the male of the species, is now being abolished as part of the overall thrust towards equality and will no longer exist to give preference to the male heir. The abolition of the fee farm grant is sensible because many solicitors have found it extremely difficult to identify the payee in many situations where fee farm grants applied. The abolition of this measure is a recognition of the need to update the law.

Senator Cummins addressed the question of ground rents. Legislation enacted in recent years has enabled people to purchase ground rents, often at a multiple of the annual rent. This measure was welcomed at the time and has been utilised since then. In many instances, the State, through its various agencies, including local authorities, would have commanded these ground rents in certain circumstances. Many, if not all, local authorities have now made moves to allow people to purchase their freehold.

However, existing legislation and this Bill do not address another issue which is surrounded by many difficulties, some of them constitutional. Much of the old commercial and residential property in many towns across the country, including my own town of New Ross, is owned by estates dating back to colonial days. The Tottenham estate was the local landlord in New Ross. Unfortunately, the fact that these properties are often owned by people who are absent from the area and, in many instances, the country, has given rise to dereliction, blight and a lack of development in many towns. These estates have no interest in or commitment to their properties other than obtaining the rent that is due and, occasionally, maximising the capital value through a sale.

I do not know how this state of affairs can be dealt with because discriminatory legislation, which is desirable, would be involved. I know of many people who have made considerable investments in properties they were renting from these estates only to subsequently find that the freehold reflected the increased and enhanced value which their investment brought about when they came to purchase it. Such a scenario is unfair and should be addressed because it gives rise to blight in many towns, particularly town centres. I am unsure of the best way to deal with this issue. Possibly the issue has not been addressed because it is so complex but there is a very strong argument for doing so to allow people to buy out the freehold of such properties at realistic prices rather than prices which reflect investments they made to enhance and protect the properties they rented.

There is a need to simplify future interest, which is dealt with in part 3. I understand it may be dealt with under trusts of land. This relates to situations where landowners wished to pass land through the male members of the family to keep the family name on the land holding and would try to determine the ownership of the land indefinitely. It has also given rise to significant changes in the entire structure of agriculture, thereby, posing difficulties for people who were in possession of those farms and who may find it difficult to pass them on. Trusts of land, which in the past have been set up to ensure that land is held for the benefit of children, minors and incapacitated persons, will be simplified by the Bill.

Powers of appointment, which are used in family settlements, are reasonably uncommon. It is essential that co-ownership continues. I appreciate what the Minister of State said about the differentiation between joint tenancy and tenancy in common. I welcome the fact that the Bill allows for joint tenancy to be changed in this fashion, subject to the agreement of the various parties to the joint tenancy, so that any expectation an individual might have of acquiring the entire property can be addressed. Tenancy in common is necessary because many businesspeople and families deal with the matter in this fashion and it allows their property interest to be passed on to whoever they wish through their will.

I understand that the Bill will not interfere with the issue of appurtenant rights, although there might be a need to simplify it. Easements are a very common feature of all contracts, particularly where a considerable amount of land is now being released because of the wise decision of the former Minister for Finance to reduce capital gains tax. I believe this decision has released a considerable amount of land for both residential and commercial development and has been a significant driver of our economic development. It is important that legal effect can be given to easements across other parts of land which are retained in the ownership of the original landowner for various services.

It has been recognised that the fact that owners of apartments only possess a leasehold interest in the ground, a situation which management companies enforce through leasehold arrangements like leases relating to apartments, represents an anomaly. Varying conditions, which are enforced legally, can apply in these agreements. Difficulties arose in endeavouring to do this for successors in title for freehold property. This very obvious anomaly has now been corrected by this Bill. I believe everyone would welcome the fact that any easements or positive or negative conditions applying to an agreement would carry through to successors and assigns.

Conveyancing, which the Minister of State addressed at some length, has become exceptionally complex and there is a very compelling argument for simplifying it. The amount of legal documentation which must be completed to convey a house is very significant and the fees involved are commensurate with the amount of work involved. Any measure which simplifies conveyancing is a step in the right direction. In a previous debate in the House it emerged we should try to ensure that the conveyancing of property would not be the sole prerogative of the legal profession. It is undoubtedly an area of expertise, as significant investments are made because land is an expensive commodity.

We want to ensure that all documentation on transfers is correct and not open to challenge due to administrative errors. None the less, it is an area in which matters could be undertaken by others than just those in the legal profession. More than legal expertise is required, namely, administrative expertise. In the not too distant future, I hope this issue will be examined in the interests of bringing competition and consumer protection and choice to the area.

The statutory period of title to be shown on local contracts is to be reduced from 40 years to 20 years, which is a step in the right direction. The issue of mortgages and security thereof is fairly standard. Given the number of mortgages on properties, it is important to protect the financial sector. It is equally important to ensure as much simplification of the area as possible.

[Mr. J. Walsh.]

I welcome that the Minister of State signalled in his speech an emphasis on e-conveyancing, as there should be a greater drive in this regard. From the Law Reform Commission, we know that e-conveyancing can only be effectively done in respect of registered land. The compulsory registration of land, which has been extended to counties Longford, Roscommon and Westmeath from counties Carlow, Laois and Meath, should be accelerated to achieve full e-conveyancing. In conjunction with moving away from the registration of deeds, this would be ideal. Whatever resources are necessary should be invested because a considerable portion of the Exchequer's revenue is derived from property through capital gains tax, stamp duty and corporation tax on developments and the like. The funding stream derived from property should be invested to ensure we have a greater and more efficient system.

Like Senator Cummins, I wish to acknowledge the role played by the Law Reform Commission in this matter. I welcome that the Bill emerged from a partnership between the Department and the commission. Equally, I take on board the Senator's point about previous debates in the House wherein Law Reform Commission reports were not as fully embraced as people in the media suggested they should be. We should not accept willy-nilly everything that comes from the commission. It is imperative that policy is evolved from these Houses and the people elected by the public.

While the commission should have an input and its contributions should be carefully considered, I suspect that attempts are made not just by the commission, but also by some beyond it to define policy rather than having it formed in the Houses of the Oireachtas. I would resist such a step. We have read various reports of the commission that in my opinion were advisory instead of prescriptive in policy terms. We should be careful not to promote a situation in which we take on board everything the commission tables without using our own judgment.

Ms Tuffy: I welcome the Bill, which is a good initiative. I have worked as a conveyancer, which was my main job while a solicitor, and I never encountered a fee tail or lease for life renewable forever. Despite studying them at length in Professor Wiley's book at college, I did not fully understand what they were.

Working with the Law Reform Commission and introducing this type of legislation is a good initiative. I also agree with Senator Jim Walsh's point, that is, the commission's reports are generally advisory. They are to be taken on board and we can use the commission's expertise, but other aspects need to be examined. I made this point in respect of the recently publicised report on sexual offences, as I did not agree with much in that report. Often, the reports are made by professionals, but they do not receive the input of other people in society who have points of view that should be taken on board in terms of legislation. In legislation of this type, that requirement is lessened because the area of land law is specialised and can be complicated. As such, this was the ideal project for the Department to work with the Law Reform Commission.

I will not go into the specifics of the Bill, as they are matters for Committee Stage and I do not know whether I will table amendments. The general purpose of the Bill is welcome. There is a need to reform our land law, particularly the requirement to have as much land registered as possible. This would be one way through which to speed up and simplify the process of conveyancing.

When land is registered, it enables one to determine whether there are any problems with titles and to ensure the matter is dealt with as well as possible, as guaranteed by the Land Registry. When land is unregistered, one is not fully sure. Each time a conveyancer or solicitor deals with the land, the title must be checked and one cannot be sure that a problem has not been missed along the way that could subsequently arise. The more land that is registered, the surer one can feel about one's title, searches will become more straightforward and conveyancing should become cheaper, as solicitor's fees should be lessened. Whether this will be the case is another question.

Other important initiatives will include converting maps to on-line digital formats. Recently, I went to the Land Registry to try to establish the ownership of a number of properties registered therein, but I could not identify the plan numbers in several cases because they had deteriorated over time. I will probably return to the Land Registry. I was surprised, as I had not realised that I would have such a problem. This issue must be addressed, including going through as much of the process on-line as possible and the computerisation of maps to allow searches through them and folios.

On the question of how to have more properties registered in the Land Registry, one method to achieve such was the compulsory registration of land in certain counties. Once those particular counties received this designation, if land therein was exchanged, the next registration needed to be registered in the Land Registry. It has taken a long time for us to go anywhere with that system. In recent legislation, the Minister designated three more counties for compulsory registrations. I agree with Senator Jim Walsh that such actions will not get us anywhere. I am not familiar with the statistics but feel that most land registered in the Land Registry was, as the Minister said, as a result of compulsory registration under the Land Purchase Acts, or was registered by county councils and developers of housing estates.

We need to examine how to register the maximum amount of land in the Land Registry.

Is it possible for the Land Registry to register land which is not owned by county councils or developers and is not in counties designated for compulsory registration or about to change hands? Could a project be initiated to register an unregistered part of Dublin, irrespective of whether it changes hands? It is something we should consider if we are serious about the project. Can the Minister, either in his reply or on Committee Stage, give any statistics as to where is the bulk of the 15% of unregistered land? That should be the next step in drafting the legislation.

There are many other issues in which the State needs to intervene to reform the system. For example, ground rents are a nettle that must be grasped, because they require attention in many areas. One is the fact that many people with leases on houses may not realise there is very little time left on the lease. A bank or financial institution does not consider a lease of less than 70 years to be good title. Many leases around the country are approaching that 70-year limit, but nothing is being done about it. I need to carry out more research but I believe South Dublin County Council transferred the ownership of its council houses on long leases to their former tenants, many of whom are in the category to which I referred. This will cause a problem when those owners sell their property or pass it on to relatives, or when people buy such a property without being aware of the situation. It might not be an immediate problem but could be so in the future, and possibly the not too distant future.

Senator Walsh mentioned joint ownership. When county councils sold properties to its married tenants it was very often to the husband, in accordance with normal practice. People's attitudes have now changed and many of those people are trying to put the house jointly in the names of the husband and wife, for various reasons which reflect the way people now think about house ownership but also to make it easier to pass the property on to relatives. It is much easier on a bereaved spouse if a house is registered in joint names because there is then no need to acquire probate to do so. Under present law, councils have to give their permission for the transfer of a property from the sole name of one spouse, usually the husband, into the joint ownership of the husband and wife, even though they both actually own the house. That is totally unnecessary and, if we want to encourage people to own properties jointly, that law should be repealed.

I welcome the proposals for mortgages to be a charge on a property, whether the property is registered or unregistered. I always thought it strange that a mortgage was registered as a charge on the property in the Land Registry but if it was unregistered the bank or financial institution effectively owned it while it was mortgaged. Can the Minister of State say, either now or on Committee Stage, if he has checked with the Attorney General whether the law which takes away the unilateral right to sever a joint tenancy is constitutional?

Senator Mansergh is present. I too have a degree in history and am very interested in the subject. The system of unregistered title and all the different documents showing conveyances, assignments, etc., provided a little bit of history to anybody who read it, and certainly more so than does a Land Registry transfer. Many of the documents look very nice, have lovely writing and contain nice language, even though it is archaic. It is important to preserve that heritage and I would be interested to learn if any steps are being taken to do so.

Dr. Mansergh: I assure Senator Tuffy that many modern legal documents contain an extraordinary amount of archaic language. One does not have to go into the Registry of Deeds to find archaic language.

I welcome the Minister of State and the legislation. It is another legislative incursion into medieval history and the extraordinarily complex accretion of different types of land law and tenure through the centuries. If one goes into old libraries one will find dusty volumes trying to explain the complexities of it all. On the surface it might look as if James Fintan Lalor's dream of the repeal of the conquest had come true but there are enough clauses to prevent that. Perhaps it will also bring about the abolition of feudalism. Admittedly it deals with the rights of rivers and waterways but I am reminded of controversies in certain parts of the country, such as County Waterford, where modern capitalism joins ancient feudalism to make a formidable combination, particularly as the revolutionary spirit has since died down again.

This Bill is of some personal interest to me. I suppose I am a descendant of one of the 17th century English settlers referred to by the Minister of State. When land was conveyed to myself and my brother 30 years ago, we were told by a solicitor that it was unregistered because, I believe, it was mostly tenant lands which were registered and not necessarily what remained, namely, demesne lands. In theory the land was a type of tenancy of the demesne but, nonetheless, it was unregistered. Obviously, it is sensible to rationalise and streamline these laws.

This brings me to more modern times. Having recently gone through the conveyancing process in respect of a couple of houses in this city, I was struck by how extraordinarily cumbersome it was. Suggestions in a policy sense that this might be simplified, modernised and rationalised were very firmly sat upon by a lately deceased leader of my party. Undoubtedly, it was a very nice earner for the legal profession at the time. It was a complicated process. Having had recent experience of conveyancing, I hope it will become more streamlined and less expensive. With modern technology, there is no reason large fees should be charged for conveyancing.

[Dr. Mansergh.]

If I had a slight reservation about the Minister of State's contribution, it was that it was full of reform of the law, laws of conveyancing and so on. It did not spell out in any detail the advantages to the average citizen engaging in the conveyancing process.

Mr. Coghlan: Hopefully, less time and a reduced cost.

Dr. Mansergh: There is certainly an implication that there will be a saving of time. Less clearly spelled out is whether there will be a saving of money.

It is important that purchasers, in particular, are satisfied and that there is no doubt about previous ownership. I do not dispute that involves some searches but as we know, with modern technology, searches should be rapid, inexpensive and should take relatively little time. I have a suspicion that the solicitoring profession probably makes something of a meal of this process because it is a nice tidy earner. I do not know whether I am representing the interests of my party in that regard but I believe I am representing the interests of citizens. The focus of reform should not only be how one streamlines the process and makes it quicker but it should also be on how one makes it cheaper.

Costs in many areas have come way down — for example, the cost of air travel and telephone calls, particularly long distance or international calls. As a result of modern technology, costs in many areas are now a fraction of what they were. I suspect that should be true of conveyancing. Sometimes one has the feeling that it is not only legislation going back to 1295 which we must address. I have many friends in the legal profession and I have much respect for them. In many ways, they provide a *de luxe*, Rolls Royce service except to the people who would like a simpler, cheaper service but as good and as an efficient a service in practical terms. These are the practices of centuries gone by. They are embedded and have never been subjected to the thorough-going reform which advances in modern technology should make possible.

7 o'clock

I refer to history and echo the point made by Senator Tuffy. Places such as the Registry of Deeds, particularly given what happened to the Four Courts and the Custom House during the revolution, contain an enormous amount of social history. Like much of the archaeology being uncovered by road building, only a little of it has been explored. Local history has really only taken off in the past 20 years. There is undoubtedly enough material available to keep generations of historians busy. Those files or documents should be kept and made accessible.

Since the Minister of State, Deputy Parlon, is in the House, I must also mention that there an irreplaceable historical repository about which we should think. Sensitive in its way as the bureau of military history was, the Land Commission registry contains an enormous amount of social history. As far as I know, it is still blocked and is not subject to a 30-year rule. It is subject to a 100 or 120-year rule and it is time serious thought was given as to how it should be made accessible because an enormous amount of local and social history is locked up in those records.

Mr. Coghlan: I welcome the Minister of State, Deputy Parlon, and his officials. I very much welcome what was said by the Minister of State and by my colleagues, Senators Cummins, Jim Walsh, Tuffy and Mansergh. This Bill amply demonstrates the great value of the Law Reform Commission. It is a most valuable State institution on which, I believe, we would all agree. In fact, we cannot give it enough credit. It has proved its worth time and again down the years. I believe we would all agree the commission's reports have been excellent.

This is a gargantuan achievement and represents law reform on a massive scale. By simplifying land law, it will reduce the duration and cost of conveyancing. We have all had practical experience of the difficulties with that. It was good to hear Senator Tuffy comment on that as a practitioner. It reflects great credit on an expert and active Law Reform Commission and on a genuinely modernising and reforming Minister, and I salute them both and everyone who advised them.

The next step is to move from a paper based system to an electronic one. This Bill, sweeping away as it does seven centuries of outdated feudal laws and simplifying what should be retained, clears the ground for this. Owing fidelity to the Crown has no place in our constitutional, democratic Republic. It never had as far as most of us are concerned but certainly not since the adoption of our Constitution in 1937 or perhaps even the earlier one. If any area of law was in need of reform, the law of conveyancing and property was crying out for it. As my colleague Senator Cummins said, we very much welcome it.

The Minister has been a driving force behind this legislation since his time as Attorney General. I pay tribute to him for that. I also wish to pay tribute to the Law Reform Commission for all the work it has carried out on this important subject. The commission has successfully overseen a major programme of research and investigation into the law that is second to none. Its rate of delivery is sound and, in addition, the commission has produced discerning, considered and detailed reports in so many important areas of law requiring reform. Everything the commission has done is admirable and valuable not only to the Minister and his officials but also to both Houses of the Oireachtas. I salute the commission for its great work. As Senator Cummins said, we should ensure that recommendations by the Law Reform Commission are implemented more

speedily in future. If we do so, we would be doing a great favour to society as a whole.

This Bill is, of necessity, a complex one and for lay people like ourselves it is extremely difficult to peruse. The Minister of State will understand our struggle in that regard as we have not had the Bill for too long. Everyone will welcome the ending of terms such as "fee simple", "fee farm grant" and "fee tail", which meant nothing to the general public. What is being repealed is part of our history and that is where it belongs. With respect, it has been properly dispatched.

The Bill thankfully redresses the situation whereby ownership of land will be absolute for the first time. References to the Crown and other meaningless feudal tenure titles will be gone. We all greatly welcome that measure which is overdue. What is necessary is being retained, which is acceptable.

Section 57 is worthy of note for the new protection it contains for purchasers. Given that there has been a degree of fraud and questionable practice from time to time, the section is an extremely important measure.

The Bill updates the law to accommodate modern conditions. We must take it on trust that it will greatly speed up matters but I believe it will achieve that. It will make the law more easily understood and accessible. In addition, it will simplify the procedures involved in the conveyancing process to reduce delays and associated costs. People have had to put up with seemingly needless searches for title in transactions but in this day and age people need to get on with matters. Once ownership is properly recorded and registered, and we have clarity and expediency, that should be it. I travel in hope because that is what we all believe the Bill will do.

The Bill's provisions will extend the registration of title system in the Land Registry and will facilitate the introduction of e-conveyancing as soon as possible, which is to be greatly welcomed. I would sound a word of caution on e-conveyancing, however, which will not be deliverable overnight, or even in the next year or two. While it will take some time, it is to be welcomed as a goal towards which we are heading.

Property transactions are major revenue earners for the State, so the more we can do to speed up the process the better. Having all land, maps and folios on the one system will be a big relief compared to dealing with registered and unregistered land as in the past. Some counties had different systems, which I was unsure of until I heard some of the earlier comments. In a small country such as ours, we should be much tidier in these matters and, please God, we will be so. In any dealings with which I was associated, I never understood all the bundles of frayed, musty and mouldy documents wrapped up in ribbons. Solicitors took time to deal with them, which would drive one crazy. I would almost say it would drive one to drink. People want to get on with the job and once they are satisfied about it, they do not want their solicitors putting obstacles in the way, although the process was so archaic that is what people often felt was happening.

There is a famous story told about two solicitors who had a problem because of a bundle of documents. One solicitor was allegedly acting on both sides. Given our litigious nature, he saw the matter was heading somewhere else. Therefore, he wrote a note for one client to bring to a pal who was a solicitor colleague in the same town. The note stated, "Look, there's one for me and there's one here for you to pluck as well". When the client discovered it they went to a pub and I will not tell the House what happened after that. Hopefully we will get away from such situations as a result of this legislation.

We all have friends in the legal profession and, as I understand it, in fairness, they also welcome the Bill. Although I think Senator Mansergh was hoping otherwise, I have no doubt it will still be a nice earner in some way for most of them.

Senator Mansergh made an important point in talking about the great social history involved in land records. We must of course ensure that they are not lost. I have no doubt that historians and others in our museums and other great institutions will take care in that respect.

The Bill is practical, clarifying, pragmatic and modernising. We fully endorse this measure and wish it well.

Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen): I thank Senators for their contributions to the debate on this quite complex legislation. It is a large and technically complex Bill which manages to cover many important areas of land and conveyancing law in considerable detail. We all recognise the importance of the subject matter, as well as the need to bring this area of law up to date so that it can accommodate changing needs and modern conditions.

On Committee Stage, there will be an opportunity to delve into the detail in a manner which is not possible on Second Stage. Prior to Committee Stage, the Minister will give full consideration to the issues that have been raised here. Some of them may be more relevant to other associated areas of law rather than this particular Bill. In this connection, the Minister has asked me to say that he has already written to the Chairman of the Joint Committee on Justice, Equality, Defence and Women's Rights, Deputy Ardagh, suggesting that the joint committee might welcome a technical briefing from the delegation, including Professor Wylie, which made a presentation on the earlier Law Reform Commission consultation paper in November 2004. Such a briefing would provide an opportunity to discuss and clarify aspects of the Bill prior to Committee Stage in the autumn.

Everyone who buys a house or an apartment gains experience of the conveyancing process. As Members have said, it is often a frustrating

[Mr. Killeen.]

experience, marked by delays, inconvenience and unexpected costs. At this stage, however, I wish on my own behalf and that of other Members of the Oireachtas, to thank the personnel of the Land Registry for their courtesy and help in having matters expedited. Our experience has been that they are particularly helpful and I pay tribute to them in that regard.

The aim of the Bill is to simplify and clarify the law and streamline the procedures involved. This will help to demystify the conveyancing process and reduce the delays and costs involved for house buyers.

As Senator Coghlan noted, it is no wonder that as this subject is currently presented in feudal terms and, more particularly, presented in frayed ribbons, many stories are attached to it. Anyone who has been in either of the Houses for any length of time will have stories for their memoirs, most of which they cannot tell while they intend to be candidates as it might not be good for their political careers. There are wonderful stories. I can think of a particularly good one which involves two former Members of the other House. It is one of the funniest stories I have ever heard in regard to a Land Registry transaction.

As the Minister of State noted, the long-term objective is electronic conveyancing. Much work remains to be done before it becomes a reality but the combined impact of the recently enacted Registration of Deeds and Title Act 2006 and this Bill will go a long way towards making it a practical and feasible target. Ultimately, all those involved in transacting property-related business will have their business conducted much more quickly than heretofore and, hopefully, at more reasonable cost, which is an aim to which we all aspire.

The Bill, particularly taken in tandem with the Registration of Deeds and Title Act 2006, has the capacity to make a significant improvement to people's lives. For most people, this would apply when they are building their house and, therefore, would be a one-off event. However, the process was heretofore frustrating and expensive. The two pieces of legislation will serve to make it easier and more user-friendly.

I thank Members for their contributions. Undoubtedly, Committee and Report Stages will lead to further consideration of the issues involved.

Question put and agreed to.

Sitting suspended at 7.15 p.m. and resumed at 7.30 p.m.

National Economic and Social Development Office Bill 2002: Committee Stage (Resumed).

Sections 15 to 17, inclusive, agreed to.

SECTION 18.

Mr. Ryan: I move amendment No. 4:

In page 13, lines 9 to 11, to delete subsection (14) and substitute the following new subsection:

"(14) Not less than 40% of the members of a Body shall be men and not less than 40% shall be women.".

The Cathaoirleach is proceeding very fast. In Ireland we always aspire to what is regarded as the best. We are discussing a series of bodies that to a large extent, though not exclusively, will ensure we have a society in addition to an economy, with all that implies in terms of family, free time, leisure, education and so on. Yet, we are prepared to contemplate a position where a minority, or perhaps none, of the members of any of the bodies would be female. This is unacceptable to my party and to myself. Incidentally, what is acceptable to my party and what is acceptable to me do not always overlap. I am disappointed that no reference is made in the Bill to a particular percentage of women that must be members of each body and so we move this amendment.

One of the most peculiar decisions of recent times was the omission of women from the original board of supervisors of the national pension fund, despite women needing pensions more than men because they tend to live longer. I do not believe this was because there were no suitably qualified women, it was because the area of high finance is a macho, male-dominated area of society. More business deals are probably struck in men-only golf clubs than anywhere else. It is a pity that something as soft-focused as this, however important it might be, does not provide for specific quotas. I look forward to the Minister of State at the Department of the Taoiseach, Deputy Tom Kitt, explaining why women are important and should be on these boards but do not require a quota guaranteeing a certain level of presence.

Mr. Bradford: I support Senator Ryan's comments. In a sense this amendment highlights the disappointing lack of progress on broad issues of equality. It should not be necessary to prescribe quotas, but appointments across a range of boards and bodies indicate that women are not receiving a fair allocation of such jobs. This type of amendment should be considered and enacted as an interim measure and to set down a marker. If we seek to create a fair and equal society women must play a full part. We celebrated 1916 in a formal fashion some weeks ago and we cannot avoid the fact that the State had founding mothers and founding fathers. We must ensure the role of women is fully recognised and Senator Ryan's proposed amendment to this Bill is reasonable and fair. I look forward to the Minister of State's response because it will be difficult to justify ruling out this amendment and to do so would almost rule in discrimination.

Minister of State at the Department of the Taoiseach (Mr. T. Kitt): I understand the points of view expressed by the Senators and this issue has arisen before. I agree with much of what has been proposed however the problem is it may be somewhat impractical. I am confident we can work towards the equitable balance referred to in the Bill.

Appointments to a body may not always be at the discretion of the Government as they may be nominees of representative bodies. Given those circumstances I cannot accept the amendment. When this issue was raised on Committee Stage in the Dáil, I undertook to ask the Taoiseach to write to the nominating bodies to convey the views of the select committee on the matter of gender balance. I wish to advise that such a letter issued on 31 august 2005. I note that the board of the National Economic and Social Development Office consists of three women and three men which gives 50% representation to women. Not all bodies are as good as that. In my time as Minister of State at the Department of Enterprise, Trade and Employment, with special responsibility for labour affairs, consumer rights and international trade I had a role in making appointments and I endeavoured to work towards gender balance. To the best of my knowledge every Minister or Minister of State who is in such a position does that. In some areas one is effectively asking a nominating body to nominate a person. It is difficult to deal with that issue. Does one ask one body to nominate a female member and another body to nominate a male member? That is one of the practical problems. I cannot go any further than to reassure the House that the Government is aware of the position. The Taoiseach has written, as requested by Members of the other House from the Senator's party, to the nominating bodies to convey the views of the select committee on gender balance.

Mr. Ryan: I am not addressing this issue to the Minister of State, Deputy Tom Kitt, with whom I get on well, but I am always amazed at the way in which the Government can understand the positions of the powerful but as one moves down the chain of power in society can go into a position of absolute rigidity. I recall the Government's decision to exempt itself from any of the provisions of the Freedom of Information Act while insisting that everybody else at lower levels in the food chain were subject to the full rigours. The amendments introduced were entirely about the inconvenience to Government of aspects of it but everybody else had to accept the full rigours. Some years ago the staff of the Cork Institute of Technology were allowed to elect two members to the board of management. At that time the staff was approximately 95% male and 5% female — the gender balance has since improved — and the Department of Education and Science instructed that of the two members to be nominated to the board of management one had to be a man and one had to be a woman. There was no understanding of the complexity of the difficulties. It would be a shock to IBEC and ICTU if they were told to sort out the matter among themselves and ensure they had an arrangement whereby at least 40% of the board was female. This matter will continue until somebody says there is one major teacher union where the membership is probably 75% female and the national executive is approximately 75% male. It may be that women have more sense than to become involved in this area and sometimes one suspects that is the reason, but at the same time it is disappointing. While I do not believe in quotas, there are areas of society, particularly in the ranks of the employers' group, where women are excluded. A significant part of the real business of organisations such as IBEC is done outside of the official boardrooms and, perhaps, in golf clubs where women are not permitted to be members. Let us talk through the implications of this. It means they have places they can meet where they will not have to meet women and where there are people with whom they want to deal as equals. I will not make a huge song and dance about this because the point is well made and I do not want to embarrass a decent man further.

It is entirely wrong in respect of a body which is meant to focus on the future and provide an image of how we want to use our prosperity that we cannot say that 40% of the membership of the various bodies mentioned here should be female. That is the issue. We know there is no prospect of its being 75% female although perhaps it should be. Many of the issues that are most pertinent in Irish society are issues that are pertinent to women, particularly child care and work-life balance which are two of the biggest social issues facing the country.

Mr. Moylan: One could agree with much of what Senator Ryan said. However, the matter is spelled out as clearly as one can spell it out in the Bill. The Minister of State said that the Taoiseach said that in so far as practicable, having regard to the relevant experience, one must ensure that an equal balance between men and women forms the composition of the body. It is important that people take on board what the Minister of State said in regard to nominating bodies. If he were to spell out to nominating bodies that were to nominate three females, two females, or whatever, people would get on their high horse and say they should not be told who to nominate because they would nominate the best people for the board. There is much in what Senator Ryan has said and he put it well. However, it would be difficult to put it into a Bill. The best balance is contained in the Bill.

Mr. T. Kitt: In a spirit of——

Mr. Ryan: Partnership.

Mr. T. Kitt: ——openness and the debate so far I genuinely empathise but empathy is not great is this case. Certainly I can stand over decisions I made in the area of gender balance in previous Ministries. Following on from what Senator Moylan has said the Taoiseach's letter, which can be accessed by Members, refers to a requirement on all nominating bodies to State boards to nominate both male and female members for such appointments. The letter ends by stating that the Government is committed to a policy of gender equality in making appointments to State bodies and State boards. In the letter, which was written by his private secretary, the Taoiseach has asked that a nominating body, under the NESDO Bill, wherever possible one would take this as well as the views of the select committee and the Government decision — and obviously the debate here — into consideration when nominations are sought in due course. This objective has the support of the Taoiseach's message as a result of the debate in the Dáil, which has been replicated here. I am confident this issue will be taken seriously and we will certainly monitor it.

An Cathaoirleach: Is the amendment being pressed?

Mr. Ryan: We will come to that and decide on it. Perhaps the Minister of State will indicate the gender balance of the NESC, the forum and the other bodies?

Mr. T. Kitt: I had asked to see the percentages. The NESDO board has 50% female representation, the NESF board has 43.5% female representation, the NESC board has 18.75% female representation, the NCPP board has 35.7% female representation and the NESDO staff has 48% female representation. In summary female representation on the NESC board needs to improve.

Mr. Ryan: This country was embarrassed approximately two years ago when we were *de facto* suspended from the parliamentary forum of the Council of Europe because there was not a single female member on the delegation. The more enlightened European view was that we would not be allowed to vote. We acted because we were told to not because we were asked as I am sure this did not arise out of the blue. It was decided there were other reasons to ignore it. All the political parties ignored it. My parliamentary party is 40% female which is unique in Irish politics and we did not nominate a woman. I am not making a party political point but it was done because that body is regarded as one of the rewards for silent backbenchers or disappointed frontbenchers, I am not sure which.

Amendment, by leave, withdrawn.

Section 18 agreed to.

Section 19 agreed to.

SECTION 20.

An Cathaoirleach: Amendments Nos. 4*a* and 4*b* are related, and amendments Nos. 4*c* to 4*e*, inclusive, are consequential on amendment No. 4*a*. Therefore, amendments Nos. 4*a* to 4*e*, inclusive, may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 4*a*:

In page 13, subsection (2), lines 40 to 42, to delete paragraph (*a*) and substitute the following new paragraph:

"(*a*) paragraphs (*a*) and (*b*) do not apply to a member of the Forum to whom *section 15(3)(a)* applies who is nominated as a member of Seanad Éireann or is elected as a member of either House of the Oireachtas, and".

Mr. T. Kitt: Are all the amendments grouped?

An Cathaoirleach: Yes.

Mr. T. Kitt: I thank Senator Ryan for bringing a particular matter to my attention, and my officials have done some work on it. I hope what we have done will be to the Senator's satisfaction. Some of the amendments brought in are minor, but one is substantial and came about as a result of what Senator Ryan highlighted.

I thank the House for the opportunity to make these amendments. Before I go on to deal with the individual amendments, it should be explained that they all deal with section 20 of the Bill. This section disqualifies persons who are Members of the Seanad, Dáil or the European Parliament, or a local authority, from being members of the council, forum or centre. It also requires that members of these bodies who become public representatives must cease such membership on being elected or nominated.

An exception must be made in the case of the forum, as section 15(3) of the Bill requires that 15 members of the forum shall be Members of either Dáil Éireann or Seanad Éireann, and also that between three and five must be representatives of the local government system. That exception is contained in subsection (2) in the case of persons already Members of one of these bodies and in the new subsection (5) in the case where a person is being nominated for membership.

With regard to the individual amendments, amendment No. 4*a* proposes a small but important change to section 20(2)(*a*). This subsection makes an exception in the case of the forum to the requirement contained in section 20(1) that a member of the council, forum or centre who becomes a public representative must cease to be such a member. The amendment in question is required to include Senators who are

nominated, in addition to those who are elected. That is relatively straightforward.

The purpose of amendment No. 4*c* is to delete the words "member or" from subsection (4). The Parliamentary Counsel has advised that these words are superfluous.

Amendment No. 4*d* is required to refer subsection (4) to a proposed new subsection (5). This is the more substantial amendment. This new subsection is proposed in amendment No. 4*e*. The proposed new subsection makes an exception for persons who are for the time being entitled to sit in either House of the Oireachtas, and to whom section 15(3)(*a*) applies, from being disqualified from membership of the forum. This is an important amendment, as otherwise there would be a contradiction in the Bill between section 15(3), which defines the composition of the forum and requires that 15 members of the forum shall be Members of Dáil Éireann or the Seanad, and section 24, which would otherwise disqualify elected Members from membership of the forum.

I again thank Senator Ryan for bringing the matter to my attention. I am bringing forward a comprehensive amendment to resolve the issue. In addition to Senator Ryan, I thank Senators O'Meara, McDowell, Tuffy and McCarthy for tabling their amendment. I hope they will withdraw the amendment in light of my comprehensive amendment.

Mr. Ryan: I did not think this was a confrontational issue, and that is the reason I brought this matter to the Minister of State's attention before we began. The whole system involved is very central to our attempts to institutionalise partnership. It is a matter about which much debate is still required. I did not want to begin an argument. I appreciate the thought. Circumstances outside our control intervened to give some more time for reflection. I have no problems in withdrawing my amendment. Who am I to argue with the wisdom of the Parliamentary Counsel?

Amendment agreed to.

Amendment No. 4*b* not moved.

Government amendment No. 4*c*:

In page 14, subsection (4), line 20, to delete "member or".

Amendment agreed to.

Government amendment No. 4*d*:

In page 14, subsection (4), line 21, to delete "Forum" and substitute "Forum (subject to *subsection (5)*)".

Amendment agreed to.

Government amendment No. 4*e*:

In page 14, between lines 23 and 24, to insert the following new subsection:

"(5) *Subsection (4)* does not apply to a person, who is for the time being entitled under the Standing Orders of either Houses of the Oireachtas to sit therein, to whom *section 15(3)(a)* applies being appointed under *section 15(2)* as a member of the Forum.".

Amendment agreed to.

Section 20, as amended, agreed to.

Sections 21 and 22 agreed to.

SECTION 23.

Question proposed: "That section 23 stand part of the Bill."

Mr. Ryan: I accept this body is covered by the Freedom of Information Act. All the bodies will be covered. I am not happy that the definition of "confidential information" contained in this section is "information that is expressed by the Office or the Taoiseach to be confidential either as regards particular information or as regards information of a particular class or description". I believe it should state "Office of the Taoiseach". I do not wish to be pedantic about such matters.

This is an issue worthy of a little debate. I am not happy that the bodies are set up to report to the Taoiseach. It would be much better if they reported to the Oireachtas through the Taoiseach. Does this mean that if the Taoiseach did not like the contents of a particular report, he or she could classify it as confidential? It would therefore be delayed at least until a freedom of information request was made, and the usual three months or so go by.

I have no problem with confidential information being kept confidential, and nobody else would have either. I am not very happy that confidential information is information defined as such by the Taoiseach's office. Perhaps it is another office. I apologise, I am wrong. The Bill refers to "the Office or the Taoiseach". Both can state that information is confidential. I presume the Bill is referring to the National Economic and Social Development Office, which can express information as confidential. The Taoiseach can do likewise. I am mistaken.

I do not like the idea that anything stipulated by these two entities would be confidential. I will not make a big issue out of the matter. I wish we could provide something better. Subsection (2)(*b*), referring to commercial information, clearly has a good reason as such information is often confidential. Any other type of information should be subject to some test. Any material which is clearly covered by the Freedom of Information Act should automatically not be confiden-

[Mr. Ryan.]

tial. There should be no blanket capacity to express any information as confidential.

Mr. T. Kitt: There is no mistake.

Mr. Ryan: I accept that.

Mr. T. Kitt: The Bill should read as it is, namely, "expressed by the Office or the Taoiseach to be confidential". I realise the Senator has no amendments tabled on this section. Similar language applies to other such initiatives. The section states:

> . . . a person shall not, without the consent of the relevant body, disclose any confidential information obtained by him or her while performing, or as a result of having performed, duties as—
>
> (*a*) a member of a Body,
>
> (*b*) a member of the staff of the Office (including the Chief Officer and Director),
>
> (*c*) a member of a committee,
>
> (*d*) an adviser or consultant to a Body.

It also defines "confidential information" and sets out the level of fine payable on summary conviction. It is designed to prevent the improper disclosure of information to ensure confidentiality in the workings of the office. I presume these conditions would apply in most similar organisations.

Dr. Mansergh: It is an interesting point worth discussing. In the past, we have had the National Economic and Social Council and the National Economic and Social Forum which have comprised civil servants and nominees. In practice, the likelihood of an agreed report emerging which is totally objectionable to the Government is very slight. If it is creative, it may go beyond Government policy. It may be beginning to push out the boat. A number of speakers have recalled, for example, that the NESC report of autumn 1986 set out a type of blueprint for what subsequently became the Programme for National Recovery. A great deal depends on the word "confidential". People who are involved in the forum may have other roles and some information may come to their attention which they did not know but which may not be confidential, that may be from the CSO or hidden in some report, and presumably it is possible to use that.

8 o'clock

It is not especially helpful on many occasions to have reports leaked in advance. I do not think there is any precedent whereby reports by the NESC or the NESF have been sat on and not published. It is certainly the case sometimes that consultancy reports to Ministers which have come up with findings that are not acceptable or palatable have not always been published. Sometimes they also contain confidential commercial information. The fears expressed by Senator Ryan do not really apply to this body, as composed, and given the track record of its predecessors.

Mr. Ryan: I do not wish to hold up the House unnecessarily but this is almost a standard clause which appears in every item of legislation I have seen for the past 25 years. Let us suppose the office decides that a certain matter is confidential, does that mean the Taoiseach's nominees cannot discuss it with the Taoiseach, and if it does not mean that, what does it mean? I use the Taoiseach as an example, it could also be ICTU or IBEC.

Dr. Mansergh: Surely "disclose" means publicly disclose? Confidential information is discussed all the time between members of bodies and with taoisigh, Ministers and so on. "Disclose" must be clearly understood as publish.

Mr. Ryan: Then why does it not state publish?

Mr. T. Kitt: To add to what Senator Mansergh said, there is another safeguard. The section states: "Save as otherwise provided by law", which also covers the Freedom of Information Act. Other protections exist but, as Senator Mansergh stated, in this case the reference is to public disclosure.

Question put and agreed to.

Sections 24 to 34, inclusive, agreed to.

SECTION 35.

Question proposed: "That section 35 stand part of the Bill."

Mr. Ryan: I oppose the section. The rhetoric of partnership involves consensus, consultation and everybody holding hands and being sweet with each other. Therefore, it is surprising to come across a section which states "The Taoiseach may, after consultation with the Office and any relevant Minister of the Government who has representation on the body concerned, by order dissolve the Council, the Forum, the Centre or any body." Section 35(2) states "An order...shall contain such provisions as the Taoiseach thinks necessary."

The proposed legislation comprising 42 sections has taken four years to pass through the Houses of the Oireachtas to set up three or four bodies — I can never figure out how many — plus any other bodies, yet the Taoiseach can dissolve any of them by a stroke of his pen. I do not suggest malevolent intent but I would like the Minister of State to explain why this must be done by order rather than by amending legislation. I can understand procedural issues may arise or there may be a need to replace members and so on but at the very least we ought to have a statutory instrument which would require the

approval of both Houses of the Oireachtas to do this.

The measure is probably legal and constitutional but it is dubious in terms of the spirit of the Constitution to have a series of bodies set up by statute that can be abolished by order of the Taoiseach.

Dr. Mansergh: Is "dissolve" the same as "abolish"? When one dissolves the Dáil, one does not abolish it, one simply sets in motion a procedure viz., a general election to provide one with a new Dáil. Does "dissolve" mean to dissolve the existing membership in order to put in a new membership?

Mr. T. Kitt: I thank Senator Mansergh for clarifying one aspect of this matter. We are talking about dissolution. There is nothing unusual about this measure. Section 35 states "The Taoiseach may, after consultation with the Office and any relevant Minister of the Government who has representation on the body concerned, by order dissolve the Council, the Forum, the Centre, or any body established under *section 7*."

It is entirely appropriate that the Taoiseach shall have the right to dissolve a body if the circumstances altered its role or if agreement to this effect were reached in the context of social partnership. As the bodies will all have a statutory basis following the enactment of the Bill, there is a need to have a section which would facilitate their dissolution, otherwise they would exist indefinitely and, in any event, an order to dissolve a body would require the prior approval of each House of the Oireachtas under section 4 before it could be adopted. Accordingly, I cannot accept the proposed deletion.

Mr. Ryan: All right.

Question put and agreed to.

Sections 36 to 42, inclusive, agreed to.

TITLE.

An Cathaoirleach: Amendments Nos. 5 to 8, inclusive, are related and, therefore, will be discussed together by agreement. Is that agreed? Agreed.

Mr. Ryan: I move amendment No. 5:

> In page 5, line 8 after "AS" to insert "OIFIG NÁISIÚNTA D'FHORBAIRT EACNAMAÍOCH AGUS SHÓISIALACH, OR IN THE ENGLISH LANGUAGE".

Tá súil agam go bhfuil a fhios ag an Tigh go mbím dáiríre i gcónaí faoi thábhacht na teanga agus faoin tábhacht a bhaineann leis an tsiombalaíocht a théann leis an dóigh a láimhseálann muid í. De ghnáth, the tradition and the practice is to insert the Irish title of the office into the Long Title. I am somewhat confused as to what is the Government's position because the Long Title of the National Sports Campus Development Authority Act contains both the English and Irish names. In the Registration of Deeds and Title Act, the Property Registration Authority, An tÚdarás Clárúcháin Maoine, is also mentioned in the Long Title as well as in the text of the Act and the Road Safety Authority Act also refers to the authority in both languages in the Long Title as an tÚdarás um Shábháilteacht ar Bhóithre. I am at a loss as to what is the policy, or does it depend on the peculiar mood of a particular person in the drafting office?

It would be useful to establish a standard practice in this regard. There is no convincing reason not to adhere to best practice, which is to refer to both of our constitutionally recognised languages in the Long Title, for which there appears to be plentiful precedent. It is a pity this is not the case. Any Minister in this or any alternative Government would agree with such an approach but it seems some unknown persons has advised it is not necessary. Although I accept this is the case, it is nevertheless appropriate. Tá dhá theanga aitheanta ag an mBunreacht sa tír seo a ndeirimid go dtabharfaimid tacaíocht dóibh. Part of this is to give the Irish language appropriate acknowledgement.

Although I hesitate to mention his name given the mayhem he brought on the Government some weeks ago, Mr. Justice Hardiman has pointed to the need to have legislation translated expeditiously into the two languages. It is an excuse I rarely use when discussing legislation but I point out that I am not a lawyer as I wonder what is the legal basis for the inclusion of a Long Title. If there is such a legal basis, the Long Title should include a reference to the two official languages. I hope the Minister of State can offer some reason for this omission other than the mere observation that the inclusion of such a reference is not necessary. I do not have the legal knowledge to say it is necessary but I believe it is profoundly appropriate.

Mr. T. Kitt: Níl aon ghá glacadh leis an leasú seo a bhaineann leis an Teideal fada. Tá sé ar leathanach 6. The advice from the Parliamentary Counsel is that the reference made to the Irish Title on page 6 is sufficient. It is not proposed to amend the Long Title as it merely details the scope of the Bill. That is the advice from the Parliamentary Counsel.

The Senator made some interesting observations in regard to other legislation. We have debated consolidation Bills and other legislation in this House where we have tried to achieve uniformity. The advice I have, however, is that the reference in section 6, on page 6, is sufficient.

Dr. Mansergh: I presume the purpose of a Long Title is to enable persons consulting a volume of legislation to see at a glance the purpose of a particular Bill.

Mr. Ryan: I do not wish to be pedantic or silly about this but in the context of the Official Languages Act 2003, it is offensive that the Long Title does not include a reference to the Irish language Title of the Bill. This means the people of the Gaeltacht and others in the Irish speaking minority must search through the Bill for it.

I do not wish to be rude in making another point in this regard. If the Government Chief Whip cannot ensure that the Office of the Chief Parliamentary Counsel adopts a consistent position on the use of the Irish names of State bodies, he should reconsider his role. An instruction from the Chief Whip with the authority of the Taoiseach to the effect that all Long Titles must include both the English and Irish versions of the names of the agencies to be set up would finally resolve this issue. As I said, I cannot argue that such an inclusion is necessary, but its omission is extremely inappropriate. It is a great pity that some unelected person has made this decision.

Dr. Mansergh: As King Lear said, "reason not the need". The point is that the Short Title on the front page of the Bill is paramount; the Long Title is merely a subsidiary title. That much should be said in defence of the Minister of State.

Mr. Ryan: I do not wish to delay the House. I only want to make the point that there should be consistency in this matter.

Amendment, by leave, withdrawn.

Amendments Nos. 6 to 8, inclusive, not moved.

Title agreed to.

Bill reported with amendments.

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

Mr. Moylan: Tomorrow.

Report Stage ordered for Wednesday, 21 June 2006.

An Cathaoirleach: When is it proposed to sit again?

Mr. Moylan: Tomorrow at 10.30 a.m.

Adjournment Matters.

Special Educational Needs.

Ms Tuffy: What are the schemes a parent of a child in a special needs school might access during the summer school holiday period to ensure continued classes, tuition, supports and so on? Can schools be requested to continue classes for the child concerned and on what basis?

Minister of State at the Department of the Taoiseach (Mr. T. Kitt): I thank Senator Tuffy for affording me the opportunity to outline the position regarding the July education programme. The support package of the Department of Education and Science for the July education programme is available to all special schools and mainstream primary schools with special classes catering for children with autism which choose to extend their education services through the month of July. The Department also provides for a July programme for pupils with a severe or profound general learning disability.

All relevant schools are encouraged to participate in this initiative in the interest of the children in question. Participation in the scheme is optional for schools and home-based tuition is offered as an alternative for pupils attending schools which choose not to provide a school-based programme.

The support package to participating schools includes special, nationally agreed rates of remuneration for teachers and special needs assistants involved in the programme. Enhanced capitation rates are paid in respect of pupils availing of the programme. Funding is also available to facilitate the provision of school transport and escort services for the children. All relevant schools were advised of the detailed funding arrangements applicable to the July education programme when the service was introduced in July, 2001.

There has been a steady increase in the number of schools offering the July programme, from 38 schools providing a service for 550 pupils in 2002 to 64 schools providing a service for 987 pupils in 2005. The numbers of pupils participating in the home-based programmes have also increased from 116 in 2002 to 933 in 2005.

I hope this clarifies the position for the Senator and I thank her once again for raising the matter with me.

The Seanad adjourned at 8.25 p.m. until 10.30 a.m. on Wednesday, 21 June 2006.