

SEANAD ÉIREANN

—
Dé Céadaoin, 5 Iúil 2006.
Wednesday, 5 July 2006.
 —

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

—
Paidir.
Prayer.
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Message from Dáil.

An Cathaoirleach: Dáil Éireann has passed the Defence (Amendment) Bill 2006, without amendment.

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 Agriculture and Food to indicate the number of submissions that have been received regarding restructuring aid in the context of the reform of the EU sugar regime and when she plans to make a decision on same; and the factors she will take into account when deciding the compensation to be paid to the different groups affected by the closure of both the Carlow and Mallow sugar plants.

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

The need for the Tánaiste and Minister for Health and Children to establish the reason the capital development project at Ennis General Hospital has not proceeded to the planning application stage in line with the projected schedule.

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

The need for the Tánaiste and Minister for Health and Children to clarify when the Alzheimer's unit will be constructed at St. Ita's Hospital, Newcastle West, County Limerick.

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

The need for the Tánaiste and Minister for Health and Children to release €2 million to Beaumont Hospital for a living donor transplantation programme; if this has been delayed due to concerns by the HSE in regard to the

hospital's financial position; and if the HSE wants to ensure that the €2 million is ring-fenced for a living donor programme.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Browne, Dooley and Finucane and they will be taken at the conclusion of business. Senator Feighan may give notice on another day of the matter he wishes to raise.

Order of Business.

Ms O'Rourke: The Order of Business is Nos. a1, 1 to 3, inclusive, and 25, motion 19. No. a1 is a motion in respect of the referral of the report of the independent commission of inquiry into the bombing of Kay's Tavern in Dundalk to the Joint Committee on Justice, Equality, Defence and Women's Rights for consideration, to be taken without debate; No. 1, Investment Funds, Companies and Miscellaneous Provisions Bill 2006 — Order for Second Stage and Second Stage, to be taken on the conclusion of the Order of Business until 1.30 p.m.; No. 2, the Institutes of Technology Bill 2006 — Second Stage, to be taken at 2 p.m. and to conclude not later than 5 p.m.; No. 3, the Hepatitis C Compensation Tribunal (Amendment) Bill 2006 — Second Stage, to be taken at 7.15 p.m. and to conclude at 9.30 p.m.; and No. 25, motion 19, to be taken from 5 p.m. until 7 p.m. In the case of Nos. 1, 2 and 3, spokespersons have 15 minutes and other Senators ten minutes, and the Minister will be called upon to reply not later than ten minutes before the conclusion of Second Stage. There will be a sos from 1.30 p.m. to 2.30 p.m.

No. a1 on the Supplementary Order Paper is the fourth and final report from the independent commission of inquiry. Previous reports covered the Dublin and Monaghan bombings of 1974, the Dublin bombings of 1972 and 1973 and the murder of Seamus Ludlow. The main focus of this report is the bombing of Kay's Tavern in Dundalk in 1976 in which two men, Hugh Waters and Jack Rooney, were killed. It also makes reference to other attacks by loyalist paramilitaries in the same period which the judge deems relevant in providing a broader context for his findings.

Mr. B. Hayes: The independent commission whose task it was to examine e-voting issued a substantial report yesterday. It concluded that although the machines to be used for elections were fine, the system software that would ensure the correct functioning of those machines was defective. My opposition to this project from the beginning was based on the fact that it was not an all-party proposal. The Government can only change a fundamental part of our electoral system if it does so on a cross-party basis. Otherwise, the entire system is subject to ridicule. Instead of producing this Cabinet sub-committee that will study the matter again, for about the

[Mr. B. Hayes.]

fifth time, could it make a definitive decision on this situation over the summer months? There cannot be confidence in the electoral system unless all parties participating in that system give it their full support. This has never happened in the case of e-voting. If the Government wishes to change the system of voting, I request it put it to a referendum. The Irish people are happy with and have confidence in the current system. It may be slow, arduous, protracted and so on, but there is confidence in it and anything that undermines confidence in the electoral system is negative and we must ensure this does not happen.

We were told that the introduction of e-voting would lead to substantial reductions in the costs of running elections. Some €55 million has now been spent on this initiative. What could have been built with that money? We could have built 20 four-teacher schools or advanced many other projects. There has been no political accountability relating to the decision taken by the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, one lonely day in his office when he dreamed up this fiasco. It is time the Government came to a definitive decision on the matter and rather than meeting in conclave over the summer it should publicly state there will be no electronic voting system for the next general election and beyond.

Mr. Leyden: Senator Hayes has made his point.

Mr. B. Hayes: We are dealing with serious issues at the moment, we will come to Senator Leyden shortly.

An Cathaoirleach: Senator Leyden will have an opportunity to speak later.

Mr. B. Hayes: I thank the Leader for putting on the record of the House yesterday that only the Dáil needs to give its approval before the Government proceeds with the flotation of Aer Lingus. Would she agree that the Minister for Transport, Deputy Cullen, who will present this motion to the Dáil tomorrow, should make himself available to this House to take questions for an hour or an hour and a half to take questions on this issue, irrespective of statements on the issue? At the very least, the House should be afforded the opportunity to put direct questions on the viability of the proposal to the Minister. This would give the Government and Senators an opportunity to have their say before this decision is taken over the summer.

Mr. O'Toole: The request made by Senator Brian Hayes to have the issue of e-voting dealt with on an all-party basis is a very generous and reasonable one. This is an extraordinarily embarrassing situation for the Government and some of the Members of this House, who had no political

interests in the issue, made the same request last year.

The issue of An Taisce's response to applications for planning permission has been frequently raised by Members on both sides of this House, including Senator MacSharry and others. There is a perfect example given in today's newspapers. Whatever one may say about Fintan O'Toole, nobody would argue that he is anything but democratic and caring with a strong commitment to the environment. I will not comment on the value of individual planning applications, I am merely presenting an example. Mr. O'Toole put forward an application for planning permission through a due and democratic process for open consideration. This application has been described by An Taisce as criminal. This illustrates the irresponsible attitude of An Taisce. Fintan O'Toole has supported An Taisce for many years.

This is a classic example of the extreme lack of moderation in An Taisce's responses and it also illustrates why democrats and environmentalists like Mr. O'Toole and others are appalled by the approach taken by this organisation time and again. It shows why ordinary people feel persecuted by An Taisce when they make reasonable applications in the interest of themselves and their families and why rural resettlement groups and other rural groups cannot cope with An Taisce's attitude. Describing a fair, honest and open application for planning permission, like that of Mr. O'Toole, as criminal reflects on an irresponsible group that needs to be taken to task. We do not need this kind of help in protecting our environment. I make no comment on the particulars of Mr. O'Toole's application, I know nothing about it, except that it was made through due process.

Mr. Ryan: Regarding electronic voting, it is almost a case of the less said the better. It is an embarrassment to a country that would see itself as a leader in the field of e-government. The Government now knows that the computers, or e-voting machines, work. Big deal, what an achievement. One reached the stage where one might worry about even this. However, the Government bought bargain basement software that was not validated. One of the world's foremost authorities on software validation works in a third level institution in this country, not, incidentally, the one in which I work. He was not asked to validate that the e-voting software would do what it was claimed it could do. It has now come to light that the software must be properly designed.

It was two members of the Labour Party, who are computer experts, who first raised the questions on what are now accepted as the flaws in the system. There is a suggestion in the report that these machines could produce incorrect answers resulting in the elimination of the wrong person from an election. If a returning officer

makes a mistake using the current system there is a process by which to make checks and, if necessary, rectify the mistake. We know who decided on this and it is extraordinary that people will not let the initiative go. Speaking as someone who has lost as often as he has won in elections, I would prefer to lose under the current process than lose the way a well-known Member of the other House lost using the experimental method.

The money is not entirely the issue. The issue is the absolute refusal to listen to good sense because it did not come from within Government ranks. Perhaps, in the future, for a host of reasons, we may see an approach from this Government that is a little more humble and a little less domineering.

There are reports in today's newspapers that the incidence of MRSA in our hospitals has not declined. There is also information on the number of cases of MRSA, which the chief executive of the Health Service Executive, Professor Brendan Drumm, did not want released because he felt it might frighten people. He had good reason to think they might be frightened. People have good reason to be frightened when they feel going to hospital puts them at risk of becoming more sick.

Today's reports indicate that the HSE had planned to recruit 50 staff to deal with infection control and that it was refused permission to do so because there is an embargo on recruitment in the public sector. I do not know what sort of ideological hammer is being used to decide that nobody can be recruited anywhere. Why does the Minister for Finance deem it better to have a surplus to reduce public expenditure than to provide money to deal with the incidence of MRSA in hospitals? Until we show that the HSE can, and is allowed to, manage this problem properly and can reduce the incidence of a potentially fatal illness, there is no hope for reconstruction of our health service.

As an appeal on the Order of Business, it is important that the future of Aer Lingus be debated. For once I agree with my colleague Senator Ross, we are in grave danger of having our national airline sold for a bargain basement price. I no longer know who this is to pacify. I am not sure the unions approve of the sale though we will wait and see. I am never too sure about the unions on these issues.

Dr. Mansergh: The Labour Party rarely is.

Mr. Ryan: When Bertie is claiming the affiliations of the unions I will remind him of some of the things Senator Mansergh has said from time to time. It would be a disaster for the Government to rush a motion through one House of the Oireachtas which did not address the fact that Aer Lingus, if sold shortly, will be sold at a bargain price which could jeopardise its prospects of buying new aircraft because the capital resources will not be there to do so.

Mr. Dardis: With regard to the second report of the Commission on Electronic Voting, at least Senator Brian Hayes quoted it accurately, unlike Senator Ryan, who gave us populist soundbites. Notwithstanding that it was fairly painful for candidates to have what happened in one constituency happen to them, I am sure some of the candidates who had to endure four days of counting might take a different view of the matter.

Mr. Ryan: I had to do that myself.

Mr. Dardis: The report is over 350 pages long and is worthy of debate in the House. Everybody will have to sign up for it eventually, if it is to be generally accepted in the country. That is self evident. The methodology used to do that can be argued over but it is up to the parties to discuss the way forward on the matter. The report states that "when compared with paper voting, electronic voting methods in general can deliver enhanced levels of accuracy and similar levels of secrecy and that this potential also exists in the particular case of the chosen system". There is enough evidence, albeit some of it anecdotal, from the past as to the abuses that took place with the paper voting system to suggest it is not a perfect system either. I compliment the Clerk of the Seanad, through the Cathaoirleach, on her work on this matter. The report runs to more than 350 pages and in that context it should be debated fully and not just treated to a few sound bites. Senator Ryan's point can be used in support of the electronic voting system. If we are world leaders in the development of software, surely we can develop a system that will be suitable for our needs.

Mr. Ryan: The Government is not a world leader in that area.

Mr. Dardis: This would underline the fact that this is a knowledge-based economy and that is the way forward.

Mr. Ryan: We did not use the knowledge we have.

Mr. Dardis: On the point made by Senator O'Toole about An Taisce, it would appear that some people in this country would like to see the development of a rural zoo that they can visit at weekends but which has nobody living in it. Those of us who live in the rural zoo would like to be able to continue to do so —

Ms O'Rourke: We will throw nuts at the Senator.

Mr. Dardis: —notwithstanding that we are conscious of our obligations from an environmental and aesthetic point of view. I wish to say to such people that it is quite certain that some of the great houses they wish to protect, such as Car-

[Mr. Dardis.]

ton and Castletown, would never have been built if An Taisce had existed at the time.

An Cathaoirleach: There are many Senators offering. In order to complete the Order of Business within the time allotted, I ask them to be as brief as possible.

Mr. Finucane: At the last general election, electronic voting was tried in three constituencies. Fortunately, there was no close-call count in any of those constituencies but I ask Members to consider what might have happened if it had been tried in Limerick West. On the basis of the commission's report, the wrong candidate could have been selected in the event of a close count. This is a serious issue. In that situation, would a person have a case against the State?

It is worth reflecting on electronic voting. I was in favour of it because I thought it would probably deliver a result more quickly and would be more scientific. I have reconsidered, having studied this report, which found a significant number of defects in the software. Even if we go ahead with further expenditure, which could amount to anywhere between €2 million and €10 million, there is still no paper trail, which was the main aspect of what was being sought in the past.

It is very unfortunate, and it would not happen in any other country, that a Minister would be so arrogant about the introduction of electronic voting. He ignored political and expert advice and was adamant about proceeding. He was obviously dictated to by the Department of the Environment, Heritage and Local Government, which said in 2002 that we would save €13.8 million with electronic voting. Let us not forget the additional expenditure such as the €4 million spent on a publicity campaign, not to mention the storage costs. With regard to the latter, we have the ridiculous situation where the life expectancy of the machines is 20 years but in many cases returning officers and others have entered into commitments on a 25-year basis.

This issue will roll on and on. In Waterford, the cost of storage is approximately four times the average. It is about time we put our hands up and admit that we got it wrong. If we go back to the manual voting system, so be it. At least then the tally men will be happy and we can get on with the business of elections. This has been a shocking disaster, caused by the arrogance of the Government.

Mr. Fitzgerald: I wish to refer to two recent defining moments in the history of Irish education which have been almost overlooked, save for some brief references in the media. For the first time in the history of Irish education, newcomer Irish citizens of 22 different nationalities were able to sit their leaving certificate examinations, in curricular and non-curricular areas, in their respective mother tongues. This is an enor-

mous achievement and a wonderful way for Ireland to celebrate its enriching diversity and to show the world that our education system ensures equality of esteem for all those foreign nationals

Mr. U. Burke: That is today's spin.

Mr. Fitzgerald: — who legally wish to share our economic, social and multicultural journey.

Mr. U. Burke: A thought for the day.

Mr. Fitzgerald: I compliment the Minister for Education and Science, the State Examinations Board and all those who helped to make this a reality.

My second point is one which perhaps it is not popular or profitable for politicians to discuss. I refer to the final departure of the Christian Brothers from active participation in the Irish educational landscape. The Christian Brothers mission, set up by that great Waterford man, Edmund Ignatius Rice many years ago has come in for its fair share of criticism in recent years.

Mr. J. Phelan: He was a Kilkenny man, not a Waterford man.

Mr. Fitzgerald: We all know why this happened. There is no need for me to spell it out and some of it was well deserved and justified. However, I wish to pay a personal tribute to the Christian Brothers for the monumental contribution they made to the development of Irish education at primary and post-primary level and for helping to bring education to the masses and the remote areas of Ireland, such as the area from which I come.

Ireland, past and present, owes this organisation an enormous debt of gratitude for empowering many generations through education —

An Cathaoirleach: I asked for brevity.

Mr. Fitzgerald: — during decades when the State could not afford to do so. To their universal detractors, I wish to say that eaten bread is soon forgotten.

Mr. Norris: I was against electronic voting from day one. There was never any public demand for it. In fact, the public did not want it and the Minister accepted that on the wireless yesterday. He said the Irish public never asked for electronic voting and did not want it. It was a gimmick that simply did not work. It was a failure. As a result, the Irish people have lost confidence in electronic voting. The report states that something could be cobbled together and perhaps that is so. However, I heard an IT specialist say yesterday that because of the relationship between the software and the hardware, which I do not under-

stand because it is very complex, they do not know what new problems will emerge.

In light of the fact that the Irish people have lost confidence and that increased participation was not demonstrated anywhere because of electronic voting, why not return to the old system which worked and gave people a human interest in politics? It was also indicated on the radio yesterday that the machines could be sold to the city of New York, where they could be used.

Mr. Dardis: If they are good enough for New York, they are good enough for us.

Mr. Norris: Let us urge the Government to sell these blasted things to the United States of America, get some money back from them and have a decent, old-fashioned election which we can all enjoy.

Mr. Dardis: They are good enough for New York, but not for us.

Ms O'Rourke: Who in New York would buy them?

An Cathaoirleach: Does the Senator have another point?

Mr. Norris: Yes I do.

An Cathaoirleach: We will have a debate on electronic voting later.

Mr. Norris: I want to ask about the situation regarding Aer Lingus because I agree with my colleagues that it would be good if the Minister came to the House because he has attended a meeting of the Joint Committee on Transport. However, this is our responsibility. We passed this legislation, neutering ourselves. It is the responsibility of Members on the Government side because the Government has a majority. There was nothing we could do. We could vote against it but the legislation would still go through. I hope Members on the Government side will never again abrogate their responsibility to the Irish people by allowing legislation on important matters like this to go through only one House of the Oireachtas. This is an appalling matter.

An Cathaoirleach: I asked Members to be brief as a number of members are offering.

Mr. Norris: Yes, but a matter in which I have been consistently involved has been raised, namely, An Taisce. When an *Irish Independent* columnist starts writing about a columnist from *The Irish Times* there is only one reason I have ever seen for that and it is to cause mischief. In this case I would say that the use of the words "infection" and "criminal" was very unwise by An Taisce but it may well have had good reason to object. Mr. O'Toole was quite reasonable in

his response. He might not welcome all the allies on this side because he is one of those people who has consistently defended An Taisce against the attacks by politicians. He said that his one regret in this case is that An Taisce itself might be discredited by the use of widely misreported language. He is right and I support him on that but I also support the statutory role of An Taisce.

Mr. Leyden: I wish to point out to Senator Brian Hayes that the Taoiseach has stated that electronic voting will not be used for the next general election.

An Cathaoirleach: Does the Senator wish to raise a question on the Order of Business?

Mr. Leyden: Yes, will the Leader of the House ask the Minister for—

Mr. U. Burke: The Senator is the Taoiseach's permanent representative in the Seanad.

Mr. Leyden: The Senator should be better informed.

Mr. U. Burke: Was the Senator called up?

An Cathaoirleach: I ask Senator Leyden to raise a matter relevant to the Order of Business in order to be fair to his colleagues as the time available is limited.

Mr. Leyden: I appreciate that.

Mr. B. Hayes: The Chair should give way to the ambassador, his excellency.

Mr. Leyden: I ask the Chair to defend me by from the rabble on the opposite side.

An Cathaoirleach: Has the Senator a question relevant to the Order of Business?

Mr. Leyden: I withdraw that remark.

Mr. Norris: There is no problem, we are happy with being called a rabble.

An Cathaoirleach: If the Senator Leyden does not have a relevant matter to raise on the Order of Business, I will ask him to resume his seat.

Mr. Leyden: I request the Minister for Communications, Marine and Natural Resources to come to the House to discuss the axing of major programmes on RTE Radio 1. Senator Norris raised this matter recently. It is unfair to radio listeners who have paid their licence fee that programmes they enjoy will be axed by a producer in RTE who has come from a small rural station in Northern Ireland. She had wielded the axe and there is to be a total reshuffle.

Mr. B. Hayes: Now who is being partitionist?

Mr. Leyden: That is a small station compared with RTE Radio 1. It is unfair that programmes such as “Rattlebag” and the “Mystery Train” are to be axed when listeners do not want them to be. It is only right and the proper that the listeners and the person who is the shareholder should be consulted on this reshuffle. It is like a Government reshuffle during the summer recess when people are axed unfairly from positions. I can remember radio programmes such as “The Kennedy’s of Castleross” and “Harbour Hotel”.

Ms Terry: I spoke last Thursday about the traffic chaos in the vicinity of Dublin Airport and the difficulty in accessing the main airport building. I suggested we should examine the possibility of developing another airport in the eastern region because if a major incident occurred at Dublin Airport it would cause utter chaos, but little did I know then that such chaos would occur a few days later, as happened yesterday. While what happened was unacceptable and we cannot speak about that, it threw the airport into chaos and discommoded thousands of travellers.

With the number of people using Dublin Airport and the expected growth in passenger numbers, we should seriously examine the provision of another airport in the eastern region. If we are to maintain and grow our tourism industry and maintain our other industries, we need to ensure that we have an airport that can cope with the numbers who wish to avail of it and to ensure their safety at all costs. When a major incident occurs, and hopefully there will be no further such incidents, we must ensure that the eastern region does not close down. In light of yesterday’s incident at the airport, I request that we seriously consider developing another airport in the eastern region.

Dr. Mansergh: It is good to hear the Senator from Trinity defend traditional values.

An Cathaoirleach: Has the Senator a question to raise on the Order of Business?

Dr. Mansergh: The e-voting debate is far from over. It must take into account the hundreds of spoiled and invalid votes that are found in every constituency and also the errors in manual counting, but I accept this is a matter for the medium term and one on which there needs to be all-party consensus.

Mr. Ryan: That is welcome.

Dr. Mansergh: We debated on the Order of Business yesterday a matter that was raised by Senator O’Toole about the question of An Taisce and the head columnist in *The Irish Times* who sets her ethical compass every week.

Ms O’Rourke: Every day.

Dr. Mansergh: It puts those of us on this side of the House——

Mr. Ryan: On a point of order——

Dr. Mansergh: I did not mention anyone’s name.

Mr. Ryan: I wish to raise a point of order and the Chair knows what I am about to ask.

An Cathaoirleach: I do.

Dr. Mansergh: Senator O’Toole discussed this matter at some length.

An Cathaoirleach: It is not fair to refer to a reporter——

Dr. Mansergh: I did not mention any name. Unlike everybody else I did not mention the name. May I finish the point?

An Cathaoirleach: Yes.

Dr. Mansergh: It is a real dilemma for us on this side of the House as to which side we do not support.

The Chair mentioned at the start of the Order of Business that the Dáil has passed the Defence (Amendment) Bill which underlines this country’s commitment to the United Nations. In that context, we should compliment our ambassador to the United Nations on being appointed co-chair of a committee on UN reform, which is a personal recognition of his merit and a recognition of the consistent stance of this country in support of the UN.

Mr. Quinn: We debated energy policy in this House during the past year but one of the areas we have not fully debated with an open mind is the question nuclear energy. I am concerned about a report obtained yesterday through a freedom of information inquiry that appeared in a British newspaper article today. It states that the British Government’s nuclear inspector has raised serious questions about the safety of the ageing atomic power stations in Britain, particularly in regard to cracks that have appeared in the reactor cores. I was not aware of that safety concern and neither do I believe were the British, but that article was carried in a British newspaper today. Apparently, the company that runs these stations has indicated that it does not know the extent of those cracks or of the damage done by the reactors and it cannot fully explain the reason those cracks have occurred.

I raise this matter because at an early stage in the next session we need to debate the question of energy, particularly nuclear energy. The British Nuclear Safety Directorate is faced with significant regulatory issues for all operating reactors. It is concerned that there are major difficulties and questions about all the reactors in

Britain and it is not easy even for the people who run them to answer those questions.

Labhrás Ó Murchú: On the question of An Taisce, I believe that it will regret the preposterous and potentially libellous language it used in opposing what was a straightforward and legitimate planning application. It shows a darker side to An Taisce. For many months I have made the point that it has lost its way on the question of the development of rural Ireland. The day is long gone when a certain elite group, as existed in the past, saw rural Ireland as a big picnic park to which its members would go on a Sunday and they would return to their own abodes for the rest of week and pontificate and philosophise on the quaint customs of the peasantry of Ireland.

I do not know if Members are aware that in the town planning agency in Britain there exists a specific group who monitors the planning code in this country. We we asked that group why such a role did not exist in respect of any other country in the world, we were told it was because of the historical connection with Ireland. If one studies what that means, there are many people in Ireland——

(Interruptions).

An Cathaoirleach: I have called for brevity.

Labhrás Ó Murchú: I apologise for interrupting, but there are many people in Ireland who do not seem to understand and accept that the land of Ireland was given back to the people of Ireland and that must be respected and responded to.

Mr. U. Burke: Teagasc has issued a report on the impact on Irish agriculture of the new World Trade Organisation trade agreement. The report makes it clear that there will be a further decline in Irish agriculture and the number of families involved in it. The report states that by 2015, Ireland will have as few as 8,000 full-time dairy farmers with viable businesses. The number of such farmers is declining rapidly. Only 6% of cattle farmers will have viable businesses by 2015.

An Cathaoirleach: Does the Senator have a question?

Mr. U. Burke: The incomes of many Irish households in economically sensitive areas will be so small that they will be unable to exist on their farming incomes as they have done before. I ask the Leader to invite the Minister for Agriculture and Food to come to the House to debate the matter. The Minister will be representing Ireland during the summer recess and it is important that she takes the issue seriously. I use the word “seriously” advisedly because she must have a commitment to the retention of maximum number of families in Irish agriculture.

If the scenario envisaged in the Teagasc report is allowed to take place, there will be a serious

decline in farming in this country. We have just spoken about An Taisce, which will obviously have a role if this decline is allowed to continue. I ask the Leader to bring it to the Minister’s attention that she must resist any further decline and the impact of the latest WTO trade agreement on Irish agriculture.

An Cathaoirleach: I remind Senators that there are only seven minutes left before the Order of Business concludes and that seven Senators are offering to speak. Each Senator should speak for only one minute, if possible.

Mr. Kitt: Senator Brian Hayes made a very interesting point about a cross-party committee but we should also say that eventually decisions must be made and the talking must stop. No. 25, motion 7, on the Order Paper is a Fine Gael motion that calls on the Minister for the Environment, Heritage and Local Government to give this House a definitive timescale for the final introduction of electronic voting. This seems to contradict the Senator’s calls for committees and discussions. The Minister mentioned two matters yesterday.

Mr. B. Hayes: We have been overrun by dates.

Mr. Kitt: Yesterday, the Minister used the example of west Limerick, where a candidate lost by one vote and 400 spoiled votes, which is hardly proof of a fair system. Perhaps Senator Ryan said that the wrong candidate was eliminated.

Mr. Ryan: I never said that.

Mr. Kitt: The second point made by the Minister was that it would cost €0.5 million to resolve problems associated with the electronic voting software. If electronic voting can be introduced in India, it can be introduced here.

Mr. Norris: That is an assumption.

An Cathaoirleach: I am sure there will be a debate on this report and the points made by Senator Kitt are more appropriate for such a debate. As I mentioned earlier, the time left on the Order of Business is limited.

Mr. Kitt: We should develop a system of electronic voting, which is obviously the way to go, and stop continually criticising the system.

Mr. Bannon: The madness of this Government should be stopped by a general election now. The report on the electronic voting fiasco should be a final wake-up call to all our citizens that we cannot trust this Government.

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

Mr. Bannon: The report includes 41 recommendations which will cost the citizens of this country millions of euro. It shows a significant lack of leadership on the part of the Government and its lack of respect for taxpayers at a time when terminally-ill patients must undergo a means test to obtain a medical card.

An Cathaoirleach: Senator Bannon is making a statement. Does he have a question for the Leader?

Mr. Bannon: This is shameful in light of what is happening within the Health Service Executive.

I agree with Senator Terry that we need a second airport, which should be located in the midlands.

(Interruptions).

Mr. Bannon: This airport should be located on the Longford-Westmeath border. I am glad to see that Government Senators agree with me. It is a very important piece of infrastructure for the midlands.

(Interruptions).

Mr. MacSharry: In respect of An Taisce, I will call for a debate in the early autumn on prescribed organisations relating to the planning process. First, I want to praise An Taisce for the many excellent measures it undertakes, such as the green flag scheme.

Mr. Norris: I think it is called the Blue Flag scheme.

Mr. MacSharry: However, I believe An Taisce should be decribed from the planning process. Senator Norris made a point about wildly disproportionate language. I believe that its actions in general are wildly disproportionate. It lodges its objections at the last minute of the last applicable day in an effort to be divisive and destructive. Senator Dardis noted that some people would like see rural Ireland become a kind of zoo. I am a resident of this zoo whose residents are entitled to have the rural Ireland they want rather than a weekend retreat for Senator Norris and his colleague.

Mr. Norris: I do not have a retreat.

Mr. MacSharry: We live in rural areas and are entitled to build our homes as we see fit, not half doors over which we can look out and smoke pipes like Peig Sayers.

A unique event is taking place on the other side of this city. The Minister for Justice, Equality and Law Reform is launching the joint policing committees. This is an excellent step forward. We have heard about the principle of subsidiarity many times in a European context. Joint policing committees will allow local authority members

and community groups to have their say in policing their areas, a development which must be welcomed. A total of 22 pilot schemes have been launched and I appeal to the Leader to ask the Minister to extend them to all 114 local authorities without delay.

Mr. B. Hayes: Hear, hear.

Mr. Coghlan: A debate is obviously needed on electronic voting and I recommend that the Leader arranges a debate on the commission's report when the Seanad returns after the summer recess. I understand that the Tánaiste and Minister for Health and Children and, presumably, the Government, have decided on two pharmacy Bills. One of these Bills deals with fitness to practise provisions, while I understand the other deals with the regulation of pharmacies and services. There are many questions about whether pharmacies should be located within or adjacent to health centres and conflicts of interest. Could the Leader inform the House when it is envisaged that these Bills will be published, in which House they will be introduced and when?

Mr. Daly: Scarcely a day goes by when we do not hear calls for more technology and increased availability of broadband. We hear complaints about the absence of broadband in certain areas on a daily basis. Millions of people in Ireland and throughout Europe take part in lotteries through modern technology every week. At a time when we are looking for more technology and more students studying mathematics at higher level, certain people argue that it is not possible to implement electronic voting. Why can we not implement electronic voting? It is ridiculous to advance such arguments when we are trying to advance technology and education.

An Taisce has made life very difficult for many people, particularly people living in the Burren in north Clare. The only conservation effort in respect of the Burren I have witnessed from An Taisce has been a plaque that is approximately the size of today's Supplementary Order Paper. An Taisce put up a stone plaque stating that it supported conservation near where the national park was to be located.

I do not know Fintan O'Toole but I know that the county council is dealing with his application for the development at Ballyconry. It is unnecessary for An Taisce to brand him as a criminal, if the allegations about the article in today's edition of the *Irish Independent* are correct, and to suggest that he is not entitled to make his application in the same way as everyone else. An Taisce is showing the same face to Mr. O'Toole that it has shown to all ordinary decent people in north Clare whom it has harassed and made miserable over the last number of years.

Mr. J. Phelan: I join with others in raising the issue of the report on electronic voting which was

released yesterday. Like Senator Norris, I opposed electronic voting from day one. At this stage, the Government should cut our losses and try to sell these machines to the city of New York if it wants them, rather than throw good money after bad.

An Cathaoirleach: I understand that we will have a debate on the report. Indeed, it has almost been debated on the Order of Business.

Mr. J. Phelan: I agree with Senators Dardis and Ó Murchú regarding An Taisce. A prevailing attitude among members of that organisation and other people in Dublin is that we in the countryside live in some type of zoo and that they would like to preserve our quaint mannerisms and activities. Speaking as a rural person, it is important that people continue living in rural Ireland if it is to develop. We need proper planning.

Media reports on An Taisce's objection to Mr. O'Toole's planning application may bring to people's attention the difficulties imposed by An Taisce on others with genuine ties to the rural areas in which they live and who usually want to build modest extensions or developments.

Ms O'Rourke: Yes.

Mr. J. Phelan: I agree with Senator Ulick Burke in respect of Teagasc's report on the World Trade Organisation talks. It is important that the Minister for Agriculture and Food holds the line and ensures no further concessions, which she has done so far. If there is to be a viable rural agricultural enterprise, she has our support.

Mr. Hanafin: I join in the call for a debate on energy, within which we could focus on nuclear safety. I also join in calling for a debate on e-voting. I hope that we will focus on the current democratic deficit. Most of the attention seems to be on the cost, but the software can be amended for a relatively small amount of money. The Government is fulfilling its duty to provide value for money by ensuring that the money previously expended will be used properly.

Mr. J. Phelan: It should not have been expended in the first instance.

Mr. Hanafin: The Opposition has not focused on the democratic deficit, which must be examined in light of the high number of spoiled ballots.

Mr. B. Hayes: It is a person's right to spoil his or her ballot.

An Cathaoirleach: I understand that a debate will be arranged on the report on e-voting, at which time the good points made by the Senator should be put. We have exceeded our allocated time by approximately five minutes, most of

which has been spent on e-voting. However, e-voting is not a matter for the Order of Business.

Mr. Hanafin: The distribution of a surplus is taken on a random basis, which is not democratically correct. At small rural ballot boxes, it is possible to identify where votes have gone astray.

Ms O'Rourke: On the e-voting machines, I thank Senator Brian Hayes for his generous offer to the effect that this issue should not proceed on a cross-party basis.

Mr. B. Hayes: It should proceed on such a basis.

Ms O'Rourke: While that is a good idea, I do not know how my party would view it on a national basis. The Senator is right in saying that confidence cannot be undermined. I will send a note to the Taoiseach's office informing it of the Senator's suggestion, which I hope he has the right to make it on behalf of his party, as it would open many doors. While the Minister for Finance, Deputy Cowen, is not legally obliged to attend the Seanad to discuss Aer Lingus, I will suggest that he does so to answer the Senator's request. I commend the Clerk of the Seanad on her work on the matter of e-voting.

Senator O'Toole agreed with Senator Brian Hayes about dealing with e-voting on an all-party basis. He also addressed the matter of An Taisce and its words of criminality in respect of a well known person's application for an extension. If it had four feet, An Taisce would have shot itself in them. It has done marvellous work in the areas of water quality, green and blue flags and so on. Young people are proud of their green flags and what they have gained for their schools, but An Taisce is systematically trying to undermine rural communities.

In County Westmeath, people — usually farmers — have applied to open quarries to supply materials to Ascon Limited, which is building the new road. The county council has granted those applications, but each has been appealed by An Taisce irrespective of whether the person wants to open a quarry for a week, month or year. These farmers have no other forms of income. They are trying to make some money from their assets by providing a company with what it needs to build a necessary road. An Taisce has given them a blanket non-recommendation. It should examine its conscience if it has one.

Senator Ryan spoke on e-voting and stated that the computers work, but the software does not. I do not want to be elected or, if I am to be humble, fail to be elected by means of a computer. Instead, I want to be elected by people writing their votes on paper, putting them into boxes and having them counted. I welcome that e-voting will not be used in the next election, as machines can go wrong. The Senator also raised the matter of the increased rates of MRSA and how the

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Department of Finance has turned down the Health Service Executive's request to seek 50 people to deal with infection controls. The Senator asked for a debate on Aer Lingus.

Senator Dardis has read the whole report on e-voting and said a debate is necessary and a way forward must be found. He spoke about the software and hardware systems. His comments on An Taisce were interesting. His analogy of our being in a zoo and people gazing and gaping at us as they went back to their city pads——

Mr. Norris: Usually, local organisations make the appeals. It is not a matter of people returning to Dublin.

Mr. MacSharry: In theory.

Ms O'Rourke: In the case to which I have referred, people from Dublin are making the appeals.

Mr. B. Hayes: There are also a few zoos in Dublin.

An Cathaoirleach: The Leader to reply without interruption.

Mr. Dardis: I am a citizen of the world, but I live in the country.

Mr. Bannon: Hen houses.

Ms O'Rourke: Senator Finucane discussed his case. If it had occurred under e-voting, there would have been a hue and cry all over the land. The Senator may well have been in another House if e-voting had been in place. That is the other side of the matter.

Mr. B. Hayes: Consider the loss to this House.

Ms Ormonde: Yes.

Mr. Finucane: I thank my colleague.

Ms O'Rourke: Indeed. The Senator is an avid attendee and speaker in the House.

Mr. Finucane: I thank the Leader.

Mr. J. Phelan: The Senator is getting top marks in his summer report.

Ms O'Rourke: If we examine the matter on an all-party basis, we should put our hands up if we got it wrong.

Having the leaving certificate exam available in the mother tongues of 22 nationalities is a remarkable achievement, a matter that Senator Fitzgerald did well to raise. He also made an affirmative reprise on the Christian Brothers, outlining what they have done for education during the past 150 years. This matter was previously

raised in the House several times, including by Senator Glynn and others. In such issues, there are always up sides and down sides, but the Senator was correct to state what the Christian Brothers have done for Irish education.

Senator Norris always regarded e-voting as a gimmick. Is it not great that he can stick to his principles?

Mr. Dardis: And Bloomsday.

Ms O'Rourke: He said that the New Yorkers would buy the machines, but I doubt that would be the case.

Mr. Norris: They have indicated their interest.

Ms O'Rourke: I agree with the Senator's comment that he regretted the disproportionate language of An Taisce.

Senator Leyden referred to the RTE programmes that have been axed, namely, "Rattlebag" and John Kelly's "Mystery Train", and asked for the Minister for Communications, Marine and Natural Resources to discuss the matter in the House. The Senator asked whether RTE would have more reshuffles during the recess. We hope not, particularly in terms of political programming.

Senator Terry raised the matter of events at Dublin Airport yesterday. I doubt that she was proposing Abbeyshrule as the alternative airport, which was proposed by Senator Bannon, as she was discussing a more urban setting. When I address the issues raised by Senator Bannon, I will show my support.

Mr. Norris: An Taisce will object to the Leader's airport. It will frighten the hens and the local zoo inmates.

An Cathaoirleach: The Leader without interruption.

Ms O'Rourke: We will see. Senator Mansergh referred to the e-voting debate and An Taisce. He said this side of the House had reservations about the issue because we had been the victims of journalistic tongue-wagging by the gentleman in question, whose case for an extension I now espouse. He also said we had provided the co-chair of the UN reform committee, which is a good sign of our participation in the UN.

Senator Quinn mentioned a report on the dangers inherent in aging nuclear reactors in the UK.

Senator Ó Murchú picked up Senator Dardis's interesting point that An Taisce regards the country as a zoo or a theme park, where visitors could come to gaze and then leave. The Senator also said An Taisce would come to regret its words and I agree.

Senator Ulick Burke talked about Teagasc and the WTO talks. He noted that it forecast a decline in all farming, including dairy farming, and called for the Minister to come to the House to discuss

the matter. She has proved her mettle at the talks in Geneva, or wherever they were held.

Senator Kitt referred to the Fine Gael motion, No. 25 on the Order Paper, calling for a definite timescale for e-voting to be introduced.

Mr. B. Hayes: The Leader should read the rest of it.

Ms O'Rourke: Senator Bannon called for Abbeyshrule to become another airport. It is an airport already but he wanted it to be a second major airport. I would support that call but I doubt the Senator's colleague in Fine Gael meant to say Abbeyshrule. We could provide cross-party support for it.

Mr. U. Burke: Senator Bannon is shying away from the suggestion now.

Mr. B. Hayes: He has suddenly looked away. I wonder why.

Ms O'Rourke: He seems doubtful about it now.

An Cathaoirleach: The Order of Business is becoming very parochial.

Ms O'Rourke: I did not agree with Senator Bannon's earlier comments about the Government and will not join him in that regard.

Senator MacSharry said An Taisce had done good work but that it had proved to be divisive and destructive. As somebody who comes from rural Ireland he made his point very passionately. He referred to the joint policing committees which the Minister for Justice, Equality and Law Reform is establishing today and called for the pilot schemes to be extended countrywide.

I have some news for Senator Coghlan on the pharmacy Bills. As he said, the first Bill covers fitness to practise and is expected to be published later this year. The second Bill provides for the regulatory framework, but no date has yet been given for its publication. We will seek to publish it in this House. It is welcome that both the Minister's Bills published today, concerning privacy and defamation, will be Seanad Bills and will be debated in the House in the early autumn.

Mr. Coghlan: The Minister must be more fond of this House.

Ms O'Rourke: Senator Daly urged action to ensure the increased availability of broadband and talked about An Taisce's activities in the burren area.

Senator John Paul Phelan called for a debate on the e-voting machines and on An Taisce. He said the Minister for Agriculture and Food, Deputy Coughlan, should stick to her point of view and fight harder for Ireland.

Senator Hanafin wanted a debate on energy and on the democratic deficit evinced by the random application of the surplus vote to individual

candidates. He said that was anti-democratic, which was a very fair point.

Order of Business agreed to.

Report of Independent Commission of Inquiry: Motion.

Ms O'Rourke: I move:

That Seanad Éireann requests the Joint Committee on Justice, Equality, Defence and Women's Rights, or a sub-committee thereof, to consider, including in public session, the report of the independent commission of inquiry into the bombing of Kay's Tavern, Dundalk, for the purpose of making such recommendations in relation to legislative or administrative provisions as the committee considers appropriate, and to report back to Seanad Éireann by 17 November 2006.

Question put and agreed to.

Investment Funds, Companies and Miscellaneous Provisions Bill 2006: Order for Second Stage.

Bill entitled an Act to amend and extend the Companies Acts, the Irish Takeover Panel Act 1997, the Central Bank Act 1942 and the Consumer Information Act 1978, to provide for the implementation of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 and to provide for related matters.

Ms O'Rourke: I move: "That Second Stage be taken today."

Question put and agreed to.

Investment Funds, Companies and Miscellaneous Provisions Bill 2006: Second Stage.

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

Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern): I am very pleased to bring this Bill before the House.

The necessity for this amending legislation arises from a number of issues which need attention, mostly in the area of company law. Some of these issues have been raised by industry as matters of concern for Irish companies. In particular, the development and growth of the securitisation industry, which has enormous potential, has been placed at a significant disadvantage by the reluctance of insurers to underwrite risks that their international competitors would not be similarly required to undertake. Another of the provisions is necessary to allow Irish companies to

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continue to compete on international markets, thereby allowing us to maintain our competitiveness in key areas where it has been established. The need to increase the audit exemption threshold for companies also requires priority treatment.

In addition, key provisions are included to allow for the smooth and effective transposition of the EU transparency directive, which deals with the disclosure of information by certain listed companies on an ongoing basis. This directive is due to be transposed by January 2007. Provisions are also included relating to the amendment of the Irish Takeover Panel Act 1997 consequent on the transposition of the EU takeovers directive on 20 May last in line with the EU target date.

Finally, it is necessary to amend the Consumer Information Act 1978 to allow for the appointment of a person to perform the functions of the Director of Consumer Affairs for a period of more than six months. The need for this arises as a result of the resignation of the previous incumbent and it will allow the functions of the director to continue to be carried out by a temporary appointee until the national consumer agency is established on a statutory basis.

Generally the amendments proposed in the Bill are designed to facilitate business development, copperfasten our competitiveness in key sectors where it has been developed and ease the regulatory burden on business while facilitating the giving of full effect to EU directives we must transpose.

Ireland is now a modern, highly globalised, credibly regulated, competitive economy. We need to ensure we retain our attractiveness as a place to do business and as a location for foreign direct investment *vis-à-vis* competitor jurisdictions. We will achieve this objective by committing ourselves to fostering the conditions which support enterprise and in meeting the challenges and opportunities of an increasingly knowledge-based, regulated, globalised and environmentally sustainable economy.

Dublin today is recognised as a global centre for securitisation. It is ranked second only to London and ahead of Frankfurt in terms of asset-backed securities. The aggregate amount of asset-backed securities investments managed by Dublin-based investors has witnessed huge growth in recent years. In 1999 the aggregate amount of asset-backed securities investments was approximately €6 billion. This grew to between €30 billion and €35 billion in 2003. Today the figure is at least €80 billion. These figures demonstrate the position and importance of securitisation in terms of the domestic economy and the tremendous strides made in recent times.

The strong track record that Ireland has developed in the asset-backed securities sector is a result of many factors. These include a conducive business environment where we are the

only English-speaking member of both the EU and the eurozone. A common law system and the presence of skilled personnel with considerable international experience is also very important. All of these factors have fuelled this growth, together, it must be said, with Government support.

IDA Ireland is also committed to developing both the breadth and depth of the international financial services industry in Ireland. While continuing to market Ireland as a centre of excellence for transaction processing, the IDA is also targeting other sophisticated revenue generating activities. Existing developments in securitisation give us the potential to develop as a primary centre for specialist debt financing products. This is in line with the IDA's strategy to drive the development of knowledge-intensive, high-value investments.

Business regulation in the field of company law feeds into improvements to our national competitiveness through high standards of corporate governance and brings about a stable and predictable environment in which entrepreneurs can establish businesses, investors can invest, creditors can lend and the interests of employees, consumers and other stakeholders are protected. Ireland's economic future is inextricably bound up with the global economy through investment, trade, people and business generally. We have to be at the top of the game in every aspect that affects competitiveness.

I will now turn to the provisions of the Bill and explain in greater detail what each of these is designed to achieve. Part 1, which covers sections 1 to 5, contains preliminary technical matters including the commencement of the legislation, interpretation, the making of orders and regulations and how parts of the Bill will relate to the existing Companies Acts.

Part 2, which covers sections 6 to 8, provides for various amendments to company law legislation. Section 6 amends section 32 of the Companies (Amendment)(No.2) Act 1999 to increase the audit exemption limits for turnover and balance sheet totals which will allow more companies to avail of the audit exemption. Exemption from audit removes the need for companies to engage an independent external auditor and is allowed under EU law since 1978. Audit exemption was introduced in Ireland in February 2000 under Part 3 of the Companies (Amendment) (No. 2) Act 1999. The provision in this Bill increases the turnover limit to €7.3 million and the balance sheet total limit to €3.65 million. The existing thresholds are €1.5 million and €1.9 million, respectively. The proposed levels are the maximum allowable under EU rules. This section will apply to a company in respect of a financial year that commences at least two months after the commencement of this provision.

The following is the background to this amendment. In July 2005, the Minister, Deputy Martin, set up a Small Business Forum to look at the

environment in which small business operates in Ireland. Among the topics the forum examined was the current level of audit exemption allowable in Ireland. The Small Business Forum report dated April 2006 recommended that the audit exemption threshold limit be increased to the maximum allowable under EU rules. The report also pointed out that this would bring Ireland into line with the UK and a number of other EU member states that allow the maximum limit.

Section 7 amends section 239 of the 1990 Act to allow the Minister to provide by regulation for the introduction of mandatory dematerialisation of securities of listed or unlisted PLCs. Dematerialisation is an electronic system to replace paper share certificates and stock transfer forms. These will be replaced by a paper shareholder statement and a shareholder reference number. The provision also allows the regulations to provide for any necessary consequential provisions to implement this requirement.

Securities markets worldwide are undergoing significant changes as to the manner in which transactions are processed with a view to providing a more efficient and harmonised processing of securities transactions. An extensive consultation carried out by the Irish Stock Exchange in late 2004 established that dematerialisation should be pursued as a matter of priority for the Irish equity market. As many Irish equities are listed on both the Irish and UK markets, it is desirable from an Irish perspective that dematerialisation is implemented in as similar a manner as possible in both markets.

The Irish market generally is keen to ensure that Ireland responds appropriately and immediately so the Irish market is in line with best international practice. Failure to progress this issue will be a competitive disadvantage to the Irish market in an increasingly harmonised European securities market. Both retail and professional investors in the Irish equity market would directly experience the benefits of dematerialisation.

The removal of share certificates from the Irish equity market is a strategic imperative for the Irish market in order to meet the best practice benchmarks of the global market. Dematerialisation will facilitate ease and speed of trading by investors, enhance the international competitiveness of Ireland for securities trading, reduce the current costs associated with the cumbersome process of managing paper-based transactions and avoid the risk of the escalation of the current settlement costs for Irish certificated transactions which would occur if there was a successful implementation of dematerialisation of UK securities with share certificates still remaining for Irish securities.

The European Commission's financial services action plan is the legislative backdrop to the considerable change which is fundamentally impacting the operation of securities markets. One of the core themes of the next phase of the European Commission's policy drive is clearing and

settlement. In order to prosper in this changing global environment, markets need to continually critically assess and develop their offerings to ensure they are meeting the demands of their customers. Dematerialisation has already taken place in many other countries, such as France, Denmark, Sweden, Italy, India, Australia and New Zealand. I understand it is being considered in the UK, Belgium, the Netherlands, Spain and the US.

Section 8 amends section 43 of the 2005 Act relating to prospectuses in order to limit the obligations of a guarantor in respect of statements included in, or omitted from, a prospectus relating to non-equity securities, apart from those that relate to the guarantor or the guarantee. This amendment is designed to address an issue which is causing great concern for the securitisation industry. The current wording of the law relating to prospectuses which was introduced last year has created a potential liability for financial guarantee insurers, known as "monoline insurers". This has resulted in the monoline industry advising issuers that it is not willing to insure their products listed in, or issued out of, Ireland. Business lost to other jurisdictions as a result of this will be difficult to attract back, so swift action is required to deal with this situation.

Part 3 covers sections 9 to 14 of the Bill. It contains provisions designed to facilitate the smooth and effective transposition of the EU transparency directive. The directive applies to certain listed companies, those whose securities are admitted to trading on a regulated market, and is due to be transposed into Irish law by January 2007. The transparency directive will raise the quality of information available to investors on companies' performance and financial position as well as on changes in major shareholdings. This should contribute to better investor protection, enhanced investor confidence and a better functioning of European capital markets.

The provisions of Part 3 mirror similar provisions included in the Investment Funds, Companies and Miscellaneous Provisions Act 2005 in connection with the transposition of the market abuse and prospectus directives last year. Section 9 provides for definitions used in this part. Section 10 gives the Minister power to make regulations to give effect to the transparency directive and any other supplemental measures. Regulations to implement the transparency directive are being prepared. However, certain provisions must be made in primary law. Section 11 provides for penalties on conviction on indictment for offences under Irish transparency law. Section 12 gives the Financial Regulator, who is being designated competent authority for purposes of the directive, the power to make supplementary rules to allow it to fulfil its role as competent authority. Section 13 amends the Central Bank Act 1942, as amended, to include the transparency directive in the list of directives for which the Central Bank-Financial Regulator has

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responsibility to enforce. This deals with confidentiality of information obtained by the competent authority and effectively prohibits its disclosure except by virtue of Irish transparency law. Section 14 provides that the Minister may, by order, cite the market or markets to which transparency law shall apply. It is important that requirements under the transparency directive be capable of being applied to markets outside the scope the directive, for example, the Irish enterprise exchange market, and to any new market that may be established in the future.

Part 4 covers sections 15 to 18 and deals with miscellaneous amendments to the Irish Takeover Panel Act 1997 and the Consumer Information Act 1978. Section 15 amends section 8 of the Irish Takeover Panel Act 1997 to allow the takeover panel to make provision in its rules to give effect to EU law in this area. The need for this amendment to be made in primary law only arose quite recently in the context of the transposition of the EU takeovers directive, which came into effect on 20 May 2006. The takeover panel, which has been designated as the competent authority for the purposes of the directive, already has the power to make rules under section 8 of the Irish Takeover Panel Act 1997. This power is not, however, wide enough to enable the panel to make rules directly to give effect to changes in this area arising from the takeovers directive, and such power must be provided separately and in primary law to reflect a number of judicial decisions of recent years.

Section 16 amends the Schedule to the Irish Takeover Panel Act 1997 to align the general principles in the Schedule to the 1997 Act with the general principles of the takeover bids directive as transposed in regulation 7 of SI 255 of 2006, except for the substantial acquisition of securities general principles, which is being retained. The objective here is to have one set of general principles to apply to all the transactions comprehended in the 1997 Act.

Section 17 is a consequential provision to section 16. It amends regulation No. 7 of SI 255 of 2006, the regulation which transposed the general principles of the takeover bids directive. The purpose of the proposed amendment is to effectively repeal the general principles in regulation No. 7 as these general principles will be reflected in the amended Schedule at section 16 and to remove any confusion which may be caused by the existence of two sets of general principles.

Section 18 amends the Consumer Information Act 1978 by repealing section 9(11)(b). The amendment is required to allow for the appointment of a person to perform the functions of the Director of Consumer Affairs for a period of more than six months. The need for this arises as a result of the resignation of the previous incumbent and in order to allow the functions of the director to continue to be carried out by a temporary appointee until the national consumer

agency is established on a statutory basis. The Government is committed to supporting the industry by responding in an appropriate way to the new challenges which are presented by this ever-changing global marketplace. The Bill is evidence of this commitment and I commend it to the House.

Mr. Coghlan: I welcome the Minister of State and his officials to the House and I welcome this Bill, particularly the increase in the audit exemption levels. I was one of the first to mention this and to discuss it with the Minister of State. My call went unheeded for a long time but I always knew from my chats with the Minister that his heart was in the right place. He and I agreed on this matter from day one. This was first proposed by the Institute of Chartered Accountants in Ireland, a body that knows more than most about the need for us to sharpen our competitiveness levels. The absolute need for this increase arises from the British Government's decision to increase the threshold in its jurisdiction, including Northern Ireland. The introduction this year of a new suite of auditing standards which are more complex and rigorous than their predecessors also necessitates it. These standards were clearly developed to meet the needs of global capital markets and not the SME sector. However, because the Irish threshold figure is currently so low, it impacts adversely on the small companies in this jurisdiction.

Small businesses already face significant impositions in this high-cost economy and we need the Government to at least act as a facilitator, rather than an obstacle, to the advancement of the sector. We cannot sustain an auditing regime that differs so much from that of our nearest neighbours and competitors. It behoves us to provide a fair and equitable system which at least means a level playing pitch with the British.

I want to raise consumer rights, about which the Minister said that until they are put on a statutory basis there will be serious concerns. The consumer strategy group published a report in May 2005 which recommended that a new national consumer agency should be established. The legislation was due to be presented to the Oireachtas in December 2005 under the timetable set out by the consumer strategy group and the agency was meant to be operational by the end of June 2006. However there is no sign of the legislation either in draft form or otherwise. In this Bill the Minister has made provision for a temporary replacement of the Director of Consumer Affairs for a period in excess of six months. As Members may be aware, the former Director of Consumer Affairs, Ms Carmel Foley, resigned some time ago to take a new position in the Garda Ombudsman body and her position has been taken on an interim basis by a civil servant from the Department of Enterprise, Trade and Employment. This is yet another indication of the lip service paid by the Government to consumers'

rights. It is unfortunate that we must wait and perhaps the Minister of State's response will tell us when he envisages its being put on a statutory basis.

Small businesses are the lifeblood of the Irish economy. They pay half of VAT on services, 11% of corporation taxes and 37% of income taxes. The future of Ireland as a knowledge-based economy depends on the small, indigenous business sector. We must ensure we are equipped to facilitate its growth. Small and medium enterprises are the lifeblood of the economy. Some 170,000 businesses and 650,000 jobs are in the small and medium sector and it is vital that the little guy has a voice in Government. That is why we believe a Minister for small enterprise would lead to long-term strategic thinking, a point of contact for the entrepreneur and a gateway into the decision making process. We welcomed the publication of the report of the small business forum. However, as ever, the Minister for Enterprise, Trade and Employment, Deputy Martin, is still one report away from positive action.

After nine years it should not be necessary for the Government to publish a report highlighting the issues affecting small businesses. The small business sector has been hardest hit by 50 stealth charges and taxes imposed by the Government in the last four years. There is now a danger that the Minister will use this report as an excuse to talk shop and do little. Given that this report is still necessary, we will hold the Minister personally accountable for the success, or otherwise, of implementing the proposals.

The Minister must now state when, and how, he will implement the report's recommendations, as they cannot be allowed to gather dust like so many of his other initiatives. I am also concerned that many of the recommendations rely on co-operation between all Departments. The Government has shown time and again that its various Departments cannot work together, whether on the excessive regulation of businesses, or co-ordinating penalty points.

The Minister must set up a new mechanism to co-ordinate cross-departmental co-operation. Many of the report's recommendations were addressed by us at our recent Ard-Fheis, including the need to slash regulation and control local authority charges. We also called for all new legislation to be business-proofed before being passed into law. All these proposals are included in a plan of action for small enterprise, which we will roll out immediately on entering Government.

As the report states, action is necessary in order to overcome the many hurdles faced by the small and medium enterprise sector, the single most important sector of the economy. Action is necessary to combat Government-fuelled inflation, ensure widespread access to broadband, overcome the infrastructural deficit, and open up sheltered sectors to competition. None of these

areas is being actively addressed by the Minister and the danger is that few of them ever will be.

Although this Bill is a recognition that the Companies Acts are in dire need of reform, it does not go far enough. I regret that the opportunity was not taken for more root and branch reform in this area, which would help the small and medium sector fulfil its potential. In respect of public sector tenders why do we not introduce an exemption on withholding tax for those below the new audit threshold? What about allowing companies to pay their corporation tax one year in arrears in order to improve the cash flow of small businesses? We again call on the Government to amalgamate the eight employment bodies and consolidate the 25 Employment Acts and 11 Companies Acts to lessen the burden on SMEs.

One of the main regulatory burdens that affects smaller businesses is the process required for compliance with employment laws. Employment issues are currently regulated by 25

12 o'clock Acts and eight separate bodies.

According to IBEC almost 50 new labour Acts have been introduced during the past five years. As small businesses tend by nature to be labour intensive and involve a greater hands-on commitment from the owner-managers, they are hit hardest by the need continually to play catch-up with new employment legislation. The Minister of State feels as strongly about this as I do. I welcome his initiative in respect of the audit exemption threshold and appeal to him to use his influence, whatever about that of the Minister, Deputy Martin, to alleviate these burdens which cripple business.

This employment legislation can deter new businesses hoping to enter the market or existing businesses contemplating expansion, causing them to think again which slows up the process. We also call for the establishment of a branch of the Small Claims Court that will allow businesses whose turnover is lower than the audit exemption threshold to deal with disputes in a more simple and cost-effective manner.

It is unfortunate that the Bill has come to us so late because it will not pass before the summer recess and small businesses must wait many more months before they can avail of its provisions. Nevertheless, I welcome the Bill.

Ms White: As a Government Senator and nominee of the Irish Exporters Association, and as the co-founder of a medium-sized business employing 100 people, which will rise to 130 by the end of the year, I am pleased to speak on this legislation. Given my experience, I can speak on the significance of this Bill for small and medium-sized businesses. The proposed measures are progressive in that they ease the regulation burdens on business and facilitate its more efficient participation in today's international economy.

The Minister of State and the officials in his Department have listened and responded to the

[Ms White.]

concerns of small and medium-sized businesses. I commend him and his officials on their approach to these important issues. The legislation incorporates as many recommendations from businesses as fall under the remit of the Minister of State, and that is representative of the partnership-style of Government which has been so successful for our economy over the past ten years. The most welcome development in the Bill for small and medium business is the raising of the audit exemption threshold to the maximum allowable under EU rules, namely, €7.3 million turnover, up from €1.5 million.

The Bill will ease the additional administrative burden of annual audits for some thousands of businesses, and create a parity in the audit exemption thresholds with businesses in the North, in the United Kingdom and other EU states. This also affects voluntary and community organisations which will be relieved of the time and regulation burden of being audited because they fall under the new threshold.

The roll-back of the regulation has a symbolic significance in that the process of more and more regulation will henceforth be tempered. The important message to business people who participate on business fora, committees, etc., is that they will be listened to. The report of the Small Business Forum, published last April, recommended that Departments should formally assess the merits of exempting small businesses from new regulations, or of modifying such regulations to make allowance for the special needs of small business. The forum was set up by the Minister for Enterprise, Trade and Employment, Deputy Martin, and chaired by the general manager of Microsoft Ireland, Joe Macri.

Raising the audit exemption threshold to €7.3 million will ease the regulatory burden and obligation on many small and medium sized businesses to conduct a costly and burdensome annual audit. This was a key recommendation in the Small Business Forum's report.

When we started our business we had to do the audit every year which was wearisome and costly. It is hard on small businesses starting up because customers such as Senator Quinn, who is present, like to see a blue chip auditor. When we started up it cost us £1,000, a large sum of money. Now we pay approximately €15,000 and will not be exempt because we exceed the €7.3 million threshold. In addition, if a business does not have an in-house accountant it must pay for accounts management, etc., so it pays on the double. That is what makes this a dramatic initiative which sends out the message that the Government supports business and enterprise.

The Small Business Forum pointed out that while there are advantages in obliging companies to undertake statutory audits, these advantages can be outweighed by the enormous cost of an audit, in the region of €10,000 to €20,000. IDA Ireland is committed to developing the breadth

and depth of the international financial services industry in Ireland. While continuing to market Ireland as a centre of excellence for transaction processing, the IDA is also targeting other sophisticated revenue generating activities. Existing developments in securitisation give us the potential to develop as a primary centre for specialist debt and financing products. This is in line with IDA Ireland's strategy to drive the development of knowledge-intensive high value investments.

Business regulation in the field of company law feeds into improvements to our national competitiveness through high standards of corporate governance. This brings about a stable and predictable environment in which entrepreneurs can establish businesses, investors can invest, creditors can lend, and the interests of the employees, consumers and other stakeholders are protected. Ireland's economic future is inextricably bound up with the global economy through investment, trade, people and business generally. We have to be at the top of the game in every aspect that affects competitiveness. The progressive changes in securities trading, and transposition of two EU directives will bolster Ireland's competitiveness, helping us attract foreign investment in an ever more competitive global market.

In the securities trading industry the Bill makes it mandatory to hold in electronic form share certificates and stock transfer forms, bringing us in line with international norms. This will assist greater ownership of listed Irish securities by foreign investors, reduce costs associated with share dealing and enhance Irish securities competitiveness. Given that many Irish companies are listed on the Irish and London stock exchanges, this will be a beneficial and progressive move forward.

The Bill also seeks to limit the obligations on guarantors in respect of statements in the prospectus content — a prospectus being the legal document which outlines what a company has to offer participants and buyers. The Bill legislates for the conversion of the transparency and takeovers directives into Irish law. The transparency directive will raise the quality of information available to investors on the company's performance and financial position and any changes in shareholder policy. Ultimately, it will protect investors and enhance confidence in shareholding and the market.

The Bill will also give effect to the new takeovers directive of May this year. The Bill reflects the Minister of State's and his Department's and Government's recognition of the fact that the economic future depends on maintaining and furthering our competitiveness in an ever-evolving global marketplace. It is all about being competitive. Small and large companies will not survive if they are not competitive. I thank the Minister of State for sending a signal to our businesses and international business colleagues that Ireland is playing its part in globalisation, is not

over-regulated, wishes to do business and wants its businesses to succeed.

Mr. Quinn: I welcome the Minister of State, Deputy Michael Ahern, to the House. I am pleased that this Bill, which I welcome, has been introduced. On previous occasions, the Minister of State listened carefully to what was said in this House and he and his officials responded to the points which were made. I am in favour of this legislation because it provides for an attack on red tape, which is high on the agenda at EU level. Shortly after Mr. Barroso became the President of the European Commission, he said the EU needed to wipe out approximately 70 pieces of legislation which he felt were no longer necessary. He was not referring to statutes which are over 100 years old, like those being made obsolete in this country, but to legislation which were passed in more recent times.

Last Monday, I became the chairman of Euro-commerce, which acts as the voice of commerce in Europe. It represents 5.5 million businesses, the vast majority of which are small businesses of the type Senator White spoke about. If we are to solve Europe's problems in the years to come, we will have to concentrate on services rather than on agriculture and manufacturing. While there is a place for the latter sectors, I predict that the importance of small businesses will increase. I am enthused about the steps being taken in this regard in this legislation. I am also a member of the Business Regulation Forum, which is a Government committee that is working with civil servants to try to find a way to reduce red tape in a manner that is attractive to small businesses.

I welcome this legislation, which is necessary. In particular, I welcome two aspects of the Bill which will simplify life for businesses and investors. The provisions in question represent a recognition of the urgent need to reduce the red tape that is affecting the survival of businesses. I refer first to the increase in the exemption level for company audits, which is very important. This measure will assist the many small businesses which constitute the backbone of our entrepreneurial infrastructure. The second aspect of the Bill I particularly welcome, and to which Senators White and Coghlan have referred, is the provision that will facilitate the removal of paper share certificates in favour of electronic records of ownership.

An increase in the exemption level for company audits has been sought for a long time. The Minister has been quite receptive to the proposal in the past, but it has not been easy to get it done. Nonetheless, it is now welcome because it has become a fact. The higher exemption level placed an unnecessary burden on many small companies. It cost them a relatively large amount of money and took up a disproportionately large amount of their management time. It took a long time for the State to realise this requirement was not achieving much other than getting in the way of

people who were doing business and creating jobs.

While I welcome the abolition of red tape in this regard, I would like to sound a note of caution. It is vitally important that small businesses do not interpret this measure as a signal that they do not have to bother with good book-keeping. If such a message takes hold, this potentially positive move could have quite a disastrous outcome. The law will continue to require those who are involved in business to keep proper books of account. That is as it should be. I stress that it is in the interests of those who are running businesses to ensure they do their book-keeping properly and keep their accounts up to date. The keeping of proper books is a technical matter that is best entrusted to those who have the proper training to do that kind of thing. This Bill will mean that very small businesses will no longer have to employ professionally qualified accountants to verify their books at the end of each year. That will lead to very useful savings for such businesses. I hope the small businesses which do not already do so will use the resources freed up by this provision to put in place a proper day-to-day book-keeping system.

While I am handing out free advice, perhaps I should mention another matter I often noticed in my dealings with small businesses over the years. When I was studying commerce in UCD way back, 200 years ago, I was reminded of the importance of cash flow. If one wants to stay in business, it is important for one to be aware of the distinction between profit and cash flow. People who run small businesses are generally very good at reckoning their profits, which is important, but many of them fail to realise the similarly crucial importance of getting their cash flow right. As the Minister of State is aware, many inherently profitable operations have gone to the wall when they have run out of cash. This usually happens when business people do not take into account the time lag between incurring expenses and getting paid.

My free advice to small businesses — this is financial management 101 — is that they should not forget that such a gap exists. One will not be helped with this necessary aspect of business survival during a company audit. By the time the auditor arrives on the scene, the damage will already be done and the business may already have gone to the wall. While company audits have a role in the overall scheme of things, they are almost useless as safety nets for small businesses. Few people will mourn their passing, which I am inclined to celebrate.

The second provision I have chosen to highlight, which has been mentioned already, is equally important in terms of encouraging investment. I refer to the provision that will eventually make possible the total elimination of paper share certificates as records of ownership of company shares. It is somewhat brave of the Minister of State to introduce this measure at a time when

[Mr. Quinn.]

electronic voting is not getting a good name and people are expressing worries about paper trails, etc. I can understand the concerns which have been raised in that regard.

Anybody who has ever bought shares will be familiar with the cumbersome administrative process that follows every transaction in the stock exchange. That process culminates in the arrival through one's letterbox, long after the event, of a fancy and usually glossy bit of paper that certifies the number of shares one owns. This document has to be carefully preserved as proof of ownership because one has to hand it back when one sells the shares, if one can find it at that stage. If one sells part of a holding, the certificate has to be surrendered and rewritten with the new amount of shares entered into it. Such activity creates a vast amount of paperwork that is totally unnecessary in this day and age, when every company's register of shares is maintained in electronic form. The Oireachtas has a lot to learn in this regard. I have spoken previously about the amount of paperwork, such as envelopes containing Order Papers, we end up with each morning.

Mr. M. Ahern: Yes.

Mr. Quinn: Given that Bills, etc., are available in electronic form, it is sinful that we use such a huge amount of paper in this building. I am not sure what happens to it all, but I assume it goes somewhere.

For some years, investors have had the option of dematerialising their shares. No share certificates are issued to those who take up this option — everybody in the transaction relies on electronic forms and records to prove their ownership of shares. The system has been in operation for long enough to have proven itself fully. The provisions of the Bill mean we are preparing to move out of the transaction stage in which both systems exist side by side.

I welcome this measure because we need to move with the times if we are to benefit fully from the potential of new technology, which makes it possible for us to exist perfectly well without paper share certificates. We all know that old habits die hard and we do not find it easy to adjust to change. There is a tendency to continue with practices long after they have stopped serving any useful purpose. This provision is similar to changes which are being made in the conveyancing of houses and other real estate.

While this measure will not deliver the same level of cost savings to customers, it will lead to some worthwhile savings. It will also offer added convenience to share owners because it will make it impossible for them to lose, damage or destroy paper certificates by mistake. I imagine that many such certificates are lost in fires, for example. There was a fire in one of my offices 20 years ago. The damage was minimised, luckily enough, because we had a fireproof safe, but we had to

search through a great deal of paperwork nevertheless. Share certificates can be lost and not found again. Apart from the fact that one may want to sell some of the shares, one has to change the share certificates because it does not cover the correct amount. Much of the legislation passed in the House is of a technical nature. Bills concerning financial measures are particularly rarefied. For a change, this Bill includes two down-to-earth provisions that will make people's lives easier and save money at the same time.

I recall a seanfhocal from my schooldays — *éist le fuaim na habhann agus gheobhaidh tú breac*; listen to the sound of the river and you'll get a trout. I congratulate the Minister of State. He has listened to the sound of the marketplace and the needs of small businesses and investors.

Mr. Leyden: I welcome the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Michael Ahern, to the House. I congratulate Senator Quinn on his recent appointment as chairman of EuroCommerce, which is of vital importance to the country and brings Ireland great prestige.

Mr. Coghlan: Hear, hear.

Mr. Leyden: I also congratulate him on his award of an honorary doctorate of law from NUI, Galway. I had the honour to be present on this wonderful occasion and he received a wonderful citation. I also had the pleasure of being appointed Minister of State at the Department of Posts and Telegraphs when Senator Quinn was interim chairman of An Post. He modernised that organisation, making it more business-oriented. He has not only done the State some service, he has done it great service along with Michael Smurfit who was interim chairman of Telecom Éireann at the same time. It is good for the Oireachtas to have Members with such experience.

I welcome the Investment Funds, Companies and Miscellaneous Provisions Bill 2006. It is a technical Bill, one with which the Minister of State will have no difficulty because of his previous occupation. The raising of the audit exemption threshold arises from the Companies (Auditing and Accounting) Act 2003. Many points made then have been taken on board by the Minister of State. He now has a stronger hold on the commerce and trade side of the Department of Enterprise, Trade and Employment and he knows Ireland must be competitive with no barriers. He has a particular role with his brief as Minister of State with special responsibility for trade and commerce.

Was this legislation discussed prior to the report of the Small Business Forum? It is vital for the continuing development of our economy that enterprise and innovation is promoted. If there exists a situation where entrepreneurs face restrictions and expenses that their counterparts

in the UK do not, then we must act quickly to remedy it, particularly as we share a border with the UK. Although we are working closer together since the Good Friday Agreement, there should be no restrictions between the role of both administrations in business matters.

Yesterday, it was reported that Exchequer returns were €880 million more than projected, an indicator of how the economy continues to boom. The Minister of State should not be shy in taking some credit for this as he has played an important role as trade Minister. The increase in Exchequer returns is due to the construction sector and domestic demand continues to be the key driver of the economy. Bord Bia reports that domestic growth was estimated to account for all GDP growth in 2005. This assessment is backed up by the Irish Exporters Association 2005 year-end review. It reported that Irish manufacturing industry marked time in 2005 with an increase of 2.5% in export output, only sufficient to match the inflation rate. This is not particularly good news but it is a wake-up call for the economy and the Government. I caution against resting on our laurels.

We must ensure the economy is one in which small businesses can flourish. The Bill is very much in keeping with the submissions made. The Minister of State proved to be listening in this regard. Since his appointment in 2002, he has gained much experience in this area. The Oireachtas Joint Committee on Enterprise and Small Business has assigned me to draw up a report on exports. I note the recent trade mission to Japan and China by the Minister for Enterprise, Trade and Employment, Deputy Martin. His opening of a trade office in China is to be welcomed. We must also bear in mind our links with Taiwan which has an economic mission in Ireland.

The Bill has been widely accepted by both sides of the House. Senator White's personal experience of industry is welcome as it brings a particular insight into legislation dealing with small companies. The cost of an audit for her company is €15,000 a year, a considerable amount of money. Without those costs, it would significantly reduce her company's overheads. The Bill will assist in this regard.

I wish the Minister of State continued success. Last year, I attended a trade mission in Milan and was delighted to see the work of Enterprise Ireland. It is wonderful that the work of the former trade board, Córás Tráchtála, continues through Enterprise Ireland. The contacts built up by Ireland Inc. have been worked on and the Minister of State has added to that by his personal attendance at these overseas events. Over the next 12 months, he may have to restrict his overseas ventures. I did not do so when I was a Minister of State, which I regretted in later elections.

The role of the Seanad is important in these trade exhibitions and the Minister of State should

encourage spokespersons from the House to attend them. It is important trade missions are supported by the Oireachtas. The Minister of State has worked with the Oireachtas Joint Committee on Enterprise and Small Business, with the chairman attending trade missions in India and South Africa. A Senator on a trade mission to the US is very much appreciated. I am sure Senator Coghlan was delighted to be involved in such events. I thank the Minister of State for introducing such detailed legislation. I hope he has continued success in his Ministry and beyond that.

Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Aherne):

I thank Senators for their valuable contributions to the debate. Their useful contributions covered an important area for small businesses. I thank Senators Coghlan, White, Quinn and Leyden for their kind words.

The proposal to increase the audit exemption threshold was highlighted in the recommendations of the Small Business Forum. When the 2003 Act was introduced, this was something which we indicated we would keep under review. At the time, Senator Coghlan and his colleagues emphasised that they felt it should be increased. The officials took this on board and this move has been welcomed by all sides.

Senator Quinn signalled a note of caution in terms of businesses that may consider they do not need to have a proper set of accounts prepared, as this could result in business slippage. I concur with this point. The position is that the exemption that may apply to companies would relate to the need for an external auditor. Company directors would continue to have a statutory obligation to prepare accounts that give a true and fair view of a company's financial situation and to lay them before AGMs. Companies are also required to file accounts with the Companies Registration Office. The level of detail required varies according to the size of companies. Effectively, the Bill is removing the requirement for an independent, external auditor but it is not removing the requirement to prepare a true and fair set of accounts. Neither is it removing the requirement for compliance with companies' legislation and regulations. People should be aware of this.

Senator Quinn also referred to cash flow as opposed to profit in respect of successful small companies. In my former job as an accountant, at times I was almost reduced to tears when I saw people making book profits but having no cash because they would not go out and collect money owed to them. Senator Quinn has rightly highlighted this problem. People should ensure they look after their cash flow.

Another point raised by Senator Quinn related to dematerialisation. When this issue came to my attention regarding shares, the first thing that crossed my mind was electronic voting and a lack of a paper trail. There will be a paper trail in this area as a shareholder statement of the shares held

[Mr. M. Ahern.]

will be kept. Shareholders will have up to date information about the dealings that take place. Even though the information will be kept electronically, there will be paper evidence of what is happening in regard to the shares, which is important.

Senator Coghlan referred to the establishment of the national consumer agency. This is at an advanced stage. I hope the Bill concerning it will be available in the next session. He also referred to small, indigenous businesses being the backbone of the economy. Senators Quinn, White and Leyden reiterated this point. If I am correct, in 2005 the number of jobs created in small, indigenous industries was greater than the number of jobs created by multinationals. That has been a feature of job creation in recent years and it is in line with Government policy. Everyone involved in this area has focused on growing indigenous companies and this policy is now coming to fruition.

A reference was also made to co-operation between Departments. I assure the House that is the case in the area of trade. The Department of Enterprise, Trade and Employment works closely with the Departments of Foreign Affairs, Finance and Agriculture and Food. It is not the case that Departments do not co-operate, there is great co-operation across these Departments. A lack of co-operation certainly does not apply in the area of trade. It is important to have all the strands working together in order to be successful.

The provision of broadband is very important for the growth of industry. It is interesting to note that broadband accessibility has been extended to 75% of the country although it is not possible to have 100% on-line accessibility. I am pleased to see greater progress is now being made than was the case heretofore.

Regulatory impact analysis is essential to ensure that any regulations being introduced would not be unduly restrictive or result in burdens being placed on entrepreneurs. The first regulatory impact analysis that was carried out related to directors' compliance statements. That worked well. The discussions that took place in that regard resulted in a formula that ultimately got broad agreement. This shows the importance of having an impact analysis and giving everyone a say.

Before concluding, I wish to add my congratulations to Senator Quinn on his appointment as chairman of Eurocommerce and also on his doctorate. They are well deserved. I am currently reading his book, *Crowning the Customer*. It is very good and I think everybody should read it.

Ms White: Senator Quinn started it all.

Mr. Leyden: The Minister need not worry about being brought before the Standards in Public Office Commission because the Minister

of State at the Department of Finance, Deputy Parlon, has already promoted a product.

Mr. M. Ahern: The provisions of the Bill are about facilitating business development and securing our competitive edge in key sectors where it has been developed. Where possible, we should ease the regulatory burden on businesses. That is already happening here where a flexible, responsive and business-focused regulatory system is developing. This is vitally important because, as has been stated, like all developed economies, our economy depends increasingly on services as it moves away from basic manufacturing to higher upscaled manufacturing and services. If we do not have a system which will allow people to be flexible and respond quickly to changes in the marketplace, we will lose out. I believe we will continue to be successful.

Since the Bill was approved by Government, a number of issues were raised which may require the introduction of amendments. I have asked my officials to consider those proposals over the summer months and to seek input where necessary from the Company Law Review Group, as most of the proposals are in the area of company law. Accordingly, I propose to introduce amendments on Committee Stage for those suggestions that are deemed to merit consideration by the Oireachtas.

I thank all Senators who contributed to this most useful and informative discussion. I hope I have clarified most of the points raised. It will be necessary to reflect on some issues between now and Committee Stage. I thank my officials for the excellent work they have done in preparing this legislation and for being so receptive to suggestions coming from many different quarters.

Ms White: Hear, hear.

Mr. M. Ahern: I look forward to discussing these matters further on Committee Stage in the autumn.

Mr. Coghlan: I join with the Minister and other Senators in offering my congratulations to our colleague, Senator Quinn. I was unaware of his honorary doctorate until now. Well done to him, it is well deserved. I also congratulate him on the position to which he was deservedly elevated at European level.

An Leas-Chathaoirleach: I also extend my congratulations to Senator Quinn. They are richly deserved.

Mr. Quinn: My head is getting larger.

Question put and agreed to.

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

Mr. Leyden: On the first day after the summer recess.

Sitting suspended at 12.40 p.m. and resumed at 2.30 p.m.

Institutes of Technology Bill 2006: Second Stage.

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

Minister of State at the Department of Education and Science (Miss de Valera): I am pleased to bring the Institutes of Technology Bill 2006 before the House. I am also pleased to say that during its passage through the other House, there was widespread acknowledgment of the success of our institutes of technology, as well as cross-party support for this legislation.

The Bill is being considered at a period of profound change and importance for higher education. A fortnight ago, the Government launched the strategy for science, technology and innovation and our higher education institutions will have a key role in delivering that strategy. Last Monday, the Minister for Education and Science authorised the Higher Education Authority, HEA, to issue a formal "call for proposals" from universities and institutes of technology under the strategic innovation fund. Together, these initiatives represent an investment of more than €4 billion.

In making these major investments, the Government recognises the imperative of high-quality third and fourth level education if we are to succeed in today's highly-competitive, global knowledge environment. Our future economic and social prosperity will undoubtedly depend on the strength of our research and development base and on our ability to produce new and better products and to provide highly educated creative people. This is the context for this legislation. It is an explicit recognition of the importance and value of the institutes of technology to our citizens and our overall education system.

To maximise the contribution of higher education to the social and economic progress of our nation, the institutes of technology must be supported to achieve their full potential. Under this legislation, they will have greater autonomy to fulfil their missions. They will also be brought within the remit of the HEA, which will provide for a more integrated and cohesive strategic approach to the development of higher education in line with national priorities.

While the institutes of technology are a relatively recent addition to higher education, they have been a major success story. It is only in recent decades that they first appeared on the education scene and even more recently that they were put on a statutory footing with the 1992 enactment of the Regional Technical Colleges Act and the Dublin Institute of Technology Act. The separate legislative instruments reflect the

difference in genesis of the Dublin Institute of Technology, DIT, to the other institutes.

A brief consideration of the history of the institutes is useful in illustrating how far they have come and how rapidly they have attained their current position in higher education. Several appraisals of Irish education were carried out in the 1960s. Two of these, a 1964 OECD study, Technician Training in Ireland, and the Investment in Education report of 1965, concluded that urgent attention was required in the area of advanced technical education to produce technically qualified people against a backdrop of new planning for industrial development.

The response of the Government was to announce the establishment of several regional technical colleges, RTCs. The Minister of the day then set up a steering committee on technical education to advise him on the role of these new educational establishments. In its 1967 report, the committee concluded that the brief for these new institutions should be to educate "for trade and industry over a broad spectrum of occupations ranging from craft to professional level, notably in engineering and science, but also in commercial, linguistic and other specialties". The first regional technical colleges commenced operations in 1970. There were 11 of them when they were put on a statutory footing with the 1992 Act and that number has since increased to 13.

In 1977, the City of Dublin VEC established the DIT, bringing together six colleges located across the city into a single entity. These colleges focused on applied education and training in a wide range of occupations, trades and skills, and were, up to the 1970s, almost the sole provider of technician and technological training and education. In the early days of the DIT, much of the activity was at second level, continuing the work of the previously separate colleges. Gradually, however, an increased third level provision evolved. Uniquely among the institutes of technology, the DIT has statutory power to make its own academic awards.

Following the enactment of the Qualifications (Education and Training) Act 1999, the establishment of the National Qualifications Authority of Ireland, NQAI, and the Higher Education and Training Awards Council, the development of a national framework for qualifications by the NQAI and the provisions facilitating delegated authority for making academic awards provided institutes with the means to make their own awards. The majority of institutes can now make awards up to masters level — level nine on the national framework of qualifications — while four institutes have authority to make awards at level ten, which is doctorate level. This is indicative of the progress the institutes have made and is a clearly validated statement of the excellent academic standards in the sector. I am sure Members join with me in commending the institutes for these achievements, as well as acknowledging the critically important role

[Miss de Valera.]

played by the various VECs in the establishment and operation of the institutes.

A characteristic of the institutes that has remained strong is their regional focus. It is evident in the original title, regional technical college, that this focus was central to their mission. It is important to note that it has been retained through the significant developments that have taken place in the sector. As an example, the regional focus is expressed in the local representation provisions for governing bodies in the existing legislation and this is carried through into the Bill now before this House. The institutes have forged strong community and commercial links in their regions and this has been singularly successful. Examples of collaboration with industry based in an institute's region are many and have proven to be very successful and mutually beneficial. These collaborative activities help the institutes to develop and refine core strengths that, quite often, are unique and will help to develop centres of excellence comparable with any in the higher education domain. These links are critically important for industry, for institutes of technology, for regions and for the country's social and economic progress.

One of the most obvious features of the higher education system in Ireland is what we know as the binary system, a university sector and an institute of technology sector. Successive Governments have made it a policy to maintain the system, recognising the importance of the distinctive role, mission and provision in both sectors. However, it has become apparent relatively recently that while preserving and valuing the differences of both, there is a need to better integrate the two components. As things stand, the strategic management of the universities differs from that of the institutes of technology in that the Higher Education Authority, HEA, operates as the funding and overseeing agency for the universities while the Department of Education and Science has very substantial statutory functions with regard to the operation of the institutes.

The House will be aware of the OECD Review of Higher Education in Ireland which was published in 2004. The review supported Ireland's strategic ambition of placing its higher education system at the front rank of the OECD in the context of the wider national objective of developing a world-leading knowledge economy and society. A key recommendation in the resulting report was that the differentiation in mission of the university and institute of technology sectors should be retained but that both sectors should be brought within the remit of a single authority in order to achieve a unified higher education strategy. A further recommendation stated that the extent of external regulation of the institutes of technology should be eased, which would give them greater managerial freedom to respond to the opportunities and challenges of supporting

regional and national social and economic development.

Without doubt, the primary purpose of education at all levels is to help people to reach their full potential as individuals. However, it is also clear that a great benefit to society and societal well-being derives from education. Developing and enhancing our educational system in its entirety, particularly among marginalised groups, will serve to enhance that societal well-being, help to build a more inclusive society and be a key driver of our social and economic progress as a nation.

The OECD review summarised the importance of the economic dimension of education where it stated "Ireland was one of the first European countries to grasp the economic importance of education and economists suggest that this upskilling of the economy accounts for almost 1% of additional national output over the last decade or so". The Minister said in the other House that to acknowledge this fact is not, as some would represent it, to advocate a utilitarian approach to education. Instead, I regard it as clear evidence of the impact of investment in education. It is a virtuous circle. Investment in education generates economic growth which in turn provides us with more resources to invest and, in doing so, helps us to empower people and enhance their lives.

As greater numbers of people progress through the system to third level and beyond, the level and quality of the national skill set rises commensurately. This, in turn, serves to attract and retain those high quality, high skills and high value-adding jobs that are vital to our progressing to become a high technology, knowledge-based economy.

The rate of participation in higher education has increased consistently over the past 20 years. The most recent participation study confirms the continuing trend. It shows that the national admission rate was 55% in 2004 — up from 44% in 1998.

The Government has recognised that, collectively, our higher education institutions represent a highly valuable national resource. It is vital that we ensure that all the component parts of higher education are working together on a system-wide basis so we can build world class quality and strength in the system and, in doing so, leverage the resource that is the institutions to realise the full potential of the system.

In investing in the development of third and fourth level education to support wider social and economic goals, a central Government objective is to ensure that all our citizens have a fair and equal opportunity to share in the considerable personal benefits of participation at these levels. Improving access for societal groups that, for one reason or another, have not traditionally participated in higher education is one of our key objectives. The institute of technology sector has a strong record of opening up opportunity and this

progress needs to be built on throughout the higher education system.

Recent surveys indicate significant improvements in participation rates from young people in the lower socioeconomic groups and from areas that traditionally have been under-represented. This is the result of a number of key targeted programmes and interventions. The goal of first, second and third level educational disadvantage and community education programmes funded by the Department of Education and Science has been to achieve tangible improvements in participation, progression and successful completion among both younger and older age cohorts from disadvantaged groups. A recent study completed for the institutes shows very substantial improvement in retention and completion rates in the institutes and I want to acknowledge the efforts made to achieve that progress.

The Action Plan 2005-2007, published in December 2004 by the National Office for Equity of Access to Higher Education, identifies a number of practical goals which will help to achieve further progress. Support for these innovative measures will be an important priority. Increasing numbers of students are also being encouraged and supported in making the choice to participate in higher education by improvements in the higher education grant scheme with priority for funding being given to students eligible for the top-up grants.

The changes introduced by this Bill are an essential element of this approach. The development of the Institutes of Technology has been governed by the various regional technical college, RTC, and Dublin Institute of Technology, DIT, statutes since 1992. Prior to that various vocational educational committee, VEC, statutes applied. These statutes provided a tight prescription of what the institutes could and could not do and required the close involvement of the Department of Education and Science and the VECs in institutes' activities. I think it is fair to say that the legislation governing the institutes was of its time and appropriate. However, the evolution of the institutes as providers of third and, in some instances, fourth level education means that they have outgrown these rules. To further develop and to allow them to contribute to their full potential, new rules are needed.

While the Bill is a technical Bill, primarily amending previous legislation, its effects are far reaching. When enacted, it will have a very significant impact on the system of higher education in Ireland. Many of the amendments concern replacing the respective roles of the Department of Education and Science and the VEC with the HEA and there are improved governance provisions which will support the institutes in developing within the ambit of the HEA. I would like to outline some of the important features of the new Bill. Parts 2 and 3 contain similar provisions relating to the Institutes of Technology

governed by the RTC Acts and the DIT Acts, respectively.

The Bill provides for the designation of the institutes of technology as institutes of higher education under the HEA by amending the Higher Education Authority Act 1971. This designation, and the amendments to the RTC Acts and the DIT Acts in the Bill mean that, in practice, the HEA and the institutes will engage and relate in a way that is very similar to the way the HEA and the universities engage.

There are a number of areas where the current operation of the institutes will alter as a consequence of the role of the HEA. One of the main areas where the Bill will impact is on budgets and finances. To date, the practice has been that the institutes' proposed budgets were submitted through the relevant VEC to the Department of Education and Science. The Department of Education and Science then determines a provisional allocation following examination and subsequently, taking any appeals into account, a final allocation. This Bill provides for new arrangements whereby the HEA, rather than the VEC and the Department of Education and Science, will approve an institute's budget and allocate money to the institute from the overall allocation made by the Department of Education and Science. The HEA will therefore determine an institute's budget in line with the funding relationship between the HEA and the universities.

The HEA will also assume a role in establishing formal arrangements to permit institutes to borrow or to underwrite borrowings, again in a manner similar to that prevailing in the university sector. This is an important managerial freedom in achieving a greater level of institutional flexibility and responsiveness.

The authority will approve the format of accounts maintained by the institutes. This removes the Department and the VEC from their existing roles, but the provisions relating to the role of the Comptroller and Auditor General and the laying of the accounts before the Houses of the Oireachtas remain. The Department's role with regard to the approval of research, consultancy or development work or the acquisition of land will devolve to the HEA. The HEA will now determine the procedures to be used for selection of a new director of an institute or president of the DIT when the post falls to be filled. It will consult with the governing body where a temporary appointment is to be made.

The net effect of these provisions will be to loosen the restrictive statutory controls under which the institutes currently operate. The new arrangements will provide for a more autonomous and strategic relationship with the Government through the HEA, reflecting the dynamic and competitive nature of the environment in which the institutes are now operating.

In terms of internal institutional governance and management, the Bill clarifies the respective

[Miss de Valera.]

functions of the governing body and director or president. It includes a specific provision requiring the institutes to contribute to the promotion of the economic, cultural and social development of the State and to respect the diversity of values, beliefs and traditions in Irish society.

The governing body will be empowered to require the director to prepare a strategic plan for the college, to approve this plan and to provide a copy of it to the HEA and the Minister. It will also require the director to prepare a statement of the policies of the college on access for underrepresented, disadvantaged and disabled persons and on equality, including gender equality. The governing body will be required to approve this statement of policies. It will also be obliged to establish written procedures for dispute resolution, other than industrial relations disputes which would fall to be dealt with under existing structures, following consultation with staff and student representative groups.

The director will manage and direct the academic, administrative, financial, personnel and other activities of the college. This will be carried out subject to the policies determined by the governing body and the director will be answerable to the governing body for the efficient and effective management of the college and his or her performance. The Bill designates the director, appointed by the governing body, as the accountable person. This means the director is the person who, when required, will give evidence to the Committee of Public Accounts of the regularity and propriety of college accounts, the economy and efficiency of the college in using its resources, the systems and procedures in place for evaluating the effectiveness of its operations and other matters.

Overall, these elements of the Bill provide for improved institutional governance at governing body level and give greater clarity to the oversight role of the governing body and management role of the director and president.

In addition, the Minister introduced an amendment on Committee Stage in the other House which provides for the tourism college in Killybegs, currently operating under the auspices of the County Donegal VEC, to be designated as a constituent school of the Letterkenny Institute of Technology. This has been agreed with the tourism college staff, the County Donegal VEC and the governing body of Letterkenny Institute of Technology.

I wish to refer to two issues that generated debate on Second and Committee Stages in the other House. The first of these is the request that the notion of tenure be introduced with regard to the academic staff of the institutes. Tenure is a concept which had its place when there was doubt over academic freedom and there was little in the way of employment protection legislation. Section 7 of the Bill introduces the principle of academic freedom to the institutes of technology

for the first time and states that a member of the academic staff of an institute will not be disadvantaged for the exercise of that academic freedom. Given the strength of this provision and the substantial and progressive employment protection legislation available in this country, I am satisfied that these provisions represent robust protections for institute staff.

The second issue relates to the appearance of the accountable person, that is, a director or president of an institute, before the Committee of Public Accounts. The Bill contains a provision which prevents that person offering his or her opinion on the merits, or otherwise, of Government policy. It is important to emphasise that this prohibition exists solely with regard to appearances before the aforementioned committee and the director or president is free to give his or her views in any other forum. It is standard provision in legislation and reflects the role of the Committee of Public Accounts in investigating matters of financial probity and propriety.

In moving forward on these various fronts, the Government is taking a system-wide approach to the development of higher education. The various elements are interlinked and interrelated. In a country of Ireland's size, to produce maximum gain for society and the economy, the focus must be on aligning the various elements to achieve the system-wide quality improvement that will support our wider national goals.

The Institutes of Technology Bill 2006 is about modernising our approach to the governance and the strategic management of higher education. It presents new challenges and opportunities for the institutes of technology and for the HEA. We are charting a new course for higher education. I wish to take this opportunity to acknowledge the enormous contribution made by past and present students, staff, management, governing body members and VECs to bringing the institutes to this stage in their development. They have done the sector and the nation proud.

This legislation is a major milestone for the sector and for the development of higher education in Ireland. By bringing the institutes of technology and universities together under the remit of the HEA, we can achieve a more cohesive strategic approach that draws on the diverse strengths of all of our higher education institutions. The new managerial freedoms and supports provided for under this Bill will allow the institutes of technology to make their full contribution in that next stage of development. I trust the House will agree with me regarding the very positive benefits of this Bill and look forward to listening and to debating the various provisions with the Members of this House.

Mr. U. Burke: I welcome the Minister of State to the House. I also welcome this legislation on behalf of the Fine Gael group. We warmly embrace the concepts outlined in the legislation because of what they do for the institutes. It is

important to realise that for the first time we have a recognition of the importance of the institutes *vis-à-vis* the universities. Under this legislation, they will be on a par with the universities and operate under the umbrella of the HEA. I hope they will be treated equally with regard to budgetary provision.

The most important provision in the Bill is the fact that the institutes of technology sector will no longer be the Cinderella of higher education, as it was in the past. Very often the universities had a strong arm, the ear of the Minister for Education and Science and managed to obtain a disproportionately higher level of funding compared with the institutes of technology. This meant that the institutes were restricted to a degree in their operation and their flexibility was often curtailed.

I welcome the fact that during the debate in the other House, the Minister of State accepted an amendment concerning people with disabilities. When one looks at the detail regarding the allocation of funding for people with disabilities at university level and at institute of technology level, the grant for the former sector was ten times greater than that for the latter, at €500,000 as against €50,000. It is important that the Minister of State agreed to incorporate the amendment into the Bill. The Bill as originally drafted made reference to the needs of those who are "economically or socially disadvantaged" but left out those with disabilities.

I welcome the fact that the Minister of State has agreed to accept the inclusion of people with disabilities and hope the follow-up to that will be a greater allocation of funding to the institutes to make provisions for such people. When one looks at the variation that applied between one institute and another, it is clear that some institutes were unable to respond to the needs of people with disabilities. For example, the figure for the percentage of students with disabilities was 0.5% in the Cork Institute of Technology compared with 2.5% in the Institute of Technology, Tralee. The latter had the best record of all the regional technical institutes in that respect. Therein lies a story. I hope this legislation will present an opportunity to the colleges to respond in a positive way to the need for such provision.

The Minister of State referred to the question of the use of the title of director or president of an institute and went on to refer to the title of president of an institute. Will she give institutes an option to adopt the title of president of an institute rather than that of director? The title of president would improve the position for identification purposes. In that respect, it would put third level institutions, whether institutes of technology or universities, on an equal par. It would also level the playing pitch in terms of the title of the head of a university or of an institute. Such a change of title would be an important recognition for institutes.

The Bill is the most important legislation affecting the institute sector since the Region Technical Colleges Act 1992. It represents the culmination of a long process over three years, which began with the publication of the expert working group's report on the further position and roles of institutes of the technology and continued with the 2004 OECD review on higher education policy in Ireland. Both reports recommended many of the measures already incorporated in this legislation. It is welcome that the Minister adopted many of the recommendations in those two reports.

The legislation proposes that the Higher Education Authority should have responsibility for universities and institutes of technology. This should be the basis for the development of a more coherent national higher education policy. It is critical that we draw on the reserves and strengths of all higher education bodies if the full potential of higher education is to be realised at regional and national level.

The regional institutes have played an important role in contributing to the development of employment, industry and social structure. I refer particularly to the institutes in Galway and Athlone and to the extension of the institute in Galway to incorporate education provision in Mayo, with the institute now known as the Galway-Mayo Institute of Technology. I welcome the development announced by the Minister of State of the extension of the Letterkenny Institute of Technology to include a college in Killybegs. It is a clear indication that the institutes have an important role to play in the future development of industry in those areas. This is particularly important in Donegal which has suffered significant job losses in the past two years. I am sure that not only the institute in Letterkenny but that the college in Killybegs can support the attraction of industry to that county, which has been an employment blackspot in recent years.

Before universities recognised their potential in this area, the institute in Galway, which was known initially as the Galway Regional Technical College, developed the first link between industry and education. That college developed such cooperation quietly and successfully over the years. Hence, today Galway is the hub of many specialised industries and has given great employment in specialised areas, particularly the medical care area. The university in Galway has also supported and developed that link. There has been great cooperation between the institute and the university in Galway for the continuing development of such industry in Galway, which has given great employment.

Institutes of technology have also played an important role in research and development in social areas of disadvantaged. Such work has assisted industrialists, the Government in terms of developing social policies that could and

[Mr. U. Burke.]

should be implemented, the education sector in terms of educational needs, and other areas.

The recently published strategy for science, technology and innovation recognised the importance of the institutes of technology in working with industry. That strategy will ensure the continuation of the work undertaken in this area by many institutes in the past. It is important such co-operation is recognised and given greater emphasis in this strategy. In recent years many directors of the institutes were uncertain as to their role in and recognition of this work. Like the universities, although to a lesser extent, the budget they were given was often restricted. The strategy under this legislation will improve matters compared to the position in the past and it will give greater impetus to the role of institutes in engaging in research and development.

A major difficulty is the low proportion of mature students who can access third level education. The OECD report clearly identifies our dismal response in this respect. I hope the new structure will increase flexibility in the governance of the institutes to allow them to have a far greater intake of mature students which would clearly advantage industry and social development in any region. Our past record in this respect has been dismal. I hope the new structure will redress this problem.

Many of the institutes are already co-operating with local industries in the area of applied research and technology. For example, Athlone Institute of Technology is central to the promotion of economic and industrial development in Athlone. It is a process that delivers national benefits through employment and industrial output and engages with industry through the external services unit. Where colleges and institutes have established external service units, they have greatly benefited industry, particularly small and indigenous industries that do not have the scale of budgets to fund such expertise, management or other resources. Through the auspices of the institutes, small industries can tap into the expertise available that will lead to the development of research and development that will guide them into new markets and new marketing techniques apart from advancing their product output. I note that those involved in industries in Galway and Athlone always remark on the importance of the support they received and the success they achieved from these external units.

The number of students who dropped out of institutes was high in the past. That problem has now been largely redressed and the institutes have a higher retention rate than that of universities. That increase in the retention rate is welcome. However, it could be improved in the institute sector by the provision of a guidance counsellor service.

The Minister of State's professional experience as a guidance counsellor would indicate that there is a great need to provide guidance to students in

institutes of technology. Given that so many people wish to change courses or become lost to third level education, perhaps there is a need to allow them to access it as mature students on a temporary basis. I have continuously found that guidance and the provision of an identifiable individual to whom students can relate the difficulties they are experiencing are aspects that are lacking. From first-hand experience, I realise that there are people within the structure and personnel of the institutes of technology who would be only too willing to listen to students' problems if these were brought to their attention in time. The problems could be resolved and these students retained in, rather than lost to, education. Perhaps there will be time later on to mention other difficulties when amendments are tabled on Committee and Report Stages.

Mr. Fitzgerald: I welcome the Minister of State to the House. I could not agree more with the final remarks of Senator Ulick Burke. They are extremely relevant and I know the Minister will examine them closely. I have seen many examples down through the years which illustrate what the Senator spoke about.

When I read the Minister's speech on Second Stage in the Dáil, I was reminded of the 1980s, the times we served together on the City of Dublin VEC and the DIT and the crusade or voyage we embarked upon in 1985 and onwards. I am telling a little secret but the Leader of the House was the main Opposition spokesperson on education and I was her deputy. I am letting the cat out of the bag by saying that from time to time, I had reason to consult her about various measures I was taking in my capacity as chairman of the City of Dublin VEC, which was responsible for the DIT. We will say no more about this.

Some of the things that encapsulate what we are talking about here are innovation, a pioneering spirit, pushing out the frontiers and application. When I think about these words and terms and the significance and rich symbolism attached to them in terms of education, I think of the work done by the Department of Education and Science, St. Patrick's College, where I spent a number of years, University College Dublin, where I spent four years and the DIT.

I wish to focus in particular on the DIT because it is where I cut my educational and political teeth during the six years or more I spent there in the late 1980s and early 1990s. I was delighted to hear in the last few days about another pioneering and innovative initiative, namely, the provision of a master of arts in public affairs and political communications at the DIT from next September. This new course involves an internship in a number of significant public and private bodies, including Seanad Éireann. The DIT is making this course available to young postgraduates to enable them to have a greater understanding of the affairs of State and how they work. This is a pioneering, innovative and creative initiative

and I salute once again the great spirit with which the DIT has been imbued throughout the 1980s and into the 1990s, during which I had the privilege to be a part, albeit a small one, of this institution.

I must revisit my recollections because they are many, varied and very rich. Some of them are slightly negative in respect of measures I took as chairman of the City of Dublin VEC which I did not get away with. My recollections include discussions that took place at meetings of the City of Dublin VEC and the governing body of the DIT. It is only fair to admit that, from time to time, I had reason and opportunity to consult with certain people outside the general structure, which benefited me as it provided me with guidance on how to move the entire structure forward. We must remember that at that time, the City of Dublin VEC-DIT was the largest educational institution in the State. To the best of my knowledge, the DIT is probably the largest third level institution in terms of student population, although I am open to contradiction. However, if I am wrong, I am only marginally so.

Referring back to the speech made by the Minister on Second Stage in the Dáil, it is quite clear that most of us share a common vision with the Minister and Minister of State. I previously spoke about this vision when I spoke about adult and further education in this House a few weeks ago. First of all, we believe that in respect of the future of third level education and the merits and the significance of the binary system of higher education, the diversities in the binary system are complimentary, rather than adversarial. This view has been endorsed by all parties in this House, successive Governments and the OECD.

Back in the 1980s, we knew, as members of the City of Dublin VEC, that we had a considerable challenge on our hands in respect of the DIT and its position and that we had to turn that challenge into an opportunity. Every member of the City of Dublin VEC knew that the DIT had grown as a kind of a hybrid, if this is the correct expression, that it had reached its full potential within the organisational structures under which it had operated, and needed a new sense of freedom. I was unsure as to whether I knew exactly where it should go. On one occasion, I passionately but unsuccessfully tried to turn the DIT into some form of new university or polytechnic but my hand was stayed by stronger forces. I was the only individual who supported this course of action and one man cannot always do everything even if he is chairman.

The Minister's closing remarks on Second Stage in the Dáil referred to the legislation she is bringing before us, which the Minister of State has brought before this House today, as a major milestone for the institutes of technology and the higher education sector in general and for the development of higher education in Ireland. I would go further and say that the legislation the Minister of State is bringing before us today is a

major milestone for education in general in Ireland. This is because both the Minister's Second Stage speech and the Minister of State's speech here today contain very apt references to the totality of the educational journey, of which the institutes of technology form one constituent part. There is no doubt as to the great strategic importance of technological education in Ireland. It was of great strategic importance throughout the 1980s and 1990s and it is even more so today.

Even though it was not formally recognised by the Department of Education at that time as the DIT, the institution was known as the DIT before 1985. We must acknowledge that the generation before us, who were part of the forming of the DIT and its sister RTCs, had a clear vision for the future of Ireland. It was clearly articulated and expressed throughout the development of technological education and the manner in which it was an offspring of many different strands of educational experiences that had preceded those structures in the educational journey.

When I spoke recently about adult and further education, I quoted the vision to which I referred. I will quote it again because it is as relevant today as when I first quoted it in the debate on adult education a few weeks ago. According to the document, "our vision is of an inclusive Irish educational education which provides equal access to lifelong learning opportunities for all adults". While this vision might appear more relevant to adult education, it applies to the totality of the educational experience from the age of four to the age of 90 and beyond. I am aware that this is just one of many ways of articulating it.

Partnership was one of the themes mentioned by me during the debate on adult education. I must revisit it today because it permeates the speeches of both the Minister and Minister of State. I constantly stress partnership, not merely in education, but also in many other areas because it works. It is necessary to bring all the stakeholders and partners along with one when one has a vision, target or set of objectives, irrespective of whether they are national, regional or local. One must bring all the partners with one if one is to be truly successful.

I will be consistent and set aside that famous phrase of the late, great Brian Lenihan regarding the futility of consistency because it was a tongue-in-cheek remark. Consistency in respect of the journey here is very important. If he were alive today, I know that the late Brian Lenihan, as a former Minister for Education, would warmly and enthusiastically embrace this view. Both the Minister on Second Stage in the Dáil and the Minister of State here today have spoken about bringing all the constituent parts of Government together in this partnership. It is not simply a matter for the Department of Education and Science. The Minister and Minister of State are not being exclusive in respect of this journey. The process involves the Departments of Enterprise, Trade and Employment and Agriculture and

[Mr. Fitzgerald.]

Food, as well as other Departments, all of which affect research. It involves bringing the educational journey forward to the next milestone.

In the same way, the constituent parts within education, from primary through to secondary and into third level and fourth level, can no longer be fragmented entities because education in the present and future has to be seen as a partnership of equals with everyone contributing their own professional input. In this Bill, the Minister has correctly gone to great lengths to emphasise that when it comes to talking about institutes of technology, one is talking about education itself in its totality and the role played by the institutes of technology in the total educational experience. They are part of what must become an even more integrated and inclusive journey. Nothing else will work if education is to take on the economic and social challenges of the future.

The White Paper on Adult Education, the only such White Paper ever produced, elucidated that adult education must be viewed differently. The OECD report, when completing its review of higher education in Ireland in 2004, complimented Ireland on its binary system of third level education. However, one of its key recommendations, to which the Minister of State and the Minister referred, was that while we retain the difference between universities and institutes of technology, they must be brought under the remit of a single authority for the purpose of a unified higher education strategy if all of the adversarial silos are to be cast into the dustbin of history, as education is an empowering factor in society and the economy. The Bill will do such, as it rightly implements the recommendations.

The central purpose of the OECD report was to support the strategic ambition of placing our higher education system at the top of our wider national objective of developing a world leading economy and society. The report recommended that the extent of external regulation of the institutes should be lightened, which is provided for in the Bill. As we recommended but did not clearly articulate in the 1980s, the report called for DIT and the institutes to be given greater managerial freedom in responding to their opportunities and challenges to support local, regional, national, social and economic developments. We are not discussing challenges and opportunities for the sake of DIT, which was only an instrument.

Recently, there have been many exciting initiatives in this area. In recent decades, there have been futuristic developments in education that have brought Ireland to where it is today. Due to the emphasis on technical and scientific education and research, the few critics still standing would have us believe that we are passionately in pursuit of a utilitarian approach, to which the Minister of State referred and of which we learned years ago in economics classes. I reject

that assertion completely for a number of reasons. For example, the inclusiveness and extent of access to and support for participation in education at all levels is a wonder to behold in terms of structure, money and front-loading, but we all accept — the Minister and Minister of State included — that a great deal remains to be done.

People who were traditionally excluded, both formally and informally, from the education system due to being disabled or opting out due to a lack of money or where they lived are now being invited to participate. We are providing them with guidance on how to join and ladders through the various structures, such as secondary schools, plcs and so on. We will help them to travel the whole journey by providing financial supports or, in some cases, by using wide and innovative methods.

While I am testing the Cathaoirleach's patience because I am running out of time, I want to commend the important objectives of the strategic innovation fund. Not only are they at the centre of a significant reform programme, they form part of the catalyst to bring the apparently adversarial sectors of third level and higher education together to focus on a common strategy, for which purpose those sectors were established and should remain.

I wish to refer to the PRTLTI and the national research plan. I understand that the Minister has advanced the latter by introducing the agenda for its establishment, which will shortly be announced. It is consistent with her approach that the plan will integrate research activities across the relevant Departments, institutes and agencies, educational and otherwise, involved in research. I want to invoke the sentiments of a former critic of the Minister and the Government, Mr. Danny O'Hare. Not everyone shares his views, including me, but it is appropriate——

An Cathaoirleach: He is not here and cannot be spoken about.

Mr. Norris: Let the hare sit.

An Cathaoirleach: Yes. Do not mention the hare, as he is not here to defend himself.

Mr. Fitzgerald: I want to quote him on the last budget, the Ministers for Education and Science and Finance and the Taoiseach. Regarding the interpretation of the budget by the Higher Education Authority, universities and institutes, he stated:

The signal this budget gave is a seismic shift of Government strategy. In clear and unmistakable terms, the Minister, her Minister for Finance and the Taoiseach are putting higher education at the very centre of our national economic development strategy.

Need I say more?

Mr. O'Toole: With the permission of the House, I wish to share the final five minutes of my time with my colleague, Senator Norris.

I welcome the Minister of State to the House. I also welcome this legislation, for which I have often called. During our debate on the OECD report, I trenchantly spoke about some of its pluses and minuses. It is important that the issue of which I was most in favour has been addressed by the Bill and the issue to which I was most opposed in the OECD report has been ignored by the Government.

The Bill brings the institutes of technology under the remit of the HEA by removing the Department's power in that regard, as other speakers have said. The most negative aspect of the OECD report was that it recommended doctoral level research to be confined to universities, which was an appallingly bad call. I welcome that the Government ignored it and that, in his budget speech, the Minister for Finance announced that such research would take place throughout the third level sector. I look forward to that crucial provision. Why is it important? Through it, we can tie research, technology and development to the commercial world. We can take research and apply it, particularly to the marketplace. The value of such research is that it can be advanced to the point at which it can be commercialised. This should be done in universities and institutes.

For 15 years, I have been complaining about how little we spend on research and development. While the figure has been improved time and again, our spending remains low in European terms. The seed capital provided by the Government to third level education is important, but approximately €200 million of that is provided to universities while only a couple of million euro is provided to the institutes of technology. This is unfair and lacks equity. Will the Minister of State address this matter?

If we are to translate research to the marketplace, we will do so here. If we are to progress the innovation agenda, it will occur in the institutes of technology. Creating products from ideas is crucial. I referred to this issue yesterday morning, that is, how we must move from call centre-type employment to added value-type employment. Adding an intellectual capacity to what is happening in the field of research would accomplish that. Currently, companies approach institutes seeking help to develop their ideas into products, but the institutes do not have the space or facilities to provide that help. We are all losing out as a result, for which reason the institutes should receive more support.

Each institute of technology has an incubation section. While there is collaboration across that sector, it requires greater investment. This money will grow. It is the parable of the talents, namely, instead of burying talents, we are allowing them to be invested in and to develop. The importance of such nurturing is crucial. What does it give us? I have discussed the proposals with institutes of

technology and have read their documentation and the research they have carried out. I have seen their plans and witnessed their innovation and vision. If we allow them to develop along the lines they have suggested a lot is to be gained by our economy.

One sentence in the Minister of State's speech summarises the proposals. She said the Bill would allow greater managerial freedom to respond to the opportunities and challenges of supporting regional and national social and economic development. The rest of the speech was not necessary because that sums up how the institutes of technology can be developed. If that is allowed to happen they can provide a constant output of doctoral level graduates, which is crucial to the world of research and development. We do not yet understand that research must take place at every level. While solid research has been carried out in colleges and universities in recent years the level of research must grow. Most has been at graduate or post-graduate level but our economy now needs doctoral level research to progress and the institutes of technology can give us that.

The institutes of technology can also strengthen the regional and sectoral involvement in the innovation infrastructure of the country, which is crucially important. They can enable industry-led technology to guide the collaboration of industry-led technology and to focus on medium-term research and technology issues. People can come with an idea and it can be progressed to the point where it can be brought forward to the market place.

Institutes of technology can also establish themselves as drivers for cluster-based research, involving institutes, universities and industry, which is almost exactly what the Minister for Finance said in his Budget Statement last December. They can also create a focal point for the innovative integration of research, teaching and industry. When they are tied together there is extraordinary synergy and innovation, giving them the opportunity to move things forward.

They will also maximise the commercialisation opportunities for publicly-funded research programmes, for which we, as taxpayers, pay. The programmes I mentioned were mainly commercial and industry-led. They are hugely important but would it not also be excellent if State-led, publicly-funded research programmes were also developed? The opportunities in this sector are boundless. There is no limit to the march of the institutes of technology, if we give them the space and the necessary seed capital. We should allow them to flourish by integrating their work with other institutes, with industry and with local initiatives focusing on social and economic needs.

I have studiously avoided talking about the Bill because it is, in the main, something with which we are all in agreement. I want to look beyond the Bill and consider the next stage in the process. We must allow it to bridge the gaps among research, education, teaching, knowledge and

[Mr. O'Toole.]

epistemology and tie them all together in a pragmatic way, as advocated by Senator Fitzgerald, and in a way that is academically based.

I will finish by referring to two issues of concern to which the Minister of State referred. I read through the legislation and share her concern over security of tenure, about which a number of people have spoken to me. The Minister of State said they did not have anything to worry about. I have carefully examined sections 13 and 14. Section 14(3) makes it clear that the appropriate sections of the Vocational Education (Amendment) Act 1944 shall apply to all those in a college who were appointed prior to the commencement of the subsection. Section 13 states that new appointments will also be covered. Can the Minister of State confirm that for the record? People are concerned about it. I want to be sure that if there is any problem afterwards I can point out those sections and tell people I was given assurances that they had nothing to worry about. I would not want academic appointments to institutes of technology to be less well-protected than those in the university sector.

Mr. Norris: I thank Senator O'Toole for allowing me to share his time. I welcome the Minister of State and the Bill.

I have spoken previously on these issues and remember being briefed some years ago by the Dublin Institute of Technology. I have a certain selfish interest because Trinity College, Dublin, conferred degrees for a number of years so I still have a residue of voters from that background. In addition, despite my family's long connection, my nephew and nieces did not attend Trinity College, Dublin. My nephew gained a very good degree in electronic engineering, the conferring of which I attended just a few months ago. It was a very happy occasion for all the family.

I was briefed by people in Waterford about Waterford Institute of Technology's attempts to achieve university status. I believe it would be a good idea, though I am aware there are various views on the issue. Some people said it represented a type of intellectual snobbery, which I do not believe to be the case.

There has been considerable growth in this area, which is very important for the continuing strength of our economy. Some 50% of all students entering higher education now attend an institute of technology, which is an astonishingly high figure. In addition, more than 20,000 study part-time each year and gain credit towards internationally recognised qualifications. The range of subjects available has broadened significantly in professional areas in the institutes of technology, which is welcome.

The Minister of State indicated that the Bill had two principle aims. It will give greater autonomy to the institutes of technology and will also bring them under the HEA. I welcome that because it will give them a closer association with

the intellectual ethos and administration of universities. It is a mark of ministerial generosity that there appears to be no territorial or proprietary motivation to the proposals. The Minister of State appears pleased that the institutes of technology will achieve this objective.

Senator O'Toole's last point was on security of tenure and academic freedom. I have discussed it with him and have also been approached on the issue. The Minister referred to the request that the notion of tenure be introduced with regard to the academic staff of the institutes. She talked about the historical place of tenure in academic circles, particularly with regard to academic freedom. If I am correct, she expanded from her text by referring to protections provided by other forms of legislation, particularly employment law, and appeared to give a clear guarantee that there would be no threat to the jobs of people in this area. I received a number of submissions from people, all of which were similar. I will put on record three paragraphs which were contained in almost every letter:

Section 7 of the Bill enshrines the principle of academic freedom, a fundamental principle essential for healthy debate and independent expression in a civilised, democratic society. However, this very principle is completely undermined through the removal of job security for future institute of technology academic staff by section 13 of the Bill.

To separate the concept of academic freedom and security of tenure is entirely wrong. They are intrinsically linked, since it is through security of tenure that academic staff may exercise their academic freedom of expression, without fear of being disadvantaged or subject to less favourable treatment by the institute for the exercise of that freedom.

The removal of job security is in contrast to the situation of academic staff in universities, where they are rightly provided with both academic freedom and tenure.

In other words they make the distinction between academic freedom on the one hand and the capacity to retain tenure on the other. The Minister seems to have made a good case that they are, in fact, secure. However, I have some questions in this regard. I am grateful that section 7(2) states:

A member of the academic staff of a college shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the college, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by the college, for the exercise of that freedom.

Hear, hear. That reads very like the amendment concerning academic freedom which former Senator Joe Lee and I put down on the Universities Bill some years ago, which was the subject of

a positive editorial in the Irish Federation of University Teachers' magazine and was adopted by the Swedish Government in its educational proposals.

Section 13 states:

A college may appoint such and so many persons to be members . . . subject to the approval of . . . [they are] employed on such terms and conditions as the college (subject to the approval of the Minister . . .) from time to time determines.

Section 13 also states that a college may suspend or dismiss a staff member, but that is controlled. However, section 14 states, "A college shall not remove any of its officers to whom this subsection applies from office without the consent of the Minister." Will the Minister of State explain what is meant by "officers"? Does it refer to particular persons within the university administration or does it cover all academic staff? It is important for the peace of mind of academics in these institutions that they are given reassurance that by the expression of unpopular views, which is guaranteed in section 7, they are not subsequently undermined by being subject to the threat of dismissal.

Ms K. Walsh: I am honoured to speak on the Bill in the presence of the Minister of State, Deputy de Valera, and her officials. On Second Stage in the other House, my party colleague, Deputy Fiona O'Malley, set out the broad view of the Progressive Democrats on this welcome legislation. As a result, I will focus on specific points.

I often hear reference to international comparisons as to how Ireland is faring versus what is happening abroad. Regularly, for example, OECD comparisons are mentioned on the Order of Business and I am reassured that we are modernising and reforming the higher education sector on the basis of the OECD review of higher education in Ireland. That reform process means transferring responsibility for the day-to-day management of the institutes of technology sector from the Department of Education and Science to a reconstituted Higher Education Authority.

Few, if any, will oppose the objectives of the Bill. It is right that we develop a strategic approach to higher education within a unified policy. It is also desirable that we gradually increase the academic and managerial freedom given to our excellent institutes of technology. It is on the issue of academic freedom I wish to concentrate. I am aware the Minister will have heard on Committee and Report Stages of concerns regarding section 13. For the benefit of the House, I will summarise the issue.

Section 13 refers to security of tenure for staff in the institutes of technology, specifically to future employees. Under the Bill, future institutes of technology staff will no longer have the precise measures of secured tenure enjoyed

by, say, staff in universities. The fear is that, as a consequence, institutes of technology staff will feel downgraded *vis-à-vis* university staff, will feel their academic freedom is curtailed and will feel impeded in speaking out on specific issues, particularly in an era of increased private funding of third level education.

The decision to resist amendment to this section is based, as I understand it, on a combination of the following points — that adequate protection exists in the wider context of employment legislation; that section 7 provides institutes of technology not just with the right but with the responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its affairs; and that section 7 provides institutes of technology staff, irrespective of their tenure, with the freedom, within the law, to question and test opinion or practice, to put forward new ideas and to state controversial or unpopular opinions without fear of disadvantage or less favourable treatment by the college for the exercise of that freedom.

Notwithstanding these issues, I have committed to asking the Minister to set out to this House the Government's explicit assurance that section 13 cannot and will not have the negative consequences for institutes of technology staff that I outlined earlier. Perhaps section 13 could be amended to ensure it is subject to section 7. I respectfully invite the Minister to provide that reassurance or otherwise.

The institutes of technology, their staff and students continue to play a massive role in sustaining and progressing Ireland's renowned educational status. The Progressive Democrats have special regard for their role and contribution. As a party dedicated to the pursuit of system-wide collaboration and maximising potential by applying the collective strengths of our third level institutions, we welcome this reforming legislation.

Mr. McHugh: I join with other Senators in welcoming the Bill and in welcoming the Minister of State, Deputy de Valera, to the House. I welcome that all of the institutes of technology will come under the umbrella of the Higher Education Authority, which is timely and could not happen quickly enough, as I learned from speaking to staff at Letterkenny Institute of Technology, LYIT, who also welcome the measure. To be parochial, LYIT also welcomes that Killybegs will have functional linkage with the institute, which may set a precedent in the consideration of satellite and outreach facilities as opposed to having a critical mass centrally located in a particular building or centre.

LYIT is also bridging out into north Inishowen, where courses are available at Serenity House in Moville through a satellite link. Outreach possibilities exist and it is important they are further explored. As Inishowen is larger than County Louth in land area, we should consider a permanent functional centre there, such as that at

[Mr. McHugh.]

Killybegs. There has been a severe haemorrhage of jobs in the region in the past ten to 15 years and many highly educated, articulate and qualified local people feel there is a constant brain drain from the peninsula.

There are constant references to the fact that merely having LYIT centred in Letterkenny creates a critical mass of intelligence and knowledge, which attracts industry. The prime example of this in Letterkenny is the American company, Primerica, which is successfully operating in the area. Its chief executive officer repeatedly states that the company was attracted to the area by the availability of the highly educated workforce in Letterkenny, which was produced by the institute of technology.

The people of Inishowen constantly suggest that some sort of permanent third level educational infrastructure should be established in the peninsula, perhaps acting as a bridge between the University of Ulster, Magee Campus in Derry and LYIT. This could be explored on a cross-Border basis, specific to the needs identified in Inishowen, given the brain drain and the haemorrhage of jobs. The current buzz words refer to cross-Border relationships and interrelationships. We should consider some sort of permanent educational infrastructure in the Inishowen peninsula, possibly in Buncrana.

I agree with Senator O'Toole that we must seek added-value jobs. We cannot ignore the fact our economy will not be sustainable if it continues to create call centres and expand the low skill sector. We must consider high value, high-tech, value-added jobs, for which opportunities exist in locations like Inishowen.

As to the HEA becoming an umbrella organisation for the institutes of technology, I would like to emphasise the issue of disability. Statistics are available on the low take-up of third level places by people with disabilities and we cannot ignore them. We must encourage the inclusion or participation of disabled people. The internal postman in Letterkenny Institute of Technology, Mr. Raymond Gillespie, is confined to a wheelchair and this sends a positive signal in the educational establishment, is a symbolic feature of the college and is something to which we should aspire.

The Minister mentioned that the title of directors will be "director", but said there will be a choice whether they will be called president or director. I take it that each institution will make that choice.

County Donegal has a 144 km geographical tie to Northern Ireland. LYIT services a large land mass and is the only third level institution serving that population base. With the manufacturing sector under so much pressure, Donegal is going through a significant transformation in direction regarding industry and jobs. The future for places such as Donegal is that education will provide the primary blocks of any future sustainable job. There is a worry in Donegal that we are too

reliant on the construction industry. That is a feature of everyday life. While we still have high unemployment in Donegal, the construction and service industries have the monopoly on jobs. We should think in the long term and any investment that can go to a college such as LYIT should go there. It has the capacity and the degree programmes, including general nursing, business and electronic and manufacturing engineering. It has the capacity and potential to serve the educational needs of Donegal and to serve as a centre for the creation of a critical mass of knowledge and skills to attract sustainable, value-added jobs to the county.

I would like to put on record the need for more emphasis on the IT sector in Letterkenny. I mentioned Primerica. LYIT has advanced singularly in producing a highly-educated IT skills base. We should go a step further. We must create the necessary infrastructure. We should seek solid linkages between LYIT and the Magee Campus of the University of Ulster in Derry. We have numerous examples of cross-Border associations and we are examining cross-Border roads infrastructure. People talk about potential cross-Border rail infrastructure between Derry and Donegal. There is potential for cross-Border health liaisons between Altnagelvin Hospital in Derry and Letterkenny General Hospital. We must seek cross-Border co-operation in education. It happens from an industry point of view. A large percentage of people working in Primerica in Letterkenny come from Derry. Likewise a large percentage of the Donegal workforce goes across the Border to Derry. From an educational point of view we should examine concrete parameters whereby we could underpin solid proposals between Magee Campus and LYIT. It happens, but we spend too much time talking about cross-Border linkages. The poverty industry has seen cross-Border activity. It is an opportunity where we could have something tangible, concrete and sustainable.

Ms Ormonde: I also welcome the Minister to the House and acknowledge her interest and feel for this subject. The Institutes of Technology Bill 2006 is one of the most important pieces of education legislation to be brought before the House in recent times. It is a timely, forward-looking and progressive Bill. It reflects and recognises the environment in which higher education organisations are required to work. It recognises the challenges that lie ahead and must be supported to allow each institute to develop to its full potential.

It should be added that this legislation reflects exceptionally well on the institutes and their record of achievement since their inception over three decades ago. When they were first initiated in the 1970s they were run as a tight ship and were vocational in nature. Their links were with the vocational system and the framework in which they were governed was tightly controlled

and centrally administered. The institutes were limited and did not have the flexibility to expand as they wanted.

Today the institutes are a success story. They have come a long way since they first opened their doors in the 1970s. Initially their brief was to educate for trade and industry over a broad spectrum of occupations from craft to professional level. From the time of their enactment in 1992, the number of regional technical colleges has increased from 11 to 13. At the same time the Dublin Institute of Technology was established. I remember when the Dublin Institute of Technology opened its doors through the six colleges, each with a specialist field. Bolton Street specialised in engineering, Cathal Brugha Street in catering, Kevin Street in science and Mountjoy Square in commerce and business. This is an example of how DIT has come into its own and the 13 regional colleges have expanded likewise to reflect today's facilities.

I congratulate the institutes and the DIT for opening their doors to allow students from all backgrounds to access third level education, particularly those from backgrounds that would not understand what third level education is. The VEC's insistence created the link with the institutes and facilitated the flow of students into third level. These students can move from certificate courses to diploma and degree courses and then to fourth level, postgraduate courses. I call it the scenic route. This is a significant achievement. I am glad the Bill allows the institutes to develop in such a way. Removing this binary system and bringing higher education under one umbrella is a great step forward. It gets rid of the distinction between the institutes which deal with trade and development and the academic orientation of the universities. This process must be further developed using the Higher Education Authority as the main management structure.

I also welcome the new fund that has been set up which will help to reform the internal management of the institutes to allow teachers, lecturers and learning to reform, to introduce new modules and programmes and create a dialogue between the institutes and universities. This will facilitate the movement of university graduates and lecturers across all third level colleges and to move on to fourth level, research and development, wherever they are needed.

It is an ambition of mine that Waterford Institute of Technology be designated a university. It has started the process and its pursuit of a university designation must be supported. Education contributes to prosperity and the south east needs a strong economic regeneration. Its economy is in transition from traditional agriculture and manufacturing to a need for developmental skill sets, to lay the foundation for a knowledge-based economy and the synergies for research, development and innovation. A university would instill a sense of pride in the south east

which is neglected. The Waterford Institute of Technology is on its way to achieving this. The process we have begun here will give it a golden opportunity to pursue this status.

I welcome this legislation which has started something big. This will be a knowledge economy. Were it not for this process and the Government's major investment in education the Celtic tiger phenomenon would not have happened. This is a fine Bill and the money invested in reforming the structures, creating links with the universities and the economy is a success story. I hope that in the next few years the Waterford Institute of Technology will become a university having earned this status through research and development.

Mr. Ryan: I will share my time with Senator Tuffy who will speak for five minutes while I will take ten. I must declare an interest in this Bill as a staff member of an institute of technology. I assure the Minister of State that my timekeeping in the Cork Institute of Technology is better than it was here today when I arrived late for my allotted slot.

Regarding Senator Ormonde's comments on the campaign to turn Waterford Institute of Technology into a university, I would prefer to have the status of the Massachusetts Institute of Technology than of any university. It is time we moved away from titles. The priorities are resources, range and achieving a high level of performance. To a degree the obsession with the name "university" holds us back. It is an increasingly difficult one to justify on the basis of any objective criteria. Apart from the very worthy and estimable work in the area of the liberal arts I am not sure what distinguishes a university from an institute of technology, or what should except perhaps the spectrum of courses.

I welcome the Bill but I want to make a few, hopefully pointed, remarks. The regional technical colleges, RTCs, which are now the institutes of technology showed an extraordinary level of imagination and flexibility. I bridle at private sector commentators, who talk about some imagined reluctance to change. This apparently applies also to Government negotiators, to judge by the contents of the proposed agreement, Towards 2016. The RTCs reinvented their remit two or three times over the past 30 years. They also responded with extraordinary flexibility to every new need and demand.

In regard to my subject area, engineering, I did not have a cosy public sector job in which one could do as one liked. This applies not only to my place of work but to others. If one teaches engineering one must get the expensive resources to do so. No private sector third level institutions run courses in science or engineering because that is too expensive and requires the input of the State. They do literary or other courses such as law and business that involve note-taking and writing.

[Mr. Ryan.]

To run an engineering course requires the faith of the job market and that into which most of the institutes of technology feed is the multinational one. The recruitment policy of this market is not based on the title or status of the institute from which one graduated but on the quality of what one knows and can do. The institutes and regional technical colleges have been remarkably successful in that respect. In addition, in engineering, about which I know, the college must achieve international accreditation. To achieve that a group of people from outside one's institute, not picked by the institute, and over whose numbers and names it has no control, conduct an extraordinarily rigorous evaluation.

In a nastier moment a couple of weeks ago I said I would lay odds that nobody in either the Department of Finance, which pulls all the strings or the Department of Education and Science, whose strings the Department of Finance often pulls, was ever subjected to the type of rigorous, external, transparent, publicly reported evaluation of his or her capacity to do his or her job that anybody lecturing in engineering in an institute of technology undergoes.

It is a bit rich for the Department of Finance to insert into Towards 2016 language about modern methods and flexibility, etc. We were doing flexibility before the Department of Finance ever heard the term. We did innovation before the Department of Education and Science knew what it was. The single biggest obstacle to the objectives listed in Towards 2016, like flexibility and new pedagogic methods, is the absence of resources.

I would be delighted, for example, to use computer-based learning, except that although we have a certain number of computers a level of computer equipment would be required in every classroom that nobody would dream of funding. I am supposed to teach by modern technological methods with 1990s technology. Where we have attempted in my workplace to introduce modern teaching methods, for example using computer-based projectors, the projectors are stolen because the Department of Education and Science refuses to allow the institutes of technology to have permanent night security.

The students of Cork have wonderful projectors for watching DVDs at weekends at the expense of taxpayers. We were told it was a great idea to invest in such equipment — I agreed it was a great idea — but we were not allowed to have the equipment, however. I had been using e-mail for years before the Department of Education and Science was able to spell the word. The staff in the institute of technology, who have been most flexible and imaginative, are fed up because people are telling them they are not being flexible and they need to be more flexible. Their contracts state they must teach at any time between 9 a.m. and 6 p.m., five days a week, and they must work at night, as appropriate, without

any debate, although they get time and a half for such hours. They have been flexible. They invented flexibility. They taught the universities about flexibility. That is why they will vote overwhelmingly to reject Towards 2016. It is not about money *per se*.

Acting Chairman (Mr. Fitzgerald): If the Senator is sharing time, I advise him to note that half of his time has elapsed.

Mr. Ryan: Senator Tuffy has said she is quite happy to wait for a separate slot because there is plenty of time remaining in this debate.

Acting Chairman: That is okay.

Mr. Ryan: I would like to talk about a few aspects of the Bill. A section near the end of the Bill relates to “hiring and firing”, which is an awful phrase. The great illusion in the public sector is that the big problem with management in that sector is that people cannot be hired and fired in the way they can be hired and fired in the private sector. No well-managed private company would operate the system of arbitrary hiring and firing that some illusionists in the public sector seem to believe is needed. That is one of the reasons I am not as worried about the issue of tenure as are some other people. It is a pity that a target was put in place in this way.

Similarly, the nonsense of two equal and different sectors of third level education is denied by the experience of the staff of the institutes of technology. I have to relearn how I teach and what I teach on a regular basis. I have to counsel students. I am now supposed to do research, apparently, and I enjoy doing so when I have time. I am supposed to do all of that in an office that is no bigger than a chicken coop, which is in a second-hand prefab that is 25 years old and for which no replacement provision has been made.

I am supposed to persuade students to come to work in that environment, as opposed to the university down the road which seems to have limitless funds to provide ever improved faculty buildings and accommodation. I forgot to mention PMDS, which the Department of Education and Science loves. Given that we have reinvented our course four times and received international accreditation three times, it is nonsense to suggest we are falling behind in some way. Somebody invented terms like PMDS to try to justify inadequate management who cannot manage things properly.

I will raise an issue that I would like the Minister, Deputy Hanafin, to take up. I work in an institute of technology that is in the vicinity of a university. The institute was refused permission to apply to offer nursing degrees, for example, because it was too close to the university in question. The same argument was also used in the case of Limerick, even though the university there does not have a medical faculty. Somebody

in the Department decided it was better to offer nursing degrees in universities. The institute of technology where I work has to live with a predatory university that sees what is successful in the institute, and then copies and undermines it. This is going on all over the country — institutes of technology are being blamed when universities copy and undermine their successes.

If the Minister wants to do something about the concept of equality, she needs to ensure that all campuses look equal and feel the same, and that the good ideas which are developed in third level institutions are treated in accordance with the OECD report. The OECD recommended that when good ideas evolve in a certain area, predatory institutions which have more flexibility because they are nominally private should not be allowed to cream off the most attractive of them. Universities should not be allowed to undermine well-established courses in institutes of technology.

I will conclude by simply saying that the words which are used in Towards 2016 are offensive to people who, in my view, showed a level of flexibility long before the Department of Education and Science discovered the word.

Acting Chairman: Is the Senator taking his full 15 minutes?

Mr. Ryan: I am. Senator Tuffy will speak later in this debate.

Acting Chairman: Yes.

Mr. Ryan: I thought I had made it clear that Senator Tuffy intends to speak later.

Acting Chairman: Okay.

Mr. Ryan: How much time do I have left?

Acting Chairman: Approximately five minutes.

Mr. Ryan: I thought the Acting Chairman told me approximately five minutes ago that my time was almost up.

Acting Chairman: I did not say that. I am telling the Senator now that he has five minutes remaining.

Mr. Ryan: I am more confused than usual.

Minister for Education and Science (Ms M. Hanafin): The Senator does not have to use that time.

Acting Chairman: He can use his discretion.

Mr. Ryan: I will not take much of that five minutes. I would like to reiterate, in the presence of the Minister, that if we are to have genuine equality, somebody has to make sure that it is manifest and visible on the campuses, in the

student facilities and in terms of staff accommodation. Like most staff members in institutes of technology, I am based in office accommodation that is worse than that available to a postgraduate student in a university. There is no way around this — the two sectors should either be made equal or they should be defined as being unequal. The manifest inequality to which I refer has caused places like Waterford Institute of Technology to look for university status. They believe that such status will draw with it the funding and resources which will give them the appearance of being different and better. If we want to maintain the current differences, so be it.

It would be no harm for the Department of Education and Science or the Higher Education Authority to examine the accreditation of engineering degrees across the entire third level sector. Do the Department and the HEA wonder about the capacity of the underfunded and poorly-built institute of technology in Cork to achieve a level of accreditation that is in excess of that of a neighbouring institution that has vastly greater access to resources and much more tradition and history? Do they wonder why the more maligned sector, which has been accused of inflexibility, a lack of imagination and a failure to use modern pedagogical methods, is more successful?

If the Department and the HEA reflect on such matters, perhaps they will decide to develop a new structure in which the two existing sectors are genuinely equal. It is not just about paying people. If the two sectors were genuinely equal, a student who walks into a campus would not notice whether it is a university or an institute of technology. They do notice such things, however. I can say that because if one compares the geographical origins of students in Cork Institute of Technology with those of students in the neighbouring university, one will discover that one is heavily loaded in the direction of Cork city and the other is heavily loaded outside Cork city. While that pattern is not overwhelming or universal, it undoubtedly exists. I would like to appeal, even before the HEA takes over this matter completely, for criteria to be established to ensure that nobody can tell the difference between the facilities, resources, staff, equipment and student support of an institute of technology and those of a university.

I welcome the Bill, in principle. I look forward to a reasonably imaginative working out of its implications in a manner that does not consign the institutes of technology to a continuing perceptible second place in the pecking order.

Mr. Daly: I welcome the legislation. I welcome the Minister, Deputy Hanafin, to the House. I thank her for the dynamic approach to education she has adopted since she was appointed as Minister for Education and Science. The new dynamism she has brought to the Department was needed and is welcome. The Bill under discussion is a technical measure that will have a great over-

[Mr. Daly.]

all impact in the longer term. It brings together the colleges, schools and universities which were previously fragmented and were going their separate ways in some cases. Perhaps we need to examine the overall scene at national level, as we did in the case of the health system when various boards and organisations were brought together under the direction of the Health Service Executive. While there have been some complaints about the new structures in that instance, we are still in the initial stages. When those structures begin to become established over the longer term, they will have a major impact on the delivery of health services. There is a need for such an approach. I welcome the decision to bring together the universities and the colleges under the aegis of the Higher Education Authority.

I find it difficult to follow this legislation. The Minister said this Bill is a technical measure. I wonder whether it would more desirable to have a separate Bill rather than introducing amending legislation. I have never seen so many amending sections in a Bill.

I welcome the recent announcement of the €4 billion innovation fund. It has been necessary in certain cases to make such funding available to the universities. I am aware of the work done by the University of Limerick in its case for the establishment of a medical college attached to it. When the process for allocating the innovation fund process is undertaken, there will be competition between the various medical schools and colleges. The University of Limerick's proposal for a medical college would address many of the urgent shortages in medical specialties in the region. I hope that type of institution can be funded from the innovation fund. The sooner it is established the better.

As highlighted by the Minister of State, the colleges and education system can have an impact on the economic and social progress of different regions. The investment in higher education over the years has been a major contributory factor in the State's economic performance. The high level of skills produced by the institutes of technology attracts foreign direct investment.

Some people with PhDs and other high qualifications have spoken to me about the difficulties in getting start-up employment. This is different to the message coming from the colleges and universities, that there is a significant demand for graduates and highly-qualified professions. The employment agency FÁS could assist these graduates. There should be a facility to cater for highly-specialised graduates who have problems, due to the lack of work experience, in getting employment. Many graduates are disillusioned with the system after spending so much time getting their qualifications. For many of them, the job offers they receive are below their qualifications. It has been suggested to me that it has more to do with the pressure on the third level

colleges to get into higher levels than the best interest of students.

The achievements of the colleges at Killybegs and Letterkenny were earlier highlighted. I want to draw the Minister's attention to the Shannon College of Hotel Management, recognised throughout the world. Many of those who hold key positions in the international hotel trade trained at the hotel school. Although Limerick university is near to the school, it is linked to NUI, Galway. To me, that does not make much sense. I would prefer to link it to a university within a ten-mile radius.

Mr. Ryan: In my opinion, the safest place to have a university is a good distance away.

Mr. Daly: Senator Ryan can argue that with the people in Limerick and Cork. I would also like it to be linked to the Great Southern Hotel in Shannon. Aer Rianta — or whatever has taken its place — is proposing to sell off the Great Southern Hotels. A sensible proposal would be for the hotel school to purchase these premises which are next door to it. However, it does not have the funds to do so. As these are State institutions, it should be possible for a property transfer arrangement without using up a large amount of cash. Having these premises would give the hotel school an opportunity to have a practical training facility in an international hotel next to an international airport. It would further enhance the status of the school and keep it in the top range of international hotel schools.

The Tralee and Galway institutes of technology and the higher education school in Limerick have worked together in providing outreach programmes in Ennis. With the development and expansion of the town, it is an opportune time to have a college in Ennis. It would provide a service to County Clare and eliminate the necessity for young people from the county to travel to Dublin, Cork and elsewhere to avail of education services.

Mr. Quinn: As a long-time supporter of the institutes of technology sector, I welcome this Bill because it will in some ways improve their lot and guarantee their survival as a distinct and separate contributor to our third level system. Five years ago, when I was the chairman of a committee in the National Council for Curriculum and Assessment, I learned of the theories of Howard Gardner and Charles Hanly. Gardner claims there are seven different intelligences while Hanly reckons there are 11. I was warned not to use the word "talent" but the word "intelligence". These were different terms than I had been in the habit of using. A criticism made against the leaving certificate is that it only measures the traditional academic intelligences and not the others. This has not been taken into account in second and third level education.

The Bill, however, has serious shortcomings which make me welcome it with reservations. I

regret the Bill will fail to create parity of esteem between the universities and the institutes of technology.

Mr. Ryan: Hear, hear.

Mr. Quinn: I consider that to be both highly desirable and easily achievable. What I welcome in the Bill is that it re-affirms and copperfastens the binary system in our third level education. Under a binary system, universities are one entity and institutes of technology are another. Universities are not jumped-up institutes of technology. Institutes of technology are not failed universities or would-be universities. Under a true binary system, each type of institution has its own distinctive role and, ideally, is held in the same high regard, both by the State and the public. I hope the Bill will put an end to the counterproductive posturing that has dogged the institutes of technology sector over the past few decades.

Many of the institutes have mounted campaigns to be given university status, about which we have heard today, and this has often been vehemently supported by public opinion in their own local areas. The case that comes to mind in particular is that of Waterford. I believe this activity has been counterproductive, because it has prevented the institutes developing to the full their own identity. It is important to understand why people would seek to undermine their own status in this way. I believe it is because of the way the institutes of technology were always treated as the poor cousins of the third level system. Senator Ryan referred to this matter. In particular, they were not administered as independent entities like universities but were ruled directly — even down to the smallest matters — by the iron hand of the Department of Education and Science.

This is not just a question of headstrong people wanting to do their own thing. If we are to understand third level education, we must appreciate that to realise its full potential this sector must be given the maximum freedom to manage its own affairs and in particular to pursue innovation in the face of changing circumstances. To the extent that we try to micromanage third level education from the top down we restrict its ability to serve the community to the best effect.

It is understandable that many people in the institutes of technology sector came to the conclusion that the only way they would get this freedom would be by becoming universities. Accordingly, many of the institutes diverted some of their efforts from their real job and started to behave more and more like universities — in a classic example of mission drift. In other words, they headed in the wrong direction. This approach failed to succeed and the Bill puts the final nail in the coffin of that misguided campaign. From that point of view I welcome it.

We are entitled to congratulate ourselves that in this country we have not rushed to emulate

the mistake the British made over the same two decades, when they turned all their existing polytechnics into universities.

Ms O'Rourke: Every polytechnic became a university. That is the most stupid thing of which I ever heard.

Mr. Quinn: The result was that they ended up with a raft of second-rate universities and downgraded the status of university education as a whole in that country. From that point of view, I understand what the Minister is doing and I welcome it. I believe we owe the credit for steering us away from making that mistake to the OECD, which strongly argued for the continuance of our traditional binary system in its report on third level education in Ireland, published in 2004. With all due respect to the Minister and her Department, it is the OECD which is the true father of the legislation we are now considering. I am pleased the Minister has grabbed hold of the idea.

The OECD argued that direct control of the institutes should be taken away from the Department of Education and Science and given to a buffer body that would also administer the universities. That is what this Bill will bring about. However, the OECD also argued for genuine parity of esteem between the two types of third level institution and in that area the Bill is less successful. In certain important respects, the new regime we are now creating will leave crucial differences between the universities and the institutes of technology. For instance, whereas universities can appoint staff subject to their overall budget, in the case of the institutes, the HEA and both the Minister for Education and Science and the Minister for Finance must approve any new staff. The recruitment of an institute's staff must be what is termed "as determined by the Minister", unlike the universities which are free to determine their own selection processes. Again, if an institute wants to appoint a temporary director, the HEA must approve it. This does not apply to universities and is most intrusive.

On another crucial issue, the Bill provides that an institute's private income will be reckoned as part of its overall budget. I do not understand this provision. We all know that what this will mean in practice is that if an institute raises private income, its public grant will be reduced accordingly. I hope the Minister will correct me in this regard but that appears to be the situation.

Differences also prevail in regard to accountability, in that the proceedings of every meeting of an institute's governing body must be published. This is excessive intrusion in the day-to-day affairs of an institution and will make it very difficult for it to discuss anything at all in private. I accept that difficulties arise with freedom of information in other ways but I would hate to see it happen that one could not discuss anything in

[Mr. Quinn.]

private as everything would be made public at that level. The proper level of accountability is through an annual report, one which is published promptly within three months of the end of the year.

Many people have already raised the issue that while the Bill provides for academic freedom as a key virtue, it undermines that commitment by failing to guarantee the tenure of institute staff in comparison with their counterparts in universities. I am totally unpersuaded by the Minister's attempts so far to explain away this discrepancy.

I could continue but I think I have said enough to make the point that the Bill will not put the universities and the institutes of technology on an equal footing, which should have been one of the key goals of the exercise. Even after the passage of the Bill, the institutes, though somewhat better off than before, will still be in a second grade position when compared with the universities. I consider that to be a profoundly undesirable situation and one which will have a detrimental influence on the performance of the country in the years to come.

The institutes of technology have been the underdogs for so long that many people, including some in the educational establishment, appear incapable of thinking of them in any other way. To anyone who considers an institute of technology as an inherently inferior institution to a university, let me point to the example of MIT, the Massachusetts Institute of Technology, which is one of the world's leading third level institutions. I had the opportunity to travel through India a couple of years ago and I found institutes of technology were far more common there than universities. They are widely respected as a source of high-value graduates.

While the Bill is to be welcomed up to a point, it must also be criticised as a lost opportunity. I regret in particular the decision to rush it through this House without the proper scrutiny it deserves and to hold Committee Stage at a time tomorrow when the Dáil may already have risen for the summer. I am not sure of the up to date position for the taking of business. This indicates a highly cynical dismissal in advance of any amendments that this House might be tempted to propose. I welcome the Bill and the Minister's good intentions but I believe it needs more attention than it is likely to get.

Ms O'Rourke: I wish to propose an amendment to the Order of Business which I hope will be agreeable to the Minister, Deputy Hanafin. It has the agreement of the Labour Party which has tabled the Private Member's motion at 5 p.m. Because we are stuck for time and other Members wish to speak, it has been agreed that we can continue this debate for a further 15 minutes. This will mean Private Members' business will commence at 5.15 p.m. and continue

until 7.15 p.m., rather than from 5 p.m. until 7 p.m.

Acting Chairman (Mr. Mooney): Is it agreed that Private Members' business will be taken from 5.15 p.m. until 7.15 p.m.? Agreed.

Ms O'Rourke: I believe the Minister will reply to Second Stage at 5.05 p.m., ten minutes before the conclusion of the debate. The Acting Chairman should not start the clock for my contribution yet as I am giving an explanation. Senator Mansergh wishes to share my time——

Dr. Mansergh: I just wish to speak for five minutes.

Ms O'Rourke: ——but perhaps he does not have to do so as he can have five minutes at the end. I apologise for having to go into the matter in a convoluted way. I thank the Acting Chairman for his patience and the House for allowing the change. We will of course not finish the Private Members' motion until 7.15 p.m. which will push everything on, as the Hepatitis C Compensation Tribunal (Amendment) Bill will then be taken.

I am pleased to speak on the Bill. While listening to the monitor in my office I was delighted to hear the many varied and learned contributions made on the Bill. It is right that it should be so. Everyone who spoke had his or her own take on the matter. I remember Senator Fitzgerald, Deputy Carey and the Minister, Deputy Hanafin, coming to see me in regard to the City of Dublin VEC and all of the other colleges involved. I am very *au fait* with the institutes of technology and the component colleges of the Dublin Institute of Technology. In the 1970s I was the first chairman of the board of management of the then Athlone Regional Technical College. I was pleased to hold this position because it gave me a great insight into the operation of the colleges. They were building upon the recommendations in the OECD report and the Investment in Education report, published in the 1960s, which laid out what Ireland must do if it was to take its proper role on the world stage in terms of technical and other types of education.

As time moved on, the colleges continued to grow and I recall enormous efforts by the Department during my time as Minister to curb that growth. However, I always believed this expansion was positive. Step by step, they provided certificates, diplomas, degrees and eventually post-graduate qualifications. Regardless of any restrictions that the Department, acting according to its own lights, wished to put on their growth, the colleges, like Alice in Wonderland, "grew and grew".

There was great competition between the various colleges. As Senator Quinn remarked, the regional dimension was important. My late brother told me the story of how the facility at

Letterkenny became an institute, even though it was not included in the original map of institutes. The worthy Neil Blaney kicked and kicked, however, and secured its status. This struck me strongly as Senator McHugh spoke. Athlone, on the other hand, was well provisioned in the middle of the country to acquire the status of institute.

I do not share Senator Quinn's view that the technical colleges had a sense of inferiority relative to the universities. I always considered them to be fine institutions. As a university graduate myself, it never struck me that the institutes of technology were in any way inferior in terms of the education they provided and the status of the qualifications they conferred.

Mr. Fitzgerald: They were pioneering.

Ms O'Rourke: All of them now enjoy startling success in fourth level education. I often wonder whether Ireland would have achieved the dominance it has in many areas of commerce if not for the institutes of technology.

It was I who formulated the earlier legislation in 1991. It had just been printed it when I left the Department and it was for my successor to manage its progress. This legislation was important because it afforded freedom to the colleges to engage in research and development according to their needs. Before this they had an umbilical connection to the VECs, which saw them as shining stars in the context of their own sphere of responsibility.

This Bill builds upon that earlier legislation while, essentially, continuing to recognise the binary system that operates in the education sector. A ridiculous situation has arisen in Britain where every jumped-up polytechnical college became a university. I could not believe the authorities there were so stupid. Why did they not have pride in their own structures and in the roles performed by the different educational institutions? I never heard the management of Athlone Institute of Technology expressing a desire for it to become a university. It was satisfied with and proud of its role as an excellent regional technical college and, later, institute of technology.

I do not understand why the management of an educational institution should feel that university status is necessary if the facility is to be considered important. The existence of an institute of technology is of great importance to any town. In Athlone, for example, this is evident in the location of Elan, Nexans and other industries there. Industries feed off the institutes and *vice versa*. The institutes are empowered by the scholarships, trusts and other forms of financing and support they receive from local industry, as the provisions of the earlier legislation enabled them to do. The existence of an institute of technology gives a great boost to an area. Athlone was the first college to offer a course in plastics, an

unknown technology at the time it was introduced. We were foremost in that field.

This Bill is excellent because it preserves the binary system without any sense of tuppence-half-penny looking down on tuppence. I never heard anything so silly. There should be a sense of confidence in one's institute. Not every educational facility is a university, nor is every facility an institute of technology with its wealth of ideas and people. Many of the institutes are now branching out and attracting students from abroad. In Athlone, Dr. Ciarán Ó Catháin has travelled extensively and has brought students from China and elsewhere to the college. These students bring a cosmopolitan air to the town and we have seen the establishment of China-Athlone and India-Athlone friendship societies. This expansion is positive.

I am pleased to support this fine legislation. What is the objective of those who constantly seek to acquire university status for their institutes? As Minister, I oversaw the transformation of two institutes, one in Limerick and another in Dublin, to universities. Interestingly, it was my brother, Brian, God rest him, who was responsible for securing their status as institutes from their previous status, whatever that was. Without naming names, some of the institutes seem to have notions about becoming universities for no particular good purpose. They seem to believe that such status will mean that everyone walking the corridors will constantly sport a mortar board and gown and reek of chalk.

I am unaware of any institute that has failed the test of being a good purveyor of quality education in diversified ways. They play an important role in providing a modular system of qualifications, allowing students to climb the ladder from certificate, through diploma and degree, as far as doctorate level, adding to the earlier accolades they have earned. Under this Bill, the HEA will oversee the funding of the institutes and they will report to it. The directors of the individual colleges will be accountable to the Comptroller and Auditor General.

I remember the sad days when hundreds of young women and men, delighted with the qualifications they received in the colleges, faced the prospect of being unable to secure a job. Instead, they were forced to go abroad with only their education as dowry. Their certificates and diplomas stood to them because most were able to secure decent employment in the countries in which they settled. When people speak of those forced to leave Ireland in the 1980s for work, I have visions of those delighted young people with their qualifications pouring out of Athlone. Many have now returned and set up businesses in the midlands. We had a good night in Athlone recently where some of these people spoke of their college days and how wonderful they were.

I praise the Minister for this wonderful legislation. I also acknowledge her departmental officials because I am well aware that no Minister

[Ms O'Rourke.]

simply wakes up and produces legislation out of his or her head. This legislation brings the institutes of technology forward the next step in their development.

Mr. J. Phelan: I wish to share time with Senator Tuffy.

Acting Chairman: Is that agreed? Agreed.

Mr. J. Phelan: I welcome the Minister for Education and Science, Deputy Mary Hanafin, and broadly welcome this Bill. I agree with much of what the previous speaker said. Most of the amendments suggested by my colleagues seem to centre on the timescale for the implementation of the Bill and I know they will be dealt with on the next Stage. I am glad that the issue of people with disabilities seems to have been addressed by the Minister for Education and Science before the Bill came to this House.

I am a graduate of the Waterford Institute of Technology, WIT, and I spent four of the best years of my life there.

Ms O'Rourke: Senator Phelan turned out well.

Mr. J. Phelan: I did turn out well. I graduated in May 2002 and in July I was elected to this House. I want to commend the record of the institutes of technology and the work they have done over the years in different parts of the country. There is an institute of technology in my Carlow constituency, a thriving institution like the Waterford Institute of Technology.

I wish to refer to what the Leader said about the status of the institutes. WIT has made an application to be upgraded to university status and there are justifiable reasons for that status to be sought. It is worthwhile examining economic indicators and third level attendance indicators in the south-east region. They will show that the region has the lowest rate of third level attendance in the country. It also has the highest unemployment rate, to my knowledge, outside Donegal. These issues are not unrelated to the fact that it is the only region that does not have a university. I take on board Senator O'Rourke's comments and recognise there is a necessity that the binary system remain. The universities and institutes of technology have complementary roles. I support WIT's application for university status and feel a university would be beneficial to the south-east region. WIT is the only institution in the region seeking this status.

In my own experience, staff in the institutes of technology tend to be more flexible and responsive to the needs of students and industry than staff in universities, who may adopt a more traditional approach. Senator O'Rourke spoke earlier on links with industry and I agree with her point. There are clear links between leading local industries and the institutes of technology in Waterford

and Carlow. These links should be fostered and developed.

Senator Quinn spoke about parity of esteem between universities and institutes of technology and I agree with him. This parity of esteem has not yet been attained and this is something that needs to be addressed. There tends to be more student-focused education in the institutes of technology. Often universities are more traditional in how they approach issues and more formulaic in dealing with them.

I welcome the Bill and urge the Minister for Education and Science to strongly consider the submission she has received from WIT. Some say a university in Waterford would have a negative impact on the Carlow Institute of Technology but I do not think that would be the case. In fact, I believe the exact opposite would be the case — it would benefit and feed off a university located in Waterford. Whatever the Minister decides in the case of WIT, the economic indicators I mentioned suggest the region needs a university. I do not suggest this should happen immediately, but the Department of Education and Science should consider it seriously.

Ms Tuffy: I have a strong background in the institute of technology sector. I graduated from a university but I gained a postgraduate diploma at the Dublin Institute of Technology and I worked there also. I agree with Senator Ryan's point that the institutes of technology have led the way on the issue of flexibility. When I worked at DIT Bolton Street a student there started on a trades course, transferred to a certificate, went from part time to full time and eventually completed a degree. This is an example of the flexibility that has been evident in the institutes of technology for years.

My father would have supplied the example of a person who started studying at the Institute of Technology Tallaght at certificate level and ultimately completed a PhD in Israel. There is parity of esteem, in practice, for universities and institutes of technology. I agree with the points made on the benefits of the binary system; they indicate that institutes of technology are equal to, but different from universities. That is how they should be resourced and promoted.

I welcome a number of aspects of this legislation including some areas that were amended when dealt with on Committee and Report Stages in the Dáil. The provision relating to the legality of institutes of technology taking part in the promotion and management of companies is welcome as is the requirement that the governing body must, in the performance of its functions, have regard to the attainment of gender balance, equality of opportunity and so on.

Institutes of technology have played an important role in offering access to college. They had a broad access policy, admitting a more accurate representation of the population and its various groups, than universities long before uni-

versities. The Labour Party covered this fact in a document which suggested this admissions policy was helped initially by lower fees and subsequently no fees under the European Social Fund, ESF, funding scheme.

I propose an amendment to section 8 to insert the words “and the region served by the college”. The college has a role in encouraging students from the local area to attend. This is evident when one examines the statistics on who attends which college. It is important that they encourage people from disadvantaged areas to attend. Unlike the University Acts there is no section in this Bill on the objectives of the institutes of technology. These should be included, particularly those relating to facilitating lifelong learning and the promotion of gender balance and equality of opportunity. This lack must be a discrepancy because on page 35, where reference is made to the Higher Education Authority, an allusion is made to institutes of education as bodies having regard to the objects and functions of institutes of higher education. There no section outlining objects in this Bill and I will propose an amendment to this end on Committee Stage.

I agree with other Senators who argued that parity of esteem is very important. Senator Ryan, in particular, hit the nail on the head in that regard. One way to ensure parity of esteem is to resource the institutes of technology adequately so that they have facilities which are on a par with those in the universities. I refer particularly to facilities that would be provided as student supports. At present, students do not have the space for all the activities that should take place in a college, including clubs, societies, as well as supports such as psychological services and so forth. The institutes should be given the resources to provide those extra facilities and amenities. I agree with all of the points made by Senator Ryan.

Another issue which nobody has mentioned and which relates to the issues of access and flexibility is the importance of the institute's role in education in the trade sector, which I hope will continue. It is important that the institutes retain that role because it is an aspect of education which relates directly to issues of flexibility and access.

Ms Cox: I wish to share my time with Senator Mansergh.

Acting Chairman: Is that agreed? Agreed.

Ms Cox: I welcome the opportunity to speak on the Institutes of Technology Bill. Given that my time is limited, I will make a number of focused points. I was asked by a number of people who work in the area to raise an issue which may have already been dealt with in the Dáil — I have read the debate but am not sure — regarding section 13. Perhaps the Minister will

be able to address it in her concluding remarks. Concern has been expressed that section 7, which enshrines the principle of academic freedom, a fundamental principle which is essential for healthy debate, is undermined by section 13 which provides for the removal of job security for future institute of technology academic staff. The fear is that not giving people security of tenure would make life difficult for those pursuing particular views which, at certain times, may not be acceptable to organisations, whether they be the institutes themselves or their member companies in their regions.

One of the great aspects of the institutes of technology sector has been the type of education it has given to people. It has always been recognised as being very focused, flexible and adaptable in terms of the needs of the regions and companies therein. My experience in Galway indicates that the institute's strategy of working with national and international companies, as well as organisations like Enterprise Ireland and IDA Ireland, has ensured that it has been an important part of our economic growth and the sustainability of our economic competitiveness, as well as our ability to be able to provide people to do the types of work needed.

The Minister is very focused on the provision of integrated education for people with disabilities. We are now seeing children with disabilities who, having gone through mainstream primary and secondary education, are finishing their examinations and receiving FETAC foundation level 1 awards. They are receiving certain types of qualifications but at that point their education stops. There is nowhere for them to go in terms of an education. I am not referring here to training as there are many fine training centres dotted around the country, with an excellent focus.

An 18 or 19 year old child with a disability is perhaps entitled to an opportunity to go to a college and to pursue a liberal arts programme, be it drama, art, music or whatever. However, the only way that will happen is if it is introduced on a pilot basis. Those children may not have the academic capability to pass the examinations and to do business studies, commerce, science and so forth but there are many organisations that could provide them with opportunities to develop in other areas. I have spoken to staff at the institute of technology in Galway, who are interested in examining this issue further. It is only fair to the children, particularly when we are giving them the opportunity of pathways to education, to examine where they will go next. It is only becoming an issue now because of the success of the strategies that have been put in place.

I assure the Minister that Senators will do everything they can to support the institutes of technology. They are marvellous institutions and I look forward to them continuing to provide the type of service they have been providing throughout the country.

Dr. Mansergh: I welcome the Minister and what I regard as very progressive legislation. In handing over responsibility to the HEA, tribute should nonetheless be paid to the Department of Education and Science for the way it has built up these institutes over the past 25 to 30 years and made them the success they are today. The institutes are an important part of the attraction of this country to industry. Their geographical spread and the ease with which people can access them is also important because in the past it would not have been economically possible for people to travel vast distances to further their education.

In her speech the Minister noted the progress from what began as mainly second level education to third and fourth level. The Tipperary Business and Rural Development Institute is not included in the Schedule. That is probably correct because that institute may still need the special care and attention of the Department of Education and Science. It has not yet progressed to the stage where it could come under the remit of the HEA.

I must declare two points of interest. I have a sister who is a lecturer at the very fine Dublin Institute of Technology. She is currently co-ordinating a mathematics project, funded by the EU, with the ten accession countries. The consolidation of the DIT at Grangegorman is a very exciting prospect. I am a member of the Waterford Institute of Technology Foundation and like Senator John Paul Phelan, I support its impressive submission seeking university status. I hasten to add that I agree, broadly speaking, with the binary system and parity of esteem but that does not mean that there can be absolutely no progression from one to the other.

There is a very strong regional and educational case to be made in the case of Waterford, which having visited the Carriganore campus recently, reminds me more and more of the University of Limerick. The WIT aspires to provide a service similar to that provided by the University of Ulster. I recommend, notwithstanding this Bill, that the Minister gives sympathetic consideration to a case that has support across the south eastern region.

Acting Chairman: I now call on the Minister and thank her for allowing some of the time allocated to her to be used to facilitate Members of the House.

Ms M. Hanafin: It is always a pleasure to allow the Senators extra time to praise legislation, particularly a Bill which is so welcomed by the House. We all acknowledge the work that the institutes of technology have done and continue to do in this country in reaching out to students from all backgrounds and of all abilities. We particularly acknowledge the work they have done for the regions. However, I absolutely reject the suggestion that they have, in any way, a lesser

status or are held in lower esteem than any other colleges in the country.

Mr. Ryan: The Minister should ask the students about that.

Ms M. Hanafin: Senators have spoken about the numbers of students attending the institutes. The students appreciate the work and role of the institutes, which is why they are attending in such high numbers. From the point of view of investment, one need only look at the level of investment in the institutes in recent years. Waterford Institute of Technology has been referred to by many Senators, which has the most amazing campus with the most beautiful buildings. It is a state-of-the-art facility. Recently, when the Taoiseach and I launched the building programme of €900 million, as announced in the budget, the universities criticised us and argued that too much of that money was being spent on the institutes of technology.

Mr. Ryan: Naturally, they would do that. What does the Minister expect?

Ms M. Hanafin: In terms of future direction, the institutes and universities have been invited to submit proposals for the strategic innovation fund. Those proposals are being sought this week. The fund is worth €300 million and the institutes, on an equal par with the universities, can bid and compete for moneys. That is recognising, in ways other than through this legislation, the role of the institutes of technology.

I acknowledge the work which has gone into developing the institutes over a considerable number of years. When the Leader was Minister for Education she progressed the institutes of technology. She referred to the link between education and the economy and to the fact that the availability of skilled graduates in the regions meant that industry was willing to move to the regions. That link is one we need to continue to foster. Despite the fact that the institutes will be brought under the remit of HEA and will be given greater autonomy, it is crucial they should not lose sight of their mission and that they have always been good on progression. As Senator Tuffy said, one could enter an institute at the lowest level and progress to be a PhD graduate. The institutes had led the way on progression and shown good example. I hope they will continue to do that but we need to ensure that a mission drift is avoided.

On the point of the numbers attending third level colleges, what is significant is not that Waterford having fewer graduates. That is no longer the case. It had the largest increase—

Mr. J. Phelan: I said the number for the south east region is lower.

Ms M. Hanafin: According to the most recent figures, the south east region had the greatest increase in participation in third level education.

Mr. J. Phelan: There has been a large increase but the number participating is below the national average.

Ms O'Rourke: There are two colleges in Waterford.

Ms M. Hanafin: It shows that the rising tide is lifting all boats.

On the matter of access to education for people of all abilities, Senator Cox asked about provision for people with disabilities. We addressed this area on Committee Stage in the Dáil. Senator Cox and others will be pleased to hear that I recently opened the Institute for Intellectual Disability in Trinity College, Dublin. It offers courses in contemporary living for young people with intellectual disability. They are able to walk through the gates of Trinity College and pursue a course in the same way as students who are studying for a primary degree, a masters or a PhD. That is the type of initiative to which Senator Cox was referring. I would like such an initiative to be emulated throughout the rest of the colleges. The opening of this institute is a start of what is needed in this area and it is greatly supported by a number of bodies. With determination, initiatives could be taken to reach out to students who are progressing through mainstream first and second level education.

With regard to sections of Bill dealing with the use of the title of director or president of an institute, I introduced an amendment to allow the governing bodies to call the head of the institute the director, president or any other title as long as the I approve it because I do not want those individuals to call themselves "high chief" or some other such title.

Ms O'Rourke: Or Tom or John.

Mr. Ryan: I will tell my director that.

Ms M. Hanafin: The legislation will give the governing bodies that flexibility.

It was timely to change the position regarding the removal of staff members, but protection is provided for the people who were appointed prior to the enactment of this legislation. Up until now an officer of an institute could not be removed from office by the Minister without a sworn inquiry first taking place, but such protection has been supplanted by strong employment legislation. Those appointments and all future appointments will be protected by that legislation.

Academic freedom is in no way diluted in this legislation. It strongly states that academic staff shall not be disadvantaged for the exercise of academic freedom. This is very important in all

our institutions, and that is a mandatory provision in the legislation.

Whatever about the future of individual colleges, it is important that those in the colleges appreciate they are there to serve a particular mission, namely, their region and the broader needs of the students. They also have a strong economic mandate, as set out by Government, to make sure that we continue to meet the skills needs required. Those people in the colleges will benefit from the new strategy announced on science, technology and innovation worth €3.5 billion. That strategy will be largely targeted at the education sector in the first few years. I am confident that the institutes are well placed to gain from that, to develop it and to ensure that we continue to provide PhD graduates.

I accept the point made by Senator Daly that in the past some PhD graduates were not able to get employment. However, fortunately, with the development of fourth level education and the fact that many of the top companies that invest here carry out research and development here, which is what we have been trying to attract, there are opportunities for those holding PhDs that did not exist in the past.

Institutes having the status of being under the remit of the Higher Education Authority allows them greater freedom than they had in the past. Certainly they were well-minded and well looked after by my Department over the years but the fact that they will come under the remit of the authority will give them increased status.

Senator Quinn said that this would not have been done but for the OECD report, but that is wrong. I did not accept all the recommendations of the OECD report but this was one of its recommendations. Therefore, the OECD is backing what we are doing rather than our backing what it is doing.

I look forward to discussing other issues on Committee Stage and I thank the Senators for the interest they have shown in the legislation.

Ms O'Rourke: On a point of information, Senator Quinn said we would have no time to have a Committee Stage debate, but Committee Stage will be taken tomorrow. The Dáil is sitting tomorrow. If the Minister sees fit and if an amendment is worthy, she can act as did the Minister for Justice, Equality and Law Reform, Deputy McDowell, when he accepted 33 amendments on the Criminal Justice Bill in this House.

Question put and agreed to.

Committee Stage ordered for Thursday, 6 July 2006.

Foreign Conflicts: Motion.

Mr. Ryan: I move:

That Seanad Éireann,

[Mr. Ryan.]

- noting with alarm the deteriorating relations between Israel and the Palestinian people,
- convinced that violence in this situation is both morally unjustified and politically counter productive,
- nevertheless recognises the disproportionate burden of suffering inflicted on the Palestinian people by the actions of the Government and armed forces of Israel and the clear signs that the democratically elected government of the Palestinian territories has made considerable concessions to Israel and therefore calls for:

- 1) an immediate relaxation of the EU embargo on dealing with the democratically elected government of Palestinian Territories or failing that, the application of appropriate sanctions against Israel in the light of its repeated and persistent defiance of UN resolutions and breaches of international law,
- 2) an immediate and unequivocal cease fire by all parties to the conflict, and
- 3) immediate negotiations between Israel and the democratically elected government of the Palestinian Territories leading to an internationally recognised Palestinian State on the entire territory occupied in 1967 with its capital in Jerusalem.”

Cuirim fáilte roimh an Aire. Senator Bradford will second the motion.

Acting Chairman (Mr. U. Burke): The Minister of State at the Department of Foreign Affairs, Deputy Treacy, indicated that one speaker from each of the main parties should contribute before he addresses the Seanad. Is that agreeable?

Minister of State at the Department of Foreign Affairs (Mr. Treacy): As is the normal procedure.

Mr. Ryan: Yes, I will speak and then Senator Bradford will speak.

Mr. Norris: I presume an Independent Senator will contribute.

Mr. Ryan: We will let the Independent Senators in on this occasion.

Mr. Norris: God be with the days when the Senator was one himself.

Mr. Ryan: I assure the Senator that I am still an independent at heart with a very free spirit.

I am glad to have the opportunity presented by this motion to speak on this issue. I want to talk calmly about it, but I am not sure I will because

what is happening currently in the illegally occupied territories in Palestine is an event of horrific brutality. I want to get through all of what are now apparently the expected ritual condemnations and to say that of course violence is wrong and unnecessary. Of course the Israeli soldier who was kidnapped and captured should be treated properly and released. The reason he is not mentioned in the motion is that I could not know last Thursday, when I was required to draft the motion to facilitate the Government, what the position would be today. Therefore, I was not in a position to deal with that in the motion.

Last May, Christian Aid issued us all with a warning, which carries the heading, “Isolated and denied aid, Palestinian society faces collapse”. Christian Aid addressed the situation that had developed and that was at that stage gradually getting worse. It has now developed out of all proportion and got even worse because of the responses to the democratic choice made by the people of the occupied territories to elect a government of which the Western powers do not approve. The point made by Christian Aid in its submission was that Hamas and the Hamas-led Government were being treated with a display of international isolation that no democratically elected Government in the world had ever before been subjected to. Nobody has ever done this on the scale that is currently being done to a Government that was democratically elected. This is a western world that uses wonderful rhetorical language about Israel being the only democratically elected Government in the Middle East. This was supposed to serve as a reason for giving Israel some latitude. We then witnessed a democratic election in the Palestinian territories that was conducted according to the best international standards and the immediate isolation of the democratically elected Government.

If an even-handed approach was taken, we could possibly have a debate about it. The EU has consistently called for Israel to desist from any action, such as settlement activities and the construction of a separation barrier on the Palestinian side. There has been a succession of such calls from the EU and sometimes from the US Government, the United Nations and the International Court of Justice. Every one of these calls has been ignored and no action in terms of trade, aid or cultural isolation has been taken against successive Israeli Governments which have ignored the will of the international community. One can contrast this with what has been done to the Government and people of the Palestinian territories since then.

Last May, Christian Aid spoke about the possible collapse of the public health service system in Palestine, which was identified by the World Health Organisation. Since then, the Israeli Government has chosen to steal the tax revenues of the democratically elected Government of the Palestinian territories and claim that it has some right to them. The international community has

stood back and apparently approved this action. Sadly, with Ireland's full compliance, the EU joined in that international campaign of isolation. This was bad enough. It was then followed by an armed attack by a few armed groups from Gaza on an Israeli tank in which people from both sides were killed. I believe this action to have been morally questionable because of a position I have long adopted on the use of violence. However, can someone tell me under which tenet of international law is it illegal for the people of an occupied land to resist by military force the army that is occupying them? Where is it written down in international law that armed resistance to an occupation is illegal or against international law? I want to hear such an assertion by an Irish Government because this is what we are being told. I believe the use of violence in these kind of situations has no moral basis but the fact that I believe it is immoral does not mean that there is something in international law outlawing it because there is no such provision.

This issue is separate from assaults on civilians, which are always wrong. It is Jesuitical in the extreme to distinguish between deliberately targeting civilians and indifferently taking the risk that civilians will be killed so that one can target what one believes to be a military target. Such a distinction does not exist in Irish law. If someone committed an act of terrorist violence which accidentally killed civilians, he or she would be charged with murder even if he or she swore in court that he or she did not intend to kill anyone, that there was to have been a warning and that the bomb went off unexpectedly. Such a person would still be charged with murder because he or she recklessly and indifferently put the lives of innocent people at risk. Such an action is fundamentally no different from the deliberate targeting of civilians. Both types of action are morally wrong and it is time we rediscovered a conscience.

We should remember that the 1967 invasion of the occupied territories was and is illegal and has been condemned as such by every international body. We should remember that a succession of uprisings of varying levels of intensity have followed on from this illegal occupation. I witnessed the first intifada, which was horrible enough at that stage. I cannot imagine what it is like at the moment.

An extraordinary and brutal assault followed the assault on the military target by an armed resistance group and resulted in the destruction of a power station, bridges and roads and, ultimately, in the kidnapping of a large section of the Government of the Palestinian territories and the elected representatives of its people. It is extraordinary the way nobody calls this kidnapping. On the contrary, it is called capture, detention or some other word. Apparently, the only kidnapping that has taken place in the last month in the occupied territories is the alleged kidnapping or capture of an Israeli soldier. Have the many hun-

dreds of people from the occupied territories who have been placed in long-term detention by Israel been kidnapped or captured? What is their status? They are ignored. This leads on to the fundamental question regarding this issue. It is not a question of taking sides and supporting one form of violence. It is the profound need to reassert our position as even-handed supporters of non-violent resolution of conflict. We have moved into a position whereby we support the use of non-violence by people on the receiving end of violence and ignore the use of organised state violence by those in positions of power who possess the military equipment to carry out such violence.

If any state other than the state of Israel had done what it has done to a neighbouring country over the last couple of weeks, this country would have led the charge of denunciation and the request for sanctions and immediate action to bring such activity to a halt. I am profoundly disappointed that we have walked ourselves into an alliance with the EU and the US which has told the elected Government of the Palestinian territories that it must do what they have told it to do.

When a ceasefire was declared by the IRA in 1994, we asked only that it be a permanent ceasefire. We did not tell Sinn Féin that first it had to recognise the legitimacy of Northern Ireland or the Republic of Ireland. We knew it would eventually be forced to do so but we did not start from this position. We did not ask it to do anything other than cease violence. We need to do two things about the Israel-Palestine conflict. We must tell the Israeli Government to immediately release the elected representatives and Government of the people of Palestine. The release of the Israeli soldier must be organised if for no other reason than that it is the correct and humane thing to do. The international community must then be prepared to tell both sides in this conflict that if they do not observe its wishes and views, it will take even-handed action against all those who will not observe its views. A one-sided version of morality, legality and condemnation of violence does no more than feed the particular views of some of those involved in fomenting violence, particularly on the Palestinian side.

Mr. Bradford: I second the motion. Like Senator Ryan, I wish to state my strong assertion that the Israeli soldier currently being held should be released.

The Senator concluded with the interesting example of what we said and did in terms of the Northern Ireland peace process and the first substantial ceasefire therein in 1994, from which we can learn. A word at the centre of the Northern peace process has been "respect", which is also central to our attempts to find a fair and equitable peace for the people of the Middle East. There must be respect for the Palestinian and Jewish peoples. This debate must recognise the

[Mr. Bradford.]

state of Israel while demanding and recognising the right of the Palestinian state to securely exist within its defined boundaries.

While the Minister of State would know more about the matter than me, we had hoped that the roadmap would have charted the way forward in recent years. The international Quartet worked towards the securing of that agreement, but it appeared to be a case of one step forward and two steps back. The situation is one of genuine crisis, which has been highlighted in recent weeks by the kidnapping and the ensuing strong and excessive response by the Israeli authorities.

We have received detailed documentation from the various organisations and aid groups concerning the current situation on the ground in Gaza. Senator Ryan referred to the documentation received from Christian Aid. One of its partners based in Gaza, Mr. Alsaqa, stated that a sonic boom hitting an area is terrifying. A state of panic takes hold and children rush to hide under tables. Recently, the deputy director of the UN's relief agency in Gaza told Reuters that an estimated 25,000 people could be forced to flee if Israel attacks the north as indicated. This is the current situation in that flashpoint, but the international community's response has been inadequate. From a security perspective, it has been a problem for more than 40 years. From a political perspective, it has been a problem for longer and is not getting the attention it deserves.

The motion, which I strongly support, refers to the disproportionate burden of suffering inflicted on the Palestinian people, particularly in recent weeks. From a humanitarian point of view rather than a political one, we must demand an end to this suffering. From our history with our neighbouring island, we know that might is not right and fighting one wrong with another does not succeed. Only through inclusive talks and dialogue where respect is at the centre of what one is trying to achieve, can one begin to make progress.

There was an election in the region. As democrats, we the international community support and promote the concept of democracy, but we decided that we did not like the result. We accepted it and subsequently put in place sanctions and measures to overturn it. I do not support the previous position of Hamas on Israel, but there have been significant signs of change and a willingness to change on the former's part. Should we encourage that change through dialogue or should we block it by trying to shut down the Hamas Government, which was chosen by the Palestinian people?

Perhaps we did not like the results of elections in Northern Ireland in recent months and years, but we have accepted and worked with them. The same should apply to the Palestinians' democratic decision on who should lead them into the next phase. Our political project should be one of trying to change the position of Hamas and working with it to chart a way forward. We should try to

convince Hamas, as we eventually convinced ourselves after a minimum of 70 years and a maximum of 700 years, that one does not win by war. Rather, one progresses through peace and dialogue.

The EU's response and sanctions, on which my party's spokesperson, Deputy Allen, issued strong press statements and policy documents, have not been helpful in advancing the situation. As the motion demands, we need a willingness among all parties to stop the killing and agree to a ceasefire. This should not come about with 100 preconditions. Rather, it should be brought about to stop the killing and allow talks to begin.

This debate, like the peace moves, is not taking place in a vacuum. There was an internationally acceptable solution in the roadmap proposed by the Quartet. That is the political way forward, the route to a successfully negotiated settlement. However, we must revert to talks. Bullets flying, armies invading, citizens being terrified, a humanitarian crisis growing, children beginning to starve, salaries going unpaid and civil administration breaking down do not constitute the way forward.

We must encourage through the Government an immediate ceasefire. Indeed, most governments would work in that direction. However, I agree with Senator Ryan's assertion that we must try to get the EU to revisit its attitude towards Hamas, as we are not solely speaking about Hamas. Rather, we are discussing the Palestinian Government. Only through working with it can we get it to accept the fundamental changes necessary to achieve a democratic, peaceful and progressive two-state solution that will hopefully lead to a degree of prosperity.

Erecting walls against progress, closing down dialogue with Hamas and refusing to recognise the result of a democratic election are of no help. In all international and domestic conflicts, it is not a question of one side being entirely right while the other is entirely wrong. Senator Ryan briefly mentioned the fault on the Israeli side stretching back to the 1967 invasion and the international condemnations made since. The Israeli political culture has much to answer for, but if one removes the politics and armies, the Palestinian and Israeli peoples want peace and a future where they can live together.

There is a way forward through politics and dialogue, but there must be a ceasefire and a recognition and respect for the Palestinian Government in the immediate future. We must work and engage in genuine dialogue with it, which the people on this island discovered after 3,000 deaths in a short period. An ironic similarity between our countries is that the 1967 invasion preceded the opening of a dreadful conflict on this island by two years. After 30 years or so, we found a way forward. Let us hope the Palestinian Government and the state of Israel take the same way forward.

Mr. Mooney: I move amendment No. 1:

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

- deeply concerned at the increasingly serious situation in the occupied Palestinian territories, and especially at the prospect of a humanitarian crisis in Gaza;
- convinced that the immediate crisis must be resolved through dialogue and diplomacy, and that long-term peace and stability for the Israeli and the Palestinian people can only be provided through a negotiated two-state solution;
- calls for the immediate and unconditional release of the kidnapped Israeli soldier, Corporal Gilad Shalit;
- calls on the Israeli Government and the Palestinian Authority to use all diplomatic options to ensure that the current crisis is resolved through peaceful means;
- appeals to all parties to demonstrate the courage to act with restraint and to avoid any further actions which cause additional escalation and endanger lives;
- calls for an end to all violence in and from the occupied territories;
- expresses serious concern at the effect of recent Israeli military actions on the already serious humanitarian situation of the Palestinian people, especially the destruction of essential infrastructure; and calls on the Israeli Government to exercise maximum restraint and to ensure that all operations are fully in accordance with international law;
- expresses its serious concern about the detention by the Israeli authorities of democratically-elected members of the Government of the Palestinian Authority and the Palestinian Legislative Council;
- reaffirms its support for a lasting, peaceful and just settlement of the Israeli-Palestinian conflict, based on a negotiated and viable two-state solution; and strongly supports the position of the European Union that it will not recognise any changes to the pre-1967 borders other than those agreed between the parties;
- welcomes reports of agreement between the different Palestinian groups on a national conciliation document and expresses support for the efforts, led by President Mahmoud Abbas, to complete this political process;
- emphasises the need for the Hamas Government to commit to the peace process, in accordance with the principles set out by the international community; and

— calls for an early and substantive meeting between the Israeli Prime Minister and the President of the Palestinian Authority in order to restart the negotiating process on the basis of a shared commitment to fundamental principles and adherence to international law.

I wish to put something straight at the outset. This is not about recognising the democratically-elected Government of the Palestinian Authority. I recognise its mandate and have said so before in this House and at the Council of Europe in Strasbourg. One cannot object to how a people vote in a democratic election which, according to international observers and monitors, was, for the most part, freely held.

However, since 30 January, and the installation of the Hamas Government in March, the EU, along with the international Quartet which comprises the EU, the USA, Russia and the United Nations — a considerable body of international opinion, I am sure Senators will agree — have maintained a clear message that the Government must commit to the peace process. It must renounce violence, recognise Israel’s right to exist and adhere to agreements negotiated by the authority, prior to the establishment of the Hamas-dominated administration, and the PLO.

Until there is progress towards this aim Ireland, as part of the EU, and the EU representatives will not have political contact with Hamas. That is perfectly clear.

Mr. Norris: That is stupid.

Mr. Ryan: It is clear but daft.

Mr. Mooney: All sides of the House will support the first and second bullet points of the Labour Party motion but beyond that there is divergence, certainly with me on this side of the House. When I first began to study the complexities of the Israeli-Palestinian relationship since 1948, my initial sympathies were overwhelmingly with the Israeli people. Then the pendulum swung towards the plight of the Palestinian people, born out of our own history of persecution and dispossession. I swallowed my concerns about the use of terrorism as a political weapon. I could not condemn it in Ireland while supporting it in the Middle East. I swallowed it in the context of an overall peace agreement which was initiated by a Fatah movement which, in common with Arab states in the region, pledged to obliterate what many of them to this day call “the Jewish entity”.

Like most of the political class in Ireland, I turned a blind eye to the IRA-trained Fatah movement and the IRA-trained Fatah fighters, who carried out frequent attacks on the real Óglaigh na hÉireann, wearing the blue helmet of the United Nations in south Lebanon during the 1980s and 1990s. That is a historical fact. Today we are faced with a new set of complexities, in

[Mr. Mooney.]

the form of an Israeli Administration determined to settle the Palestinian question unilaterally, using its enormous military might——

Mr. Norris: Why do the Irish not send troops to the Israelis, then?

Mr. Mooney: ——supported by a pliant US political establishment, governed more by the pressure of the Jewish lobby, and the fear of losing votes and being branded anti-Semitic, than by any sense of political objectivity.

On the other side there is now a Hamas-dominated Administration, elected as a response to a corrupt and inefficient Fatah governing class by a beleaguered people, the majority of whom I believe voted for any alternative through a yearning for peace and economic prosperity. As Shylock said in “The Merchant of Venice”, “I bleed the same as you do.” A Palestinian family living in the rubble of the notorious Gaza refugee camps, which I have visited——

Mr. Ryan: So have I.

Mr. Leyden: Well done.

Mr. Dardis: Well done.

Mr. Mooney: I do not say I am morally superior, just that it added to the sympathy I felt for their plight. They are separated from my family only by geography but both want the same thing. Why should Palestine not have its own state?

This motion and the Government amendment concern the latest crisis. I am disappointed that there is no reference in the wording of the motion to the kidnapping of Corporal Gilad Shalit.

Mr. Ryan: If the Senator listened to me instead of talking to the Minister he would have heard me explain that.

Mr. Mooney: There is a reference to the kidnapping in the Government amendment. That is the difference.

Mr. Norris: The kidnapping took place after the motion was prepared.

Mr. Mooney: While I accept the democratic mandate of Hamas I believe there is an awful lot of ambiguity about it. I do not share the same enthusiasm to embrace Hamas as the dewy-eyed younger politician that I was, who unequivocally supported Fatah despite all that was said about it. What is Hamas? I will quote from an article in *The Irish Times*, not by a person from that region but by Dr. Rory Miller, who teaches on the Middle East at the University of London and is the author of “Ireland and the Palestinian Question 1948-2004”. He states:

Hamas’s constitution — perhaps the most outlandish and vile political manifesto currently in existence — not only promises to “obliterate” Israel but incites anti-Semitic murder, arguing that the day of judgment will not come about until Muslims fight Jews and kill them. Then, the Jews will hide behind rocks and trees, and the rocks and trees will cry out: “O Muslim, there is a Jew hiding behind me, come and kill him.”

There’s more. According to its constitution, Hamas was established not merely to wipe out Jews but to pursue the far loftier goals of spreading Allah’s holy message: “The Islamic resistance movement will spare no effort to implement the truth and abolish evil, in speech and in fact, both here and in any other location where it can reach out and exert influence.”

For those who want to dismiss the constitution, written in 1988, as an out-of-date document that does not do justice to a more moderate Hamas, well here’s the view of Hamas leader Khaled Mash’al aired on Al-Jazeera TV on 3 February: “Tomorrow, our nation will sit on the throne of the world. This is not a figment of the imagination, but a fact. Tomorrow we will lead the world, Allah willing. Our nation is moving forwards . . . when it reaches the leadership of the world . . . you will regret it.”

Not something I would want to hear if I was a journalist, woman, gay, practising Christian or even Guinness drinker in any place Hamas got influence.

All this just doesn’t have the same appeal as the freedom fighter slogans and anti-colonial language of Arafat and the PLO that has made generations of Irish weak at the knees — but this is what Hamas is about and we dare not forget it.

The current crisis began on 25 June, when Palestinian terrorists used a tunnel to cross from the Gaza Strip into Israel and attack an Israeli army position at the Karem Shalom border crossing. Two soldiers were killed and one, a 19 year old wounded corporal, Gilad Shalit, was dragged across the frontier into Gaza. Hamas spokespersons promptly took responsibility for the attack. On the same day an Israeli civilian from the West Bank, an 18 year old innocent called Eliyahu Asheri, was kidnapped and murdered, which has been forgotten about in the midst of the daily atrocities that have taken place in the Middle East.

The Israelis point out that they do not wish to reoccupy the Gaza Strip. They say that, for the first time in the modern period, the Gaza Strip is independent but that the Palestinians have not used that freedom to advance the well-being of their people or to establish the foundations of a functioning state. Rather, they concentrated their efforts on attacking Israel. Deadly kasam rockets continue to rain daily on Israeli territory with more than 500 missiles fired since the withdrawal. Southern Israeli towns and kibbutzes were targeted and their populations live in fear for their lives every day and night.

Recent media reports suggest that Hamas has implicitly recognised Israel, by agreeing to the so-called “prisoners’ document”. They refer to the concessions that Palestine has given but the reports misinterpret both the document itself and subsequent statements by Hamas leaders. Sallah Al-Bardawil, a Hamas spokesman to the Palestinian Legislative Council, stated on 27 June, “We expressed our agreement to a Palestinian state and territory occupied in 1967, the West Bank and Gaza, but we did not say we agreed to two states.” Moreover, instead of representing any considerable concession to Israel, the document constitutes a large step backwards from any peaceful resolution to the conflict. The Palestinian Authority has repeatedly given its commitment to end the use of violence and terrorism. This was a fundamental element of the Israeli-Palestinian peace process, which began in 1990. The prisoners’ document clearly violates this promise, even though its commitment has remained largely rhetorical. Hamas has announced that the prisoners’ document expressly allows the organisation to continue armed resistance, including within Israel itself.

I welcome the Government’s repeated commitment to maintain the level of Ireland’s bilateral assistance to the Palestinians in 2006. Like all in this House I have called for a continuation of humanitarian aid to the Palestinian people.

Mr. O’Toole: Then why did the Senator table an amendment?

Mr. Mooney: This is consistent with Ireland’s long-standing support to the Palestinian people. I am also pleased that the EU has clearly stated it will continue to provide all the necessary assistance to meet the basic needs of the Palestinian people. EU assistance will be continued with the establishment of a temporary international mechanism to channel assistance directly to the Palestinian people. This will bring total EU aid to the Palestinian people so far this year to €259 million.

Israel responded to the international pressure for humanitarian aid. On 2 July it opened two border crossings to allow the passage of food and fuel.

Mr. Ryan: No big deal.

Mr. Mooney: On the first day alone, 50 truck loads of basic food items, 100,000 litres of diesel fuel for generators, 80,000 litres of gasoline and 200 tons of natural gas for cooking were transferred to Gaza. Israel has promised to continue to monitor the humanitarian situation and will co-ordinate the transfer of necessary goods with international relief organisations.

Mr. O’Toole: And then bomb them.

Mr. Ryan: And blow up another 15 year old.

Mr. Mooney: Productive peace negotiations can only take place when both sides are ready and able to make the necessary concessions. Hamas has long been on the EU’s list of terrorist organisations and it has done nothing to justify changing European policy towards this organisation. Hamas is currently unwilling to meet the very basic conditions of the Quartet, namely, an end to violence, recognition of Israel’s right to exist and recognition of the agreements already signed by the Palestinian Authority.

Mr. Norris: I wish to share time with Senator O’Toole.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Mr. Norris: I was appalled by the speech I have just heard. It was extraordinarily one-sided and completely neglectful of the human rights of the Palestinian people. I have always supported the right of the state of Israel to exist. I would like to think the Government could do something positive by quietly facilitating a meeting between some of the leaders of the opposing sides in an out-of-the-picture situation. They must meet directly.

The attitude of the Israeli Government is perfectly clear. I once introduced Mr. Olmert’s brother for a briefing session here. When he arrived at the briefing, 50% of the audience were pro-Israel. By the time he left, 100% were anti-Israel. His brother is no bloody different. In recent days Mr. Olmert, stated “I want no-one [not soldiers, not guerillas but no-one] to sleep at night in Gaza. I want them to know what it feels like.” Well, they do.

I am on the side of the victims and of human rights, not just of Palestinians but of Israelis — I would like to think everyone in the House was on that side also. The Israeli Interior Minister, Ronny Bar-On stated that it was the Israeli intention in attacking Haniya’s office to compromise the Hamas Government’s ability to rule. Where does that leave democracy?

It is an astonishing and dreadful situation. Irish Christian and relief agencies have expressed their horror at the situation and its impact on the civilian population, who are in nothing less than an open-air concentration camp in Gaza. Thirty-four Palestinian civilians have been killed, leaving civilian casualties at a rate of four to one between the sides. Have we any notion of what an asymmetrical war is? Israel is administering collective punishment, which is illegal under international law.

I have been asked by Christian Aid to ask the following questions on the record. Will the Government recognise we are facing a humanitarian crisis which is deteriorating at an alarming rate? Will it respond accordingly? What is it doing to ensure international law is being upheld on all sides? It is not doing anything. Will the

[Mr. Norris.]

Government make a clear statement that only negotiations based on UN resolutions and international law, not unilateral moves by Israel, can bring lasting peace to both Israelis and Palestinians?

When Ireland held the Presidency of the European Union, I asked that we should move to implement in its entirety the external association agreement, which gives favourable trading status to Israel, because human rights protocols are attached to that agreement. We have done nothing. There are massive daily infringements of the most basic fundamental human rights yet nothing is done. Apart from one or two points, the amendment is just pious waffle.

A recent editorial in *The Irish Times* stated:

The kidnap of an Israeli soldier, Cpl Gilad Shalit, by Palestinian militants provoked an Israeli military occupation of Gaza, collective punishment of civilians there who are deprived of electricity, and the arrest of dozens of Hamas ministers and leaders in the West Bank. These are disproportionate actions in response to the kidnap.

I agree. However, what is the difference between a kidnap and an arrest? The Israeli army entered Palestinian territory and arrested or kidnapped politicians. I am amazed the House is not inflamed about this issue. I am a member of the Interparliamentary Union and have attended four of its meetings. This is one of the items that is always on the agenda. Politicians are supposed to be immune from this kind of bullying. From what the Israeli Interior Minister has said, the Israeli intention is perfectly clear, namely, to destabilise and destroy.

Mr. Bush, Israel's patron, describes it as "regime change". It is a frightening comment on democracy that because we do not like the people who are elected, we can get rid of them. I do not particularly like Hamas. As a gay man, I am certain I would not last ten minutes with them. However, that does not mean I can countermand the sovereign authority given to Hamas by the people of Gaza.

I extend my sympathy to the family of Corporal Gilad Shalit. It is an awful situation and must be horrifying for him, sitting there as a pawn. However, everything that is done is making the situation worse. The prisoners' document was important, despite the way it was airily dismissed by Senator Mooney. I raised it on the Order of Business the day it emerged and it clearly and historically showed a degree of movement which should have been encouraged. It was the wreckers on both sides who subverted the document. They also outmanoeuvred the Palestinian President, who was appealing over the heads of the armed factions to the Palestinian people. Now, by this action, and I believe deliberately, the population in Gaza has been forced to support Hamas because it is the legitimate Government.

Consider what has happened to the power stations, an issue I also raised. It is not just that the people do not have electricity to read the Koran at night; they do not have pumps for water or sewerage. I know this because to his immense credit, my ex-partner, Ezra Yitzhak, has been assisting in this area. I know the level of degradation to which the Israeli Government is trying to drive these people by destroying sewerage facilities, water supplies and health clinics through measures such as planning permissions and judicial restrictions in an area over which it has no legitimate control. However, nobody in Europe utters a squeak.

Why is this happening? It is because of the dark shadow of the criminal regime entrenched in Washington—

Mr. Ryan: Hear, hear.

Mr. Norris: —which has spread its plague all over the world, tearing up the Geneva Convention, rubbishing human rights and claiming might is right. Of course, we lickspittle to that regime because we only have dollar signs in our eyes.

It is a bad day for this country that we cannot stand up for the underdog. I stood up all the time for the Israelis when they were under pressure, because I was interested in human rights. I make no apology for supporting not only the rights of the Israeli civilian population but also those of the Palestinians, who are victimised in this atrocious campaign.

Mr. O'Toole: I was taken aback by Senator Mooney's speech. Listening to him talk about Hamas was resonant of the DUP talking about Sinn Féin. We know what Hamas is. The suggestion that somebody on this side of the House is in some way about to support or speak in favour of Hamas, or to imply such, does not become Senator Mooney. He knows us well enough to know we have gone well beyond that point in our lives.

The reality is that all of us have been engrossed in this issue for many years. I knew President-Chairman Mr. Arafat for many years. I argued this point with him. From the time Israel moved towards supporting a homeland for Palestinians, I urged that he would change his position, and he did so. Members of the House, such as Senator Norris and I, were supportive of the PLO and the Palestinians but on the day of the first suicide bombing, we made our position clear. We made it clear to the Palestinian regime it was unacceptable and wrong.

Mr. Norris: I received a written commitment against it from Arafat.

Mr. O'Toole: Through all my years of involvement with this issue, I have also had good relations with the Histadrut and the labour move-

ment in Israel. I have always felt there had to be a two-state solution, which is my position today.

I was disappointed when Hamas was elected. I felt the same as I did last year when the DUP was elected in the North. I said then as I say now that when the people speak, that voice must be accepted. I had the same discussion in this House almost ten years ago when the first Sinn Féin Deputy was elected. I said that when the people speak, we must accept the democratic mandate. That is the reality.

Hamas was elected and had to accept authority. Its past was behind it. They killed Irish soldiers, but so did the Israelis. Knocking one after the other off is bringing us nowhere.

There is no point in putting truisms into it. The reality is true. Although they moved in the recent document, I agree with Senator Moylan that they did not move far enough. I would say no word in favour of the Hamas constitution or any of its activities to date. I hope that with a democratic mandate and parliamentary responsibility it will do the right thing. Our goal is to make that happen.

Kidnapping can be called by different names by different people in different places, from rendition to kidnapping. It is equally bad wherever it happens and whoever does it. The idea that elected parliamentarians would be imprisoned by a foreign state must be anathema to all of us in this House. That is where it is wrong. It is wrong to continue to look at embargoes and sanctions because this treats babies, soldiers and terrorists alike. It is wrong and we cannot support it.

I want the Government to take up the cudgels, as it has always done. The current Government has shown courage in dealing with the Middle Eastern question and has been strong enough to take an independent view. It is time for that to be done again where necessary. It is not about taking sides but about making a judgement on what is wrong, when it is wrong and saying so. It is not about being on the side of left or right or being a liberal or otherwise but about making an ethical judgement as a person on what is right and wrong. It is about leaving history behind us and looking forward. That is what we must do. The West has let this go. Palestinians are suffering without electricity, water, light, with their hospitals affected, with soldiers, terrorists and babies being treated alike. It is wrong. It is time for the West to awake to this.

Mr. Minihan: I welcome the Minister to the House. I also welcome the Government's continuing efforts to bring about dialogue between the parties in the Middle East, particularly in this region. I served three tours of duty in the area. To reinforce what Senator Mooney said, I wore the blue beret and stood beside the Palestinian people under Israeli shelling. Equally I stood side by side with Israelis in the face of Palestinian terrorist attacks. I say this because I have spoken on

this subject a number of times and I am not afraid to condemn either side when appropriate.

I disagree with the Labour Party's motion, which is defective in many respects. I will return to this point momentarily but first I welcome the preamble to the motion, which notes "with alarm the deteriorating relations between Israel and the Palestinian people" and states that "violence in this situation is both morally unjustified and politically counter productive". From the tone of the motion I assume "violence" means Israeli violence and I agree that this is politically counter-productive. There are already signs on the ground in Gaza that Fatah's al-Aqsa Martyr's Brigade and the military wing of Hamas have buried their differences and are prepared to fight any Israeli invasion shoulder to shoulder.

This begs the question, what of Palestinian violence? The Labour Party's motion fails to identify the immediate cause of the crisis, namely, the kidnap of an Israeli soldier from within Israel's pre-1967 borders. While Senator Ryan referred to this, it is not in the motion. If the Government were foolish enough to acquiesce to Labour's demand to end the EU embargo on dealing with the Hamas-led government of Palestinian territories it would encourage further terrorist outrages.

Mr. Ryan: How would it do that?

Mr. Minihan: Members should make no mistake. The Labour Party's motion calls on the Government to reward violence and show that it can be justified. It is a morally bankrupt motion that the end justifies the means and is counter-productive. I find it disturbing, as, I am sure, do the Labour Party's partners in Fine Gael.

Turning aside from the motion, I find RTE's constant reference to the "capture" of an Israeli disturbing.

Mr. Ryan: It is the same on the BBC.

Mr. Minihan: I did not hear the BBC. I refer to what I heard.

Mr. Ryan: Senator Minihan should listen and discover what people are saying.

Mr. Minihan: The use of the word "capture" implies a certain legitimacy. It implies that the Israeli soldier, Corporal Gilad Shalit, has, in the words of the Geneva Convention, "fallen into the power of the enemy and as such will be accorded the status of a prisoner of war". While I would like nothing more than this to be the case, I fear that young Corporal Shalit has been kidnapped and will pay the ultimate price should the Israelis mount a rescue mission. It remains to be seen whether his fate will be that of a prisoner of war or a murder victim.

In the meantime I suggest people sharpen their editorial act on how they refer to this. It brings

[Mr. Minihan.]

back memories of the one Irish soldier who is still missing, subject to the same type of incursion. Private Kevin Joyce, from the Minister of State's part of the country, is the only Irish soldier whose body we never got back. Was he afforded the rights of a prisoner of war? Was his family afforded the right to give him a Christian burial? The answer is "No".

The Labour Party's motion states that the Palestinian Government has made considerable concessions to the Israelis. I am at a loss to understand what those concessions are. For the sake of argument I assume the motion refers to the so-called prisoners' document. This was adopted earlier this year by Palestinian prisoners held by Israel, including members of Hamas and the Fatah factions, as a basis for conciliation between the rival factions and it was subsequently ratified by the leadership of both organisations after revision. Initially the global response to this document was positive, as it appeared to implicitly recognise the state of Israel within its pre-1967 borders.

However, it has subsequently emerged that the Hamas charter, which does not recognise Israel's right to exist, remains in force. In addition, the prisoners' document seeks to secure the right of return of refugees to their homes and properties from which they were evicted and to compensate them. This is not acceptable to the Israelis. I touched on this issue in April when we last debated Palestine. I asked then what of those who were dispossessed following the 1948 war, many of whom still live in refugee camps throughout the region. Should these people also have the right to return to their former homes?

There are more than 200,000 Israeli settlers living in the West Bank and a further 200,000 in and around Jerusalem. The demographic upheaval of rehousing the settlers inside Israel's 1967 borders can hardly be imagined. It is inconceivable that Israel would also allow the return of many hundreds of thousands of Palestinian refugees. What of the 200,000 Israelis living in and around Jerusalem, which the prisoners' document claims as the capital of an independent Palestinian state? I am at a loss to understand what concessions the Hamas-led Palestinian Government has made to the Israelis and without genuine concessions I see no justification for the immediate relaxation of the EU embargo.

I support the Labour Party's call for an immediate and unequivocal ceasefire by all parties to the conflict and immediate negotiations between Israel and the Palestinian Government. The Israeli reaction to the abduction, kidnap or capture of Corporal Shalit is a questionable response to a complex situation by an untried and inexperienced government. There does not seem to be any plan behind the Israeli actions either politically or militarily beyond progressive escalation.

An Israeli spokesperson reflecting a lack of clarity said words to the effect that their action was a result of the kidnap but on the other hand it will not cease until rocket attacks cease. This is a mixed message. In any event the Israelis could not halt the missile attacks while inside Gaza. It is hard to see how their attacks will be more effective from outside. The arrest of the Hamas political leadership will do little to influence the Hamas militants on the ground while military incursions rarely do anything but complicate and exacerbate the situation.

There is no doubt that missile attacks and this latest incident have tried the patience of the ordinary Israeli people who have demanded a strong approach to the situation. The traditional eye for an eye approach, however, will do little to calm the situation. I would not be surprised if the only people to be strengthened by the present situation are the Hamas and the hawks within the Israeli military and political systems and that will benefit no one. If the Israeli Government wishes to make a show of strength then it should not react with force to the kidnap of its soldier. If it really wishes to show strength it should open a dialogue with the Palestinian President for only through dialogue will a fair and just peace be reached.

There is little difference between the motion and the Government amendment but I support the Government amendment because we all want peace in the Middle East. Given the people here listening to this debate and the coincidence between the Corporal Shalit kidnap and our own situation, I appeal to the Hamas Government to give us back Private Joyce.

Minister of State at the Department of Foreign Affairs (Mr. Treacy): A Leas-Chathaoirligh is a Sheanadóirí, is cúis mhór áthais é dom a bheith ar ais arís chun labhairt ar an rún tábhachtach seo faoin saol casta cuimsithe i reigiúin an mheánoirthear. Tréaslaím le gach éinne a ghlac páirt sa díospóireacht go dtí seo. Tá mé ag súil le éisteacht leis na daoine eile tar éis tamaill bhig.

I am grateful for the opportunity to address this House, on behalf of the Government, on the dangerous situation in the occupied Palestinian territories. The Private Members' motion tabled here today raises very important issues. The amendment submitted by the Government addresses these issues in detail, and in their overall political context.

The Government is deeply concerned about the continuing deterioration in the situation in the occupied territories. We are particularly concerned about the impact of the security situation, on the lives and welfare of the Palestinian people and we have made that clear in every international forum. There is a very real risk of a humanitarian crisis in Gaza. This can be avoided only if political leaders on all sides face up to and meet their responsibilities.

Over the past week, the Government has been active within the European Union and the United Nations in promoting a peaceful outcome to the current crisis. We have also maintained contact with the Israeli Government and the Palestinian Authority, and have conveyed a simple and clear message. It is in the interests of both the Israeli and the Palestinian peoples that all parties now demonstrate the courage to act with maximum restraint. They must continue to pursue every diplomatic opportunity, to resolve the immediate crisis peacefully, without further death and injury.

We have called for the immediate and unconditional release of the kidnapped Israeli soldier, Corporal Gilad Shalit. I know that this House will join with me in repeating that call today. We have also called for an end to all violence in the occupied territories, from whatever source. This includes the rocket attacks from Gaza against Israeli population centres.

In urging all parties to avoid actions which will cause further escalation of an already dangerous situation we have addressed a particular appeal to the Israeli Government. Israel has undertaken military operations which it states have the aim of achieving the release of the kidnapped soldier and the ending of rocket attacks from Gaza. To date the military activity of the past week has not resulted in civilian casualties on the alarming scale documented by the United Nations for the immediately preceding period.

However, the Government shares the widespread concern at the serious effect of Israeli military actions on the humanitarian situation in Gaza. We are especially concerned at the destruction of essential civilian infrastructure, particularly the ongoing impact on ordinary Palestinian families, of the bombing of the Gaza power plant last week. We know well from our own history that it is not only wrong to respond to the actions of unrepresentative armed groups by imposing suffering, directly or indirectly, on the general population but it is also invariably counter-productive.

The European Union has stated clearly in recent days that it is essential that any military operations are carried out in full accordance with the principles of international law and that all parties must act on their clear responsibility to protect civilian lives. This is a time for patient dialogue, which requires great sensitivity and, at times, total secrecy. There is no military solution to either the current crisis, or the Israeli-Palestinian conflict. It is essential, even in the midst of a crisis, to work to create the conditions for political dialogue. We remain seriously concerned at the arrest last week of large numbers of democratically-elected Palestinian representatives, including members of the Hamas Government. Unless they have charges to face we believe they should be released from custody immediately.

The Government is convinced that the events of recent days, together with the political and

security developments since the start of the year, serve to emphasise the basic reality of the Israeli-Palestinian conflict. Peace and security for the Israeli and the Palestinian peoples can be assured only through the negotiation of a viable two-state solution. Ireland has never been found wanting in pursuing this end, at any level or opportunity. The temptation, born of frustration, to pursue progress by unilateral action will not serve the interests of either party. The Government has worked hard with our partners to ensure that in the face of setbacks, the European Union remains actively engaged in the process, with a clear and balanced message for both sides.

A lasting, peaceful and just resolution of the conflict will have to involve agreement on the coexistence of two viable states. The European Union will not recognise any changes to the pre-1967 borders which are not arrived at by agreement between the two parties and Ireland stands with the Union on that. Both parties have clear obligations under the Quartet roadmap, and under international law. The roadmap may effectively be in abeyance at this time but it remains wholly relevant. It sets out the principles and the practical steps to which the Israeli Government and the Palestinian Authority must commit if there is to be a sustainable settlement.

The European Union has been consistent in its message for the Israeli Government. We have encouraged Prime Minister Olmert in his stated intention to reach an agreement with the Palestinian Authority, represented by President Mahmoud Abbas. The European Union has also consistently and strongly conveyed its serious concerns about Israeli practices in the occupied territories which threaten the viability of a two-state solution and which are contrary to international law. These include the continuing expansion of settlements, the illegal construction of the security barrier, or wall, on occupied Palestinian land, the demolition of homes and activities in and around Jerusalem and in the Jordan Valley. The Government has also made these points directly to the Israeli Government. We will continue to do so in a spirit of constructive dialogue and in the interests of the welfare of the Palestinian and the Israeli peoples.

We fully recognise the right, indeed the duty, of the Israeli Government to protect its citizens against both targeted and random terrorist attacks. However, measures taken to strengthen the security of Israeli citizens must not be at the expense of the basic human rights of Palestinians. We are particularly concerned that there should be an end to all extra-judicial killings, which are contrary to international law. Such acts do nothing to provide long-term security. They simply add to the already poisonous and dangerous atmosphere of bitterness and alienation, which has blighted the lives of too many generations of Palestinians and Israelis over the years.

The credibility of the European Union's role in the peace process and of its relationship with the

[Mr. Treacy.]

Israelis and the Palestinians requires us to be honest in our dealings with both parties and we always have been. The European Union must be seen by both to adhere consistently to a scrupulously balanced approach. This is vital. We have been entirely consistent in our approach to the Palestinian people and their representatives.

The European Union is the strongest supporter of the Palestinian people internationally. I have seen that at first hand.

Mr. Ryan: It used to be.

Mr. Treacy: It still is at the top of the pile. Nobody in the world leads like the European Union on this issue. I have been there.

Mr. Ryan: So have I.

Mr. Treacy: Successive Governments have ensured that Ireland has made an important contribution to development of EU policy on the rights of the Palestinians. The EU has steadfastly supported the Oslo process, which is based on the Israeli-Palestinian accords which have been negotiated since September 1993. No process that is based on the need for compromise and accommodation will perfectly meet the sincerely held positions of both parties. It could be argued that the temptation to follow a unilateral approach in recent times was born of the frustration of the Israeli public at the slow pace of the process and the growing perception among the Palestinians that the process was being applied in an unbalanced and unfair manner. It would be dangerously irresponsible of those who wish to help the various parties to cast aside the achievements of the past 12 years because of serious setbacks and slow progress.

The democratic elections in Palestine in January of this year were held under the Oslo process. Rightly, there was universal praise for the manner in which they were conducted in difficult circumstances. Hamas, which won a clear majority of seats and formed a government in March, is a movement in transition. It is not long since it was engaged in a campaign of terrorist violence, including suicide bomb attacks, against Israeli civilians. Such attacks have been alluded to during this debate. Hamas undertook to observe a suspension of violence last year. It showed some political pragmatism by using the Oslo process, which it had rejected, to achieve power by democratic means. Hamas must complete a full transition to democratic politics and commit to the peace process.

The EU and the wider international community have set out the steps which Hamas must take. It must give up violence, recognise Israel's right to exist and commit to the agreements which were negotiated by the PLO and the Palestinian Authority. We have strongly supported the courageous efforts of the President of the Palestinian

Authority, Mr. Mahmoud Abbas, to persuade Hamas through a national dialogue to commit to the platform of peace on which he was directly elected and to accept the objective of a two-state solution.

The agreement that was reportedly reached by most of the Palestinian groupings at the end of June has not yet been finalised. Having studied the main elements of the initial agreement, we are convinced that, if followed through, they have the potential in the right circumstances to help all parties to move on from the current deadlock. The crisis in Gaza has inevitably halted the internal Palestinian political process. We must do everything possible to support President Abbas as he works to conclude that process. We fully support him in that regard.

It seems clear that the agreed document does not represent full adherence by Hamas to the three principles outlined by the international community. However, the Government has consistently stated that if there is clear and significant political movement by Hamas in this direction and there is an absence of violence it will argue strongly for an appropriate EU response. It is a matter of public record that the Government has signalled that clearly within the EU and at UN level.

The EU will continue to encourage positive political movement by the Government of the Palestinian Authority. It is committed to preserving the democratic functioning of the authority's institutions. I cannot accept that it is reasonable to argue that we should continue to provide capacity-building assistance to the Hamas Government, irrespective of its attitude to the peace process. That would not be possible. The EU Commission has suspended its provision of direct assistance to the Palestinian Government since last April. I stress that the EU has not suspended its provision of assistance to the Palestinian people.

Mr. Mooney: Hear, hear.

Mr. Ryan: The Minister of State should ask the Palestinian people about that.

Mr. Dardis: Senator Ryan should read the conclusions of the EU Presidency in June.

Mr. Treacy: I did not interrupt Senator Ryan and I ask him not to interrupt me.

Mr. Ryan: The Minister of State and the Senators opposite should ask the Palestinian people on the ground.

Mr. Treacy: The Palestinian people should not face the prospect of a humanitarian crisis because of the reluctance of their Government to accept its responsibilities and adhere to the basic rules of the peace process. In recent years, overall

assistance to the Palestinians from the EU has amounted to around €500 million per annum.

Mr. Mooney: Senator Ryan does not believe that.

Mr. Treacy: Approximately half of this funding has been administered by the EU Commission. Over the past month, the EU has taken the lead in developing a temporary international mechanism to channel assistance directly to the Palestinian people who deserve it, need it and are getting it.

Mr. Mooney: Hear, hear.

Mr. Ryan: How much has been given in that time?

Mr. Treacy: The temporary mechanism focuses on essential services, starting with health and includes a programme of vital assistance to families in need. The EU Commission has announced an allocation of €105 million under the temporary mechanism, thereby bringing the total level of EU aid to the Palestinian people so far this year to €259 million. Ireland has argued strongly for the widest possible coverage of needs, through the temporary mechanism, and the widest possible international donor involvement, including by the Arab states. It is essential for Israel to find a way to resume the transfer of withheld Palestinian tax and customs revenues, which is an issue that Ireland has consistently raised. The revenues in question are essential to the avoidance of a humanitarian crisis. Their retention has been the chief element of the financial crisis in the Palestinian territories.

In my current role, I have been party to many meetings about the complex and tragic situation in the Middle East. Such meetings have been held at many levels, including EU Council, Heads of State and at EU ministerial level, including the General Affairs and External Relations Council and Council of Europe ministerial levels. Neither Ireland nor the EU has failed to take a strong, constant, consistent and even-handed attitude to this sad situation. If the EU had not engaged in such persistent efforts, there would not be any real recognition or mobility in this situation at international level.

The international Quartet of the EU, the UN, the US and Russia has helped to make practical, pragmatic and sensible proposals on a daily basis. Mr. Javier Solana, who represents the EU at secretary general and high representative level, and successive EU Presidency representatives have made significant and positive efforts to develop an environment of peace and mutual respect in the region. Ireland has engaged with them fully at every level, including at diplomatic level. We are very proud of the work our diplomatic team does on a daily basis at every level on behalf of this country and the Government.

I reaffirm the Government's strong commitment to providing a balanced long-term programme of bilateral assistance to Palestine. That assistance amounted to over €4 million in 2005. The current level of funding will be maintained this year. We will respond generously to humanitarian developments, including by supporting the Palestinian office in Ireland.

I appreciate the strength of feeling in the Seanad on the current problems in Palestine. It reflects the Irish people's real sense of concern in this regard. The Government shares the strong belief that the current crisis must be resolved peacefully through dialogue and diplomacy, without further death or injury. The only people with an interest in an alternative outcome are those who do not want a peaceful settlement to the Israeli -Palestinian conflict. We are determined to maintain Ireland's active involvement, directly and as an EU member state, in the urgent promotion of a negotiated two-state solution. That is the only viable way forward for the Israeli and Palestinian peoples. I commend the Government's amendment to the Seanad for its approval.

Ms O'Meara: I thank the Minister of State for his balanced contribution. He referred in his speech to what he termed the Government's "balanced" and "long-term" approach. It is clear that it is balanced and that it focuses on the long term. The crisis being faced at present needs to be dealt with in the short term, however. Every hour that passes during the current crisis will make it harder to manage the problems in Palestine in the long term.

I thank the Minister of State for outlining what he described as the Government's "balanced" and "long-term" approach and I commend Senator Ryan on proposing this motion, which I support. As a democratically elected House, it is extremely important that the Seanad should discuss this matter of such global concern. Senator Minihan spoke earlier about RTE's coverage of the current difficulties in Palestine. My information on this issue comes largely from RTE reports. I commend RTE, and Mr. Richard Crowley in particular, for its extraordinarily well-informed and extensive reports on the matter. I am glad that RTE has allowed Mr. Crowley to report the recent developments in Palestine to the people of this country.

The Seanad is an elected House. While many people did not like the result of the Palestinian election and do not like the Hamas-led Government, they cannot deny that the Government of Palestine was democratically elected. It is often the case that people do not like the results of elections, but in this case a Government was democratically elected to represent the Palestinian people and it must be treated as such.

The Hamas Government must commit to the peace process. It must be our stand that all parties commit to the process. However, when was the last time democratically-elected representatives

[Ms O'Meara.]

were bombed into a peace process? When was the last time a people were starved into submission and a peace process? If they were bombed, starved or terrorised to the negotiating table, did it achieve the right long-term result? I do not believe it would have. Is the Israeli strategy designed to build trust and produce a balanced long-term solution? It does not appear to be.

The pictures of the building of the West Bank barrier are outrageous to our democracy. We should look to examples of our history to see how we have proceeded with our peace process. All Members want a peace process between Israel and Palestine. In our peace process, there had to be a ceasefire first and a buying into the process. Recently, during the comments on the legacy of the former Taoiseach, Mr. Charles Haughey, it was recalled there were times to keep the door open to people who many would consider terrorists. In the Palestinian case, it is a democratically-elected Government.

The EU approach to the process is very difficult and it must do more for it. The EU embargo against the Hamas Government is not the way forward and I do not support it. The reason the motion does not refer to Corporal Gilad Shalit is that when we submitted it last Thursday, we hoped his abduction would have been resolved.

Members on both sides of the House have expressed strong views for one side or the other. The Minister has produced a balanced long-term approach. It may appear to some that our motion is not balanced. It represents, however, the views of many people — that there has to be a pull-back. One speaker asked what violence the motion referred to. We are referring to all violence. The House must recognise, however, there is a disproportionate burden of suffering inflicted on the Palestinian people.

I do not believe the media are filtering information on this issue. It is from journalists such as Richard Crowley and Robert Fisk, who has written on this topic, that I get my information. I have not visited either state unlike many Members who have and are better informed than me. I am processing my information as most members of the public do. It is clear there is a disproportionate burden on the Palestinian people. Stating that does not mean the House is not supportive of the demand for the Hamas Government to commit to the peace process. What is happening is not acceptable and cannot advance the peace process.

Mr. Dardis: I wish to share time with Senator Leyden.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Mr. Dardis: I congratulate the Minister of State at the Department of Foreign Affairs, Deputy

Treacy, for his speech on this motion. He began and finished the speech addressing the humanitarian aspect of the situation, which has not been a feature of the debate. We can all apportion blame, pointing the finger at the terrorism of the Israeli state or Hamas. The dominant concern of the Government and the EU must be the humanitarian dimension. It is worth noting the conclusions of the EU Presidency of the European Council meeting of 15 and 16 June. It states:

The European Council urges Israel to resume transfers of withheld Palestinian tax and customs revenues which are essential in averting a crisis in the Palestinian territories.

The European Council stresses the need for a coordinated international response to the deterioration of the humanitarian, economic and financial situation in the West Bank and Gaza Strip.

The European Council endorses the proposed temporary international mechanism to channel assistance directly to the Palestinian people, which has been drawn up by the Commission following consultations within the EU as well as with Quartet members, major donors, international financial institutions and partners in the region. The European Council appreciates the Commission's work so far and requests it to continue urgently establishing the mechanism, in conjunction with Quartet members, other key international partners and the Palestinian Authority President's Office.

The European Council agrees that, in order to achieve an immediate impact, the mechanism will focus on essential supplies and running costs for social services and health, supply of utilities including fuel, and social allowances. Other donors, including Arab states, are invited to provide funding and to consider early and substantial contributions.

One would have thought other Arab states would have been the immediate donors before the EU. The EU, far from ignoring these matters, is deeply concerned with them. I support Christian Aid's position. On two occasions I have raised the matter at the Oireachtas Joint Committee on European Affairs and once at the Forum for Europe with the Minister for Foreign Affairs, Deputy Dermot Ahern, and, more recently, the Finnish ambassador. I am disappointed that in the Finnish EU Presidency's objectives only a passing reference is made to Palestine. The humanitarian aspect has to be the dominant one in the EU's approach. Finland has a good record in this area. I appeal to the Minister for Foreign Affairs, through the GAERC and the Finnish EU Presidency, to keep this matter dominant in discussions on the Middle East peace process. Our objective is peace but we must concentrate on the people most affected, namely, those on the ground.

President Abbas must be supported because he is in a difficult position in dealing with the Hamas

Government. He has shown himself to be a good leader and keen to negotiate. He is the key to progress in the peace process.

There is also the matter of the body of Private Kevin Joyce. I, and others, met the late Mr. Arafat on several occasions. At one time, the former Senator Mick Lanigan was very vigorous and vocal on the need to recover Private Joyce's body. At the time, Mr. Arafat gave undertakings that he would try to do so. I believe he did everything in his powers but to no avail. We must concentrate more on resolving the issue.

Law is law. One cannot bulldoze houses and detain parliamentarians. If a state does so, it must lay charges and not just do it unilaterally.

Mr. Leyden: I thank Senator Dardis for sharing time with me. I welcome the Minister of State at the Department of Foreign Affairs, Deputy Treacy, and commend him on the quality of his speech. I also welcome the Palestinian envoy to Dublin, Dr. Hikmat Ajjuri, who is present in the Distinguished Visitors Gallery.

I wish to express my appreciation to the Labour Party for tabling this motion, which I regard as well-crafted, in its Private Members' time. Irrespective of the different wording in the Government amendment which was written by officials in the Department of Foreign Affairs who are there to provide back-up, it would be worthwhile if we were to produce an agreed statement at the end of the debate. This would be more helpful in the circumstances in which we are trying to achieve a reconciliation between two different countries.

This crisis began with the killing of approximately 34 civilians by the Israeli Government in the Gaza area. One family was wiped out on the beach there. This was a horrific act by the Israeli State against the oppressed people of Palestine and Gaza. The reaction by the group that took the young soldier, Gilad Shalit, has been most unproductive. In the circumstances, the group should have been conscious that taking such an action would create an opportunity for the Israeli Government to hit back with extreme force, which has been the case. I commend the father of the young corporal for his approach. He is a most noble man. In what is clearly a most difficult hour for him, he has called on the Israeli Government and other parties not to take any action. He just wants his son returned. The only way his son will be returned to the family is with the assistance of the Israelis in terms of the action they take.

In bombing the power station, the Israelis have inflicted the most serious damage on the Gaza region. We cannot even comprehend what the effect of that will be. It appears that the Israelis will neither rebuild the plant or allow this to be done. Our representative in the region, Mr. Holohan, is doing tremendous work on behalf of the Government there. I commend him and his assistants for their work.

This is an intensely worrying situation as the crisis is deepening. I appeal to both parties to return to the negotiating table. There is no alternative to negotiation. Parliamentarians who are Ministers in the Hamas Government have been arrested and are currently in custody. Hamas was elected as the legitimate Government of the Palestinian people and we must accept this fact. The president has been a great man of peace and a solution will be found if he is allowed to work with the Israeli Government. I commend the amendment to the motion and thank the Minister of State, Deputy Treacy, for his excellent contribution to the debate. We should all co-operate in this regard.

Mr. J. Phelan: I welcome the Minister of State, Deputy Treacy, and his officials. I support the Labour Party motion and commend the party on giving its time to a discussion on this worthy subject. I have never previously spoken on Middle East affairs in the Seanad and I am pleased to have the opportunity. Along with other Members of the Oireachtas, I had the chance to travel to Israel and Palestine to witness at first-hand some of the difficulties that exist in that part of the world. It was an eye-opener for me.

Senator O'Meara stated she did not have first-hand knowledge of this issue and before that visit I would also have been in that category. One has to see what goes on there to understand the entrenched nature of the difficulties that exist. We have difficulties on this island between North and South and between the different communities contained within the island of Ireland but it is nothing compared to the entrenched nature of the problems in Palestine and Israel.

Leaving Palestine on that occasion I was doubtful about the future development of the area or future co-operation between the two communities because of the level of bitterness that exists. We have had a fair amount of that even in tonight's debate. There is an old saying, "the more heat, the less light". We have had much heat in this discussion and people should reflect more on what they say because this issue will not be resolved by shouting. There are wrongs on both sides and I believe everyone accepts that. There is no use in pointing the finger at either camp and levelling all the blame in one direction because it is clear that this is not the case. That said, issues need to be resolved and I am pleased the Labour Party tabled this motion so we can discuss these issues.

I visited Palestine and Israel last year and I had the opportunity to see at first-hand the difficulties people in both communities, but particularly those in the Palestinian community, experience in their daily lives. The Minister of State, Deputy Treacy, gave a very balanced account of the situation there to the House. He referred to the duty of the Israeli Government to protect its citizens, which everyone would acknowledge. The Minister of State also spoke of the need to pro-

[Mr. J. Phelan.]

protect the civil liberties of the Palestinian people. Many of their civil liberties are abused and all too frequently removed.

On the occasion of the trip to the Middle East last year we had an opportunity to visit Bethlehem which is a place of great significance for Christians, Muslims and Jews. We saw at first-hand the wall that is being built around the city of Bethlehem. Some people who live in the city try to make a living from land they own outside it where they raise animals or tend olive groves. However, given the wall, they can no longer go about these simple tasks as they are restricted in everything they do.

That type of abuse is bound to have repercussions. The area is a fertile breeding ground for people who want to engage in terrorism. The Minister of State touched on this subject. Many of the actions of the Israeli Government have added fuel to the fire and made it easier for terrorist groups to recruit members. If we are to find a resolution we need to see bread and butter issues addressed, such as the construction of the wall — which is more than a wall in some areas — and the extension of water rights. The Palestinian Authority still has enormous difficulty in gaining access to water for their communities in both the West Bank and Gaza.

I could not believe that Palestinians were in most cases not allowed to travel on the main roads even in the occupied territories. They have to use the back roads as all the main roads are blocked off with boulders from the local villages. Thankfully, a number of groups are involved in trying to alleviate the situation. Reference was made to Christian Aid and other Government supported agencies that are trying to help those beleaguered Palestinian communities get on with their lives and have some sort of normality restored.

Previous speakers referred to the crucial role of President Abbas. It is important that we support him. The Government is doing its best in this regard. He is in a most awkward and invidious position in his role as President of the Palestinian Authority. I fully endorse what various speakers on both sides of the House have said on this issue. Members have also spoken about the arrest and detainment of elected public representatives of the Palestinian Authority. These people are being held without any sign of charges being pressed or actions being taken. This is a flagrant abuse of international law and should not be allowed to continue.

I commend the reporting of most of the major media outlets, including RTE, for which Richard Crowley does a very good and balanced job in his reporting of difficulties in this area. That is not an easy job.

Members have expressed concern about Hamas being a majority in the new Palestinian Government. Given the history of that organisation, I too am uneasy about this reality. I agree

with Senator Mooney's observation that its constitution is a repugnant document. However, it is in the majority in the democratically elected Government of the Palestinian people and, as such, we must deal with it.

Senator O'Meara is correct that attempts to bomb or starve the Palestinian community to the negotiating table will not succeed. The correct approach is one of co-operation. The Hamas Government had made the first tentative steps towards recognising the state of Israel and moving further down the road to full democratisation of its procedures. There have been some backward steps in the intervening two weeks. I agree with previous speakers that the Palestinian people suffer disproportionately in comparison with the Israeli people. It is in the interests of all, however, to secure a balanced and agreed programme between the two communities so that they can continue to coexist into the future.

When I visited the area, I was struck by its beauty. We would all visit it on a regular basis if it was a secure destination. Standing outside the gate of the Garden of Gethsemane with Senator Leyden, I looked across at the Wailing Wall and the remains of the old temple and further across to the Kedron Valley. These are places with which all of us who are Christian are familiar from those parts of the Bible we remember. There is so much potential in this deeply divided region. We must engage in serious work to ensure there is co-operation between the two communities into the future.

Senator Minihan argued that in its reference to the "disproportionate burden of suffering inflicted on the Palestinian people by the actions of the Government and armed forces of Israel", the Labour Party motion was concerned only with violence inflicted by the Israeli authorities. That is not the case. Senator O'Meara made the point that it matters not from which side the violence comes. All violence must cease, whether it is inflicted by the Israeli Government or by militants on the Palestinian side. The motion is clear in this regard and I fully endorse it.

Mr. Lydon: I propose to share time with Senator Ó Murchú.

Acting Chairman (Mr. Leyden): Is that agreed? Agreed.

Mr. Lydon: There are two parties to this conflict. On the one hand, we have a Jewish state that was carved out of territory that did not belong to it. Israel is very tough in all its dealings with others. I have been to that country and the attitude of its people is that they will never again endure another Auschwitz or Bergen-Belsen.

However, I do not believe Israel is a viable state because it is heavily dependent on the support of the United States. It is tough in its dealings not only with Muslims but also with Christians. I understand it is no longer possible to

build a Christian church there. Each year the state encroaches further on the land of the Franciscans near Galilee and other places. These people are no saints, as they say in Donegal.

On the other hand, we have a group of people who have been dispossessed and are living in camps and enduring terrible conditions for almost four generations. I have been to Jericho, where the Israeli armed forces rolled up in tanks and gave the Palestinian residents 20 minutes to leave before their homes were bulldozed and the land given to settlers from other countries. The international community advised the Palestinians to engage in the democratic process by electing a Government. They did so and the Government they elected is led by Hamas. Like Islamic Jihad and perhaps Hizbollah, Hamas is a radical movement whose *raison d'être* is the destruction of the state of Israel.

Nevertheless, we cannot tolerate the arrest of democratically elected parliamentarians no matter who they are. Whether they are right wing or left wing makes no difference. A similar situation arose in Austria some time ago, and in Allende's Chile many years ago where because they did not approve of the person elected, the authorities did their best to oust him. At the Inter-Parliamentary Union meetings we attend all over the world, participants are always in agreement that democratically elected persons must not be removed from office by undemocratic means. If the Israelis do not like the Palestinian Government, that is too bad.

At the same time, we must appeal to Hamas to work with the Israelis to devise some means of agreeing a two-state system. I can see no other way forward. The situation is not entirely hopeless. There are many people working for peace. I pay special tribute to Mr. Pat Hynes who is in the Visitors Gallery today. He has worked on his own initiative to bring Israelis and Palestinians together, organising conferences and so on in an effort to get them talking to each other. There are many people who do wonderful work in Israel, East Timor and elsewhere. The situation is not without hope; it is a question of negotiating to secure the safety of both nations. The Israeli authorities react very violently to even imagined infringements and Hamas is not much better when it responds by lobbing missiles into Israeli territory. The approach outlined by the Minister in his speech is the only way forward.

I can find little to fault in the Labour Party's excellent motion. I do not see much difference between it and the amendment. We should try to work together on issues such as this. Our shared objective is the pursuit of peace in the Middle East. If there is no peace in that territory, there can be no peace in the rest of Europe and beyond.

Labhrás Ó Murchú: I compliment the Minister of State on his speech which was exceptionally well crafted and balanced and very much in keep-

ing with the excellent service provided by our diplomatic service. We have an exceptionally proud record in that regard. I also compliment the Labour Party group for using its Private Members' time to afford the opportunity for this important debate. It is certainly an improvement on having to depend on mere soundbites on the Order of Business. My contributions in that regard have been to the effect that the young Israeli soldier should be returned to his unit and his family. If Hamas had any involvement in this — of which we are not certain — and if it had any control over it, the correct action was to show magnanimity. It is interesting that one small human act can often unlock much compassion and co-operation.

I would like to believe Israel will also respond and release the hundreds of prisoners it has kidnapped during its many incursions into the Gaza territory. By so doing, it too might contribute to a new momentum. I recall that President George Bush, in speaking of the Middle East conflict, asked people to turn their backs on violence and embrace the democratic process. Hamas did so but the last votes were hardly counted before the spokespersons for Washington made it clear they would not deal with the people who had responded to the President's call to embrace democracy.

What form might this debate have taken if, for instance, the Hamas Government had kidnapped or captured 12 Israeli parliamentarians? I have no doubt that there would be an absolute outcry and rightly so. Such behaviour is against all ethics where war is concerned, if such ethics exist. Given that it was the other way around, however, we seem to have a different reaction. My fear in this regard is that we might tie ourselves into a particular world order. If one looks back on the history of the United States, in every place in which it intervened to in some way dislodge, dismantle or undermine a democratically elected Government, it always failed and left chaos.

I have seldom seen sanctions work in the manner in which they are being employed in this case. They ultimately harden attitudes. I heard
7 o'clock Palestinian mothers interviewed on television recently and, even though they were suffering deprivation as a result of the current situation, their first reaction was to refer to their sons and daughters who had been killed.

When one uses a weighing scales in measuring human lives the battle is lost. No solution can be found by asking how many the Palestinians killed and how many the Israelis killed. Equally, no solution can be found if we do not recognise a democratically elected government. Even at the worst times during the conflict in Northern Ireland, no matter how tempted the British may have been, elected representatives were not arrested. This was because every dispute in the world must, ultimately, be resolved through dialogue and diplomacy. The vehicles for dialogue and diplomacy

[Labhrás Ó Murchú.]

are those given a mandate by their people. The moment one undermines that system it goes out of control.

I accept that the Government's amendment is probably the best we can have. However, I see little difference between the Labour Party motion and the proposed amendment. I agree with Senator Lydon in hoping that, on some occasion, on an issue of this kind when we all wish to demonstrate that we are both democrats and humanitarians we should try to be united.

I compliment RTE fully on the job it is doing on this issue. We depend on the media for coverage of this complex issue and we should not be upset because people put forward different points of view. On the contrary, I would prefer to have dialogue in this Chamber, under the rules that govern this Chamber as an arm of Parliament than to depend on outside lobby groups with specific agendas. I am pleased to hear different views expressed this evening. The Government has served an exceptionally important role in bringing, as Senator O'Meara said, a balanced approach. If we leave this House this evening with a united approach we will have helped both the Palestinian and Israeli peoples.

Dr. Mansergh: I compliment Senator Ryan and the Labour Party on having this matter debated in their Private Members' time. The House should be complimented on its deep and consistent interest in the subject as shown by numerous interventions on the Order of Business.

The situation is a sad and tragic one. The Israeli Government has adopted a policy of massive retaliation for much of the past 50 years to any attack or offence and I do not underestimate the threats to which it has sometimes been subjected. This policy has, manifestly, not been successful. Israel has had to withdraw from the Gaza strip and there is no substitute for negotiated agreement. Equally, the attacks, of a fundamentalist character, on the state of Israel have not improved the position of the Palestinian people and they have lost much territory.

Much experience can be drawn from the Northern Ireland peace process. Last week the *Financial Times* posited what might have happened had the British Government adopted Israeli-type tactics, including arresting Government Ministers in Dublin and carrying out systematic raids south of the Border, during the Troubles. One can only imagine what the consequences could have been.

The Government has taken a balanced and moderate approach to this issue and has been a good influence in the EU for several decades. However, some of the preconditions for negotiation and demands being made of Palestinians are simply unrealistic. Acceptance of the state of Israel will be achieved only through agreement, not through the setting of preconditions.

Mr. Ryan: Hear, hear.

Dr. Mansergh: I do not wish to suggest the situation in Northern Ireland and that in the Middle East are similar. However, I feel we have much to offer from the point of view of a peace process. It seems as though slowly, gradually and, unfortunately, very painfully, Hamas is beginning to move in the direction of a realistic alternative. We are probably in a better position to assist than most EU member states.

Mr. Ryan: I apologise if I gabble because I want to refer to a number of things. I thought there was a united view in the House on this issue, with one or two exceptions. A couple of speeches were entirely wrong about our motives, our omissions and about certain realities. I will not dignify some of the more abusive comments by even making reference to them because there are many in this House who wish to be serious about this issue and keep an even-handed view on what is an extremely difficult and human crisis.

I have only one reason for identifying in this motion a disproportionate suffering on the part of the Palestinian people and that is because it is an undisputable fact. No Israeli children will die tonight for the want of clean water or because their drinking water is polluted by sewage or because there is no electricity. Nobody has the political or military capacity to do that to Israel. There are many thousands of Israeli children. One Israeli soldier has been incorrectly kidnapped captured and detained in Gaza somewhere. Please God he is still alive. There are at least 1,000 Palestinians detained without trial by Israel. That is what I mean by disproportionate and it is the only argument I have with the speech by the Minister of State at the Department of Foreign Affairs, Deputy Treacy.

The Minister of State's speech was finely crafted a speech as one can get from the Department of Foreign Affairs. The Department can craft them very well and I mean that in the best, most positive sense. I have a very high opinion of the Department and its staff, even though I have had disagreements with it. The fundamental flaw in our policy is not the even-handed nature of our rhetoric, condemnation or support but the absolutely uneven-handed nature of our actions.

One of the conditions that has been imposed on Hamas is that it must give up violence, unconditionally, and if it does not, we will not talk to it. We have never said to Israel that it must give up violence, unconditionally, or we will not talk to it. We have wrung our hands, wept, rhetorically at least, and said we wished it would. We have told Hamas that it must recognise Israel's right to existence. We have spent years but still have not got unequivocal, unambiguous acceptance by Israeli Governments of the right to existence of a Palestinian state. We have told Hamas that it must commit itself to agreements already

made but the Israeli Government is not committed to agreements already made and has made that perfectly clear. The former Prime Minister, Mr. Ariel Sharon made that clear, as did his rival for the leadership of Likud, Mr. Benjamin Netanyahu. The last Israeli Prime Minister who unequivocally supported the right to existence of a Palestinian state was Mr. Ehud Barak, who lost power a long time ago and been replaced in government.

Israel does not meet the conditions that are being imposed on Hamas. As if that is not bad enough, we will take no action in that regard. That is the fundamental flaw in the EU position, namely, that it took immediate and drastic action because a government was elected in the Palestinian territories that it did not like. It insisted that government must do certain things but did not make the same demands of Israel. That is why I cannot accept the Government amendment. The amendment supports not a form of criticism, a form of words or a form of political statement but a form of international action which is scandalously one-sided.

Mr. Treacy: That is not true.

Mr. Ryan: The EU will not talk to one government.

Mr. Treacy: I urge the Senator to read the speech in its totality, paying particular attention to page 6 in the script that was made available to him.

Mr. Ryan: I listened carefully to the speech. In one section, it refers to the kidnapped, captured and arrested members of the Hamas Government and urges Israel to either release or charge them. I say to that, "Hold on for one minute". Israel invades another country, arrests members of the Government of that country and we presume it has the right to charge them. Is that even-handed? Imagine if the Palestinians arrested a

member of the Israeli Government, brought him or her to Jericho or Gaza and charged him or her with some of the offences that everybody accepts Israel has committed under international law. There would be international outrage at the mere suggestion that the Palestinians had the right to charge that person.

The speech also contains a peculiar request to Israel to find a way to resume the transfer of taxes, but to whom? The Minister of State will not say because what that request really means is that we wish that Israel would find some way of giving the Palestinian taxes back, but it must not give them to the Hamas Government because we are not giving money to that Government. Who is Israel to give the money to?

We try to be unequivocal about whatever Government is elected in Israel. We do not make distinctions. While we would all probably wish for a Labour Government in Israel, it does not have one, yet. However, we are now saying that one political leader, namely the President in the Palestinian territories, is acceptable but another political leader, the Prime Minister, is not. That is known as interfering in the internal affairs of another country and if it were anywhere else we would accept that it was a gross intrusion on sovereignty.

The fundamental disagreement between me and the Government is not about what we say, have done in the past or hope to do in the future in terms of aid or support, but about the fundamental fact that we punish the Palestinians and their elected representatives when they do not do what —

Mr. Treacy: That is not true.

Mr. Ryan: What single punitive action has the Government ever taken against the Israeli Government for any breach of international law or human rights law? The answer is "None".

Amendment put.

The Seanad divided: Tá, 30; Níl, 19.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Fitzgerald, Liam.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.

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

Níl

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

Hayes, Brian.
McCarthy, Michael.
McHugh, Joe.
O'Meara, Kathleen.
O'Toole, Joe.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Cummins and Ryan.

Amendment declared carried.

Motion, as amended, put and declared carried.

**Hepatitis C Compensation Tribunal
(Amendment) Bill 2006: Second Stage.**

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

Tánaiste and Minister for Health and Children (Ms Harney): While no monetary support or compensation can ever repair the damage done, Ireland is doing more for victims compared with other countries in similar circumstances.

For many years, people infected with hepatitis C have made the reasonable case for a method of addressing the insurance difficulties which they and their spouses face. No particular solution to these difficulties was apparent and while it was relatively easy to find precedents for monetary compensation schemes, a scheme to address the insurance difficulties of this nature could not be found anywhere in the world, and as far as I am aware, this remains the position today.

The Department of Health and Children worked in close co-operation with the representative groups — Positive Action, Transfusion Positive, the Irish Haemophilia Society and the Irish Kidney Association — to agree the parameters of the scheme and I have taken virtually all of the recommendations of the groups on board in the scheme's development.

Persons to whom this scheme will apply fall into two categories with regard to insurance matters: those individuals who can get insurance but only with increased premiums; and those individuals who are deemed by the insurance industry to be uninsurable. The Bill's objective is to provide reasonable access to the insurance market for those for whom the cost of insurance to date has been rendered prohibitive or for whom cover is currently unavailable.

Broadly, the introduction of the scheme will provide for life assurance and mortgage protection cover. Under the scheme, the State will pay the additional risk premium where the life assurer is willing to provide cover, subject to an additional premium. The State will assume the risk on the life cover where the assurer is not willing to provide this cover. The Bill also allows

as a matter for priority for the development of a scheme for travel insurance. The scheme will be administered under the aegis of the Health Service Executive. Specific details on the administration of the scheme will be set out in regulations and an administrator will be recruited as soon as possible after the Bill's enactment.

The introduction in the Bill of an insurance support scheme on a statutory basis shows the continued commitment of the Government to the victims of infection. This scheme now brings to three the key forms of statutory support and recompense which the State has put in place for this cohort of people. There are already two supports in place. The first is the compensation scheme which is administered through the hepatitis C and HIV compensation tribunal. To date, the tribunal has made awards to approximately 2,200 people, including most of the 1,700 persons infected with hepatitis C or HIV, and a significant proportion of their spouses, partners or dependants. The total figure for awards made to the end of 2005 stood at €580 million.

The second support is the provision of a range of health care services without charge under the Health (Amendment) Act 1996. The cost of the health care scheme is approximately €15 million per annum. After enactment of the Bill and to ensure consistency and fairness, every person who received a compensation award at the tribunal under the existing or new legislation will also receive the special health card. I will shortly be in contact with the Health Service Executive in this regard. The third form of recompense, the insurance scheme, will cost an estimated €90 million over its lifetime, which is estimated to be at least 30 or more years.

I will now deal with the detailed provisions of the Bill. The purpose of section 1 is to provide a definition of diagnosis for the purposes of the existing compensation scheme and the new insurance scheme. The symptoms linked with hepatitis C include fatigue, aches and pains, depression, dry skin and rashes. Many of these symptoms are common to a number of viral and other conditions not associated with hepatitis C. To ensure the support schemes operate in a fair and equitable manner and that those determining eligibility under the schemes use clear consistent criteria, the Government agreed that a hepatitis

C diagnosis should be defined in terms of a scientific test or by reference to certain defined symptoms in respect of acute infection acquired within 16 weeks of the administering of the anti-D product.

The Bill, as originally circulated, proposed to use the enzyme linked immunosorbent assay, ELISA, test. This test is accepted internationally as being the standard method for diagnosing hepatitis C for the purposes of the health care services. In practice, the ELISA test is used as the first-line indicator that any hepatitis C sufferer has been exposed to the hepatitis C infection at some time in the past and should be further investigated for evidence of current infection.

The national virus reference laboratory uses the ELISA test to identify hepatitis C infection and in 2005, it screened over 52,000 samples for the presence of the virus. The anti-body tests used have been shown to have excellent sensitivity in the identification of hepatitis C in most individuals, except those who are immunosuppressed. The investigation of hepatitis C infection by means of the ELISA test is regarded as "best practice" in many countries, based on the accuracy of the test and, with the exception of investigating very recent hepatitis C infection, would be expected to be positive even in the absence of hepatitis C being active in the body. A similar scientific test definition of hepatitis C diagnosis is used in other jurisdictions like the UK and Canada where compensation schemes operate.

The expert group on hepatitis C, which is chaired by the Chief Medical Officer of my Department and includes representation from leading liver consultants and a member of Positive Action, agreed in 1998 that eligibility for the Health (Amendment) Act card should be on the basis of a positive diagnostic test for hepatitis C. In 1995, support groups pressed for a statutory compensation tribunal. A Bill was drafted with the assistance of John Rogers, SC, and Ivor Fitzpatrick and Company Solicitors. The Bill included the ELISA test as the basis for a diagnosis of hepatitis C.

Following discussions with the hepatitis C support groups and officials of my Department, I agreed to amend the Bill to include a number of other tests, any one of which will be sufficient for participation in the insurance scheme, eligibility for the compensation tribunal and the Health (Amendment) Act card. In addition to the ELISA test, the Bill now includes reference to the RIBA test and the PCR test. There is a provision to include any other relevant recognised test that may be developed in the future. These requirements will not apply to claims for compensation made to the tribunal before the publication of this Bill on 20 June 2006.

Section 2 deals with eligibility for compensation in respect of loss of consortium. Persons who were directly infected with hepatitis C or

HIV are compensated at the compensation tribunal in their own right, on the evidence presented, for all the effects of hepatitis C and HIV, including its impact on their relationships in the past and into the future. The chairman of the compensation tribunal, Judge Anthony Murphy, has confirmed that this is the position. Moreover, in the case of young people, the tribunal and the courts rightly take into account the age of the claimant and recognise the consequences of infection on the future relationships of young people, particularly those who have not formed permanent or stable relationships. From time to time, claimants choose, as they are entitled to do, on this or any other element of a claim, to highlight this aspect of their case. This has always been the position and it will not change with the enactment of the Bill.

The Hepatitis C (Amendment) Act 2002 provided for the first time for compensation in respect of loss of consortium suffered by the spouses and partners of infected persons who entered into marriage or long-term relationships without the spectre of hepatitis C or HIV hanging over them and then found that the expectations which they had of a normal family life were severely affected by their partners' condition. It is not proposed to alter this provision in any way.

Where a new relationship is formed in the knowledge of the hepatitis C or HIV diagnosis, it is intended that this particular head of claim will not apply. This is on the basis that for a loss of consortium to exist, there must have been a committed relationship already in existence and the legitimate expectation that this would continue without the imposition of a viral illness acquired through the use of State-provided health services. However, it is important to note that eligible partners in relationships formed after diagnosis will remain entitled to all the other relevant heads of claim under the compensation scheme, such as compensation for any actual losses incurred in looking after their partners, loss of services, loss of society, post-traumatic stress disorder, mental distress and dependency losses.

Section 3 allows the Minister to make regulations providing for the establishment, operation, administration and supervision of an insurance scheme. This will provide certain types of insurance to claimants who are: hepatitis C-infected anti-D recipients; hepatitis C-infected transfusion recipients; HIV-infected recipients of relevant products; the children or spouses of eligible persons with hepatitis C or HIV who have themselves been diagnosed positive for the virus; parents, brothers or sisters of infected persons who have themselves been diagnosed with hepatitis C or HIV infection; and certain other claimants, all of whom have been refused the relevant insurance on the grounds that they have been diagnosed positive for hepatitis C or HIV, or the administrator reasonably believes they would be refused if they applied for insurance or who are refused insurance unless they pay a higher pre-

[Ms Harney.]

mium than persons of similar age and gender who have not been diagnosed positive for hepatitis C or HIV.

Under this section, the Minister may also make regulations to specify the administrator of the scheme, his or her functions, the conditions subject to which a benefit will be provided, not provided or ceased under the scheme. The scheme will provide life assurance of €420,000 or seven times the annual earned income to a maximum of €525,000 of the claimant or his or her spouse or partner of three years standing at the time the application is made or their joint income. All the amounts mentioned will be index linked to the consumer price index.

The scheme will provide mortgage protection insurance for the purchase, change or improvement of the claimant's primary residence to a maximum of either €394,000, which will be index linked, or the average Dublin house price plus 25%, whichever is greater. For the first year after the scheme comes into effect, an eligible claimant will be allowed to remortgage any property he or she owns to a total of €100,000.

Under section 3, the Minister is empowered to make regulations to provide for annual travel insurance. The Bill provides that travel insurance benefits will be covered by the scheme within six months of the establishment of its life and mortgage protection elements. A claimant who wants to avail of the full benefits of the scheme without restriction must make an application to the administrator within one year of the scheme coming into effect or three years of the date on which her or she was diagnosed positive for hepatitis C or HIV, whichever is the later. The exceptions are applications for annual travel insurance and life and mortgage cover by claimants under 30 years of age. Once the travel insurance element of the scheme is up and running, a claimant can apply for full benefits at any time.

Regarding young claimants, the Irish Haemophilia Society made a compelling case that persons with haemophilia infected with hepatitis C in their early years may not have reached the stage where they are ready to take out mortgages or life assurance policies. Accordingly, the Government agreed that the full benefits of the scheme would apply without restriction to eligible claimants up to the age of 30 years rather than be confined to the first year of the scheme.

With the exception of this group, claimants who make an application after the first year of the scheme's operation and would be deemed uninsurable will still be able to avail of insurance, but the benefits will have a phasing in period. In the case of claimants under 50 years of age, it is intended by regulation to specify a two-year phasing in period. For persons over 50 years of age, the relevant period will be three years.

For the first year of the scheme, applications by persons who are 75 years of age or younger will be accepted, but after the first year appli-

cations will only be accepted from persons who are 65 years of age or younger. No applications will be accepted from claimants who are over 75 years of age, even during the first year of the scheme. Cover will cease for every claimant who reaches that age.

An important element of the insurance scheme is that eligible claimants with other medical conditions as well as hepatitis C or HIV will have all of these conditions disregarded for the purpose of the scheme. Under it, the claimant will be entitled to benefits by payment of a premium that will generally be the same as the premium paid by a person of similar age and gender who is not infected with hepatitis C or HIV.

Where an eligible person makes a joint application with a person not covered by the scheme and the application jointly benefits both parties, the other person will pay the same premium in respect of his or her benefit as any person of similar age, gender and health status and will not pay a higher joint premium in respect of the joint benefit than the joint premium charged for a joint application from two persons, neither of whom had been diagnosed positive for hepatitis C or HIV.

If an eligible person or the eligible person and his or her partner has two or more policies under the scheme, the maximum sum assured applies to the policies collectively. If a person has an existing policy or takes out new policies other than under the scheme, such will not be taken into account in calculating the maximum sum assured. The administrator will be obliged to submit a report and accounts to the Minister as directed, who will lay the report before the Houses of the Oireachtas. The report will not identify any claimant.

Section 4 outlines the appeals procedure to apply. Under this section, a person may appeal a relevant decision of the scheme within 90 days of being notified of the decision in writing. Following meetings with support groups, the length of time for appeals was increased from 28 days. The Minister will appoint one or more solicitors or barristers of at least five years standing to consider appeals.

The decisions of the administrator that can be appealed are a refusal to consider an application, a decision that a claimant is not eligible, a decision that a benefit cannot be provided, must cease to be provided or is partially or incrementally provided or a decision on the amount of the sum assured under the scheme. The appeals officer will be independent but will comply with any guidelines on procedure issued by the Minister. He or she will consider any oral or written submissions made by the appellant and the scheme administrator, make a decision in writing giving reasons and send the written decision to both the appellant and the administrator.

A person affected by a decision of the appeals officer may appeal to the High Court on a point of law within 28 days of receipt of the written

decision. If the appeals officer's decision is not being appealed to the High Court, the administrator will carry out the decision as soon as practicable. Each appeals officer will report to the Minister in writing at intervals to be decided by the Minister, who will lay copies of the report before the Oireachtas. The appeals officer's report will not identify any claimant.

Section 4 also provides for the establishment of a special account to pay costs arising from the scheme, including the cost of administration and the payment of benefits. The special account will be an account with the Paymaster General, be subject to whatever terms and conditions as the Minister for Finance will decide in consultation with the Minister for Health and Children and be subject to audit by the Comptroller and Auditor General.

The scheme administrator may specify any forms that he or she sees fit and the documents that are required to be submitted with them. These forms must be completed in full by an applicant and accompanied by the necessary documents. The administrator may require a statutory declaration to be made that the particulars contained in the forms are true. Multiple copies of forms or documents may be required or, in particular circumstances, alternative documents.

Confidentiality is a prime consideration for persons infected with hepatitis C and HIV through the administration of blood and blood products within the State and I take their concerns on this matter seriously. As a result, section 4 stipulates that everyone connected with the process, including the administrator, the appeals officer or officers and the insurers, must maintain confidentiality in respect of all relevant matters and will not allow unauthorised access to any relevant documents. A person who contravenes this provision and is convicted of a summary offence will be liable to a fine of up to €3,000, six months imprisonment or both. A person found guilty of an indictable offence will be liable to a maximum of €25,000 fine, two years imprisonment or both.

Section 5 is a technical amendment to distinguish between the special account already set up to pay the costs of the compensation scheme and the separate account to be established to pay for the insurance scheme. Section 6 provides that the same definition of hepatitis C as proposed for the purposes of entitlement to compensation will apply to the Health (Amendment) Act 1996, which entitles eligible persons with hepatitis C to a range of health care services without charge. Section 7 provides for the Short Title and the commencement of its provisions. The establishment date of the insurance scheme will be set by regulation, which I intend to enact as soon as possible after the enactment of the Bill. Sections 1 and 6 will take effect from 20 June 2006 while section 2 will take effect from the date of enactment.

I acknowledge the input of the four hepatitis C and HIV support groups — Irish Haemophilia Society, the Irish Kidney Association, Positive Action and Transfusion Positive — in the negotiations that preceded the Bill and thank them for their co-operation. The insurance scheme was developed following lengthy discussions between my officials and the support groups and I appreciate their patience with this process. As this is a unique scheme, it was important to establish in the first instance that this model of providing for the insurance needs of eligible persons with hepatitis C and HIV was feasible and, in the second instance, that it was equally important to reach agreement on the parameters of the scheme and get the detail right.

For legal reasons, neither I nor my officials were able to enter into discussion with the support groups on the contents of the other sections of the Bill before the publication date of 20 June last. While I regret that this was the position, the Government is obliged to act in the public interest despite coming under considerable pressure to adopt a different course of action. Following the debate on these sections of the Bill last week, it is clear that there remains a significant difference of opinion in relation to sections 1, 2 and 6, which address the issues of diagnosis and loss of consortium. However, I am convinced that the provisions of the Bill are both necessary and proportionate. Given the difficulties that have arisen from a lack of clarity around the definition of hepatitis C in particular, it would be remiss of me to put a third scheme in place that perpetuated rather than corrected these difficulties.

On the positive side it should not be forgotten that the discussions between my officials and the support groups have resulted in virtual unanimity on the question of insurance. A number of amendments to the insurance elements of the scheme were suggested by the support groups and were taken into account on Committee Stage in the Dáil. I am confident that at the end of this process, a statutory framework will be in place for a viable insurance scheme which, at long last, will enable the 1,700 people with hepatitis C or HIV to avail of insurance products in a fair and equitable manner. My Department will engage with the support groups to discuss the text of the regulations for the scheme once the Bill is enacted.

A large amount of groundwork has been done on this and the outline rules on how the scheme will operate have already been drafted. I have instructed my officials that the completion of this process and the appointment of the administrator for the scheme should be given priority and completed within a three to six months' timeframe. I also acknowledge the importance which the support groups attach to the travel insurance element of the scheme and it is my intention that discussions on the parameters of the scheme will proceed as soon as possible.

[Ms Harney.]

I commend the Bill to the House and urge members to support this substantial initiative, so that the necessary arrangements can be made to make the scheme available to those who need mortgage and life assurance as quickly as possible.

Mr. Browne: I wish to share my time with Senator Terry. I welcome the Tánaiste and her officials to the House.

I am a bit puzzled over this Bill. What should have been a very simple Bill has now turned into a complex one, which is regrettable. When the Bill was published and people saw its Title, the Hepatitis C Compensation Tribunal (Amendment) Bill 2006, they expected it to be a stand-alone Bill dealing purely with the insurance aspect of the hepatitis C issue. Provisions concerning testing, which I understand the Tánaiste introduced half an hour before the Dáil debate last week, seem to have thrown a spanner in the works. The Tánaiste even admitted that there were problems with the ELISA test, as pointed out by interested groups, in that it might not prove that a person has hepatitis C. I am aware that, as a result of the groups' representations, she has included other tests but it also shows that the Bill was not thought out properly.

The ELISA test does not pick up on people who have hepatitis C but who have lost the antibody and those who are immunocompromised and who have kidney disease and leukaemia could lose out. Though the Tánaiste has included tests for those situations I am puzzled as to the reason for the introduction of the test. As far as I am aware the tribunal works very well and we on this side of the House have heard no complaints. She said the tribunal has heard over 2,000 cases and made awards to over 2,200 people, including most of the 1,700 people infected with hepatitis C or HIV and a significant proportion to spouses, partners or dependants. The total figure for awards made at the end of 2005 stood at €580 million. Is there a problem with the tribunal or has she been made aware of issues of which the public has not been made aware? There was no need to go down this road, because those who were infected with hepatitis C as a result of a blood transfusion are being compensated.

I get the impression from the Bill that the Government is terrified of an avalanche of claims. What is the basis for that? I cannot see any evidence for such an avalanche. The Bill deals with people who, in the process of having a blood transfusion, were infected because of negligence on the State's part. I am aware that people can contract hepatitis C from other sources but that is not involved in this Bill. Most people want to know why the Government anticipates an avalanche of claims and why, therefore, it is bringing in this draconian test. It is going down badly with the groups involved, with whom there seems to have been a lack of consultation. They were con-

sulted for nine years on the Bill and were very surprised when these new elements were introduced.

The Minister referred to the fact that, for legal reasons, she could not brief the groups on that matter. Can she elaborate further on that? It seems surprising. What happened to these people was shocking and due to negligence on the State's part. Their infection from contaminated blood had a devastating effect on their and their spouses' and partners' lives. While we welcome many aspects of the Bill, we are unhappy with the late introduction of some elements of it and we will vote against it tonight for that reason. By introducing the tests at this stage is the Government overreacting?

Ms Terry: I welcome the Minister. We can only try to understand the level of suffering that 1,700 people and their family members have endured over the years as a result of receiving contaminated blood products. Nobody ever wants to see it happening again. I recognise that many steps have been taken to ensure it never happens again and that compensation and other measures have been put in place to minimise, in some way, the hurt and the damage. While we can never undo the damage we can at least strive to make the lives of these people as comfortable as possible and to ensure that insurance is available to them at a reasonable cost. It is the State's obligation to see to it that they can buy insurance and to help to pay the costs over and above those any of us would be expected to pay.

However, it is sad that four organisations, Positive Action, Transfusion Positive, the Irish Haemophilia Society and the Irish Kidney Association, are unhappy with the Bill as passed by the Dáil. Unless changes can be made in the Seanad they will continue to be unhappy. Having spent over nine years trying to reach agreement with those organisations it is a pity that people perceive they are not getting what they set out to get and that they are unhappy with the way it has been dealt with.

I do not know if the Minister can address the needs of those organisations at this late stage or if she can listen to what they have to say. The

8 o'clock Minister's assertion that people will not be at a disadvantage following the implementation of this Bill sounds convincing but we, as Opposition Members of the Seanad, have to listen to what they say. They are unhappy and they have asked us to table amendments, which Senator Browne will do. We will try to address the concerns raised by those organisations, of which the Minister is well aware. I ask her to consider those amendments before Committee Stage.

We are talking about a very small sum of money. The total cost of this element of the compensation is €90 million over 30 years. How much more would it cost to deliver what the organisations are seeking and to meet their requests in

full? That figure must be small, if the overall figure is €90 million. Has the Tánaiste calculated what that amount would be if we were to meet the concerns outlined by the four organisations? We should consider how money has been wasted on other projects. I am thinking particularly of the topical issue of e-voting machines, with regard to which the then Minister for the Environment, Heritage and Local Government, Deputy Cullen, referred to the amount involved as minuscule. Perhaps that amount could go towards meeting the full requests of the organisations.

We have put these people through enough suffering. They will perhaps suffer for the rest of their lives. If further illness caused by contaminated blood or blood products comes to light and we can ensure that compensation is available in all its forms, as outlined in all the Bills and Acts, that should be done. It is not right that we have put people through this but, as matters stand, they will go away unhappy. I am sad that we must deal with legislation which leaves people unhappy. Enough damage has been done by the State and we are all responsible. Let us make every effort to ensure that we do not leave bad feeling between the State and these people who have been so wronged.

An Cathaoirleach: It is inappropriate to bring beverages into any part of the House, even the ante room. If any Member brought in a beverage, he or she should leave immediately with it. I understand there is a beverage in the House and I would like it removed. Is that clear?

Ms White: No.

An Cathaoirleach: Senator White, who is in the precincts of the House, has a beverage. The danger with bringing in beverages is that it will become a practice and if they are spilled, they could cause harm. In any case, it is completely inappropriate to bring in such beverages. I ask Senator White to remove the beverage. I call Senator Glynn.

Mr. Glynn: Whoever coined the adage that the cure is worse than the disease, this is a typical case. There is no doubt that many people are suffering as a result of contaminated blood products. Unfortunately, what has been done cannot be undone. However, we must do our best, as legislators, to in some way address the situation in so far as is possible. What happened with hepatitis C is the greatest public health tragedy that has occurred since the foundation of the State. Many people were infected with an incurable disease which has changed their lives and prospects, as well as their family and work relationships and their expectancy of living a normal life.

No monetary support or compensation can undo the damage. However, we, as legislators, must do what we can to make life as easy as pos-

sible for these people. The House has already enacted two Acts in regard to this tragedy, the Hepatitis C Compensation Tribunal Act 1997 and the Hepatitis C Compensation Tribunal (Amendment) Act 2002. This Bill seeks to establish a statutory scheme to address insurance difficulties experienced by persons infected with hepatitis C and HIV through the administration within the State of blood and blood products.

At some stage of our lives, we must all get insurance because we do not know the day or the hour when we will need it. In this case, a group of people received a product which was meant to improve their lifestyle and health but which ruined their lives in many ways. Moreover, they could not get insurance. This Bill is an important step in dealing with that difficulty.

The Bill has gone through the other House and is here for this House to deal with. The Tánaiste is a caring Minister and I compliment her on bringing forward the Bill. Unfortunately, everything we do with regard this matter is reactionary because we cannot be proactive as the damage has been done. We are trying to address that damage in some way.

The Bill is a vital measure designed to give further support to people diagnosed with hepatitis C and HIV as a result of contaminated blood products being administered to them. Since 1997, it has been obvious that infected people's inability to buy life assurance or mortgage protection policies was further compounding the damage they had already suffered. This Bill proposes three types of compensation. The hepatitis C and HIV compensation tribunal to date has awarded money to over 2,000 people, approximately 1,000 of whom were anti-D recipients, 700 of whom were transfusion recipients, renal patients and persons with haemophilia, and the remainder who were secondary claimants or dependants who are entitled to claim under a range of headings including loss of consortium, loss of society, carers' expenses and so on. Those who contracted hepatitis C through the administration within the State of blood or blood products are entitled to a health card under the Health (Amendment) Act 1996. All of these measures are of great help. As the Minister stated in her contribution, a range of measures will be put forward. If additional measures can be found to make life easier for those involved, that should be done. This will cost an estimated of €90 million over the lifetime of the scheme.

This is an important measure. When we consider what has been done elsewhere, it is a positive step. Unfortunately, it is necessary to address a serious situation. If more can be done, more should be done. As has been pointed out, no other country has introduced an insurance scheme and the Bill shows that the State is committed to working with the victims of infection to provide all possible supports for them.

[Mr. Glynn.]

The scheme will cover the insurance risk for the 1,700 or more people entitled to avail of insurance products, irrespective of any other medical conditions these people may have, once they pay the standard premium that an uninfected person of the same age and gender would pay. Obviously, in order to have a consistent approach to all three supports, it was agreed by Government that a hepatitis C diagnosis in the Hepatitis C Compensation Tribunal Act 1997, the Hepatitis C Compensation Tribunal (Amendment) Act 2002 and the Health (Amendment) Act 1996 should be defined in terms of a scientific test, the ELISA test, or, alternatively, based on whether the person has displayed symptoms of acute infection with jaundice up to 16 weeks after the administration of the infective agent.

While the ELISA test has in the past had its doubters, the Tánaiste rightly pointed out that there has been significant progress in its development. A similar scientific test definition of hepatitis C diagnosis is used in other jurisdictions, such as the UK and Canada, where compensation schemes operate. The sections relating to this test will not affect any claims already made to the compensation tribunal.

The symptoms linked with hepatitis C are reflected in other conditions, as noted by the Tánaiste. We should also remember that the expert group on hepatitis C, which is chaired by the Department's chief medical officer and includes representation from leading liver consultants and a member of Positive Action, agreed in 1998 that eligibility for the Health (Amendment) Act card should be on the basis of a positive diagnostic test for hepatitis C.

The objective of the scheme is to provide reasonable access to the insurance market, with certain limitations, for those for whom the cost is prohibitive or cover is unavailable. From its outset in early 1997, a key issue highlighted by the consultative council on hepatitis C was the insurance problem encountered by persons with hepatitis C. Advice was originally obtained by the Department of Health and Children from life assurance experts on the feasibility of developing an insurance scheme and a second phase of work then established the parameters of the scheme. When the draft scheme was devised, officials worked closely with the representative groups on agreeing the final parameters of the scheme. The support groups deserve great credit. They have fought a hard battle trying to get the wrong that has been done corrected and I commend them.

In the wake of representations from the Irish Haemophilia Society, it was agreed that the small number of persons infected only with HIV would also become eligible under the scheme. Most persons with haemophilia who are infected with HIV also have hepatitis C. Persons with hepatitis C

and HIV fall into two categories with regard to insurance matters: those who can get insurance, but only with increased premiums, and those who cannot get insurance at all.

What this Bill means is that the State will pay the additional risk premium where the life insurer is willing to provide cover subject to an additional premium and assume the risk on the life cover where the insurer is not willing to provide this cover. In each case the person requiring insurance will pay the average basic premium which an uninfected person of the same age or gender would pay.

As I said, this is an important Bill. Unfortunately it reacts to an existing situation. I hope it goes some way to addressing the great hurt and damage done to the lives of those people who were full of confidence that their illnesses would be treated but found that the cure was worse than the disease. I support the Bill and commend it to the House. If there is anything further that can be done to help those people, it should be done.

Mr. Ryan: Although I do not want to draw Senator Browne into one of my rows with anybody, the first issue that intrigues me is the incapacity of the Department of Health and Children to produce legislation that does not cause problems. Senator Browne and I struggled with a particular piece of legislation here less than six months ago. In its original form it was incomprehensible and when the amendments were added it became even more so. I cannot remember whether it was called the Misuse of Drugs (Amendment) Act or the Irish Medicines Board (Amendment) Act because it included amendments to both Acts.

An Cathaoirleach: What is the relevance to this Bill?

Mr. Ryan: I am coming to the peculiar way the Department of Health and Children deals with legislation of which this Act was symptomatic. The Act had amendments to the Health Act, including eligibility for school medical examinations, tacked onto the end. The Title did not reflect its contents. Then we had the first attempt at compensating people for the nursing home debacle, which was rejected as unconstitutional. I have had experience in this House of the way the Department of Health and Children drafts legislation. On this occasion I do not mean this as a criticism of the Tánaiste; I have plenty of those. Time and again it arises that the Department drafts peculiar legislation and operates in a peculiar manner. Maybe now that a couple of hundred staff have been relieved from the duty of answering Dáil questions they might get involved in putting some sort of consistency into the legislation. That is what caused so much outrage about this Bill, which was meant to be good and welcome news for the victims of a profoundly cruel mis-

take, if not an act of deliberate, culpable negligence by agents of the State. Something that is enlightened, forward-looking and welcome started a row with the support groups for those who have been at the receiving end of this. I wonder how this Department lands itself and its political heads in this sort of trouble time and again. The former leader of Fine Gael, Deputy Noonan, had his political career undermined by something he was advised to do by that Department. He acted on the advice and was lampooned across the nation because of it. I wonder about this. The remarks attributed to the Minister for Finance, Deputy Cowen, about Angola may not be far off the mark.

I would love the Tánaiste to explain why she felt it was appropriate to insert a provision that, sensible, intelligent and compassionate woman that she is, she must have known would start a row. Why not deal with the row separately and deal with the good news and sensible proposals here? I read what was there of the Committee Stage debate on this in the other House. Unfortunately it was truncated. It would have been worthwhile to tease out many other issues, but the Dáil does not seem to have the willingness or capacity to deal with legislation in the detail that this House does. This House does not guillotine legislation and that is to the credit of the Leader, who seems to be able to face down Ministers about how much time is required in a way that senior Members of Dáil Éireann do not seem to be able to do. For that I commend the Leader. I dare not say long may she continue to hold that position because she would be offended. I will leave Senator Bannon and the Leader to sort themselves out.

An Cathaoirleach: Can we return to the Bill please?

Mr. Ryan: Tomorrow we will have the chance to debate the Bill properly. If we had not had that awful controversy and if we did not still have the taste of it, there is much about this Bill that nobody could but unequivocally welcome. I welcome it and recognise it as an attempt to provide insurance for people who would otherwise be uninsurable. It is a welcome piece of legislation, and, as far as it goes, generous and imaginative. I suspect that this is the first time in legislation that the unmarried partners of people ever got this level of recognition and acknowledgement. I take it from the Tánaiste's speech that there will be no gender distinction about partners, which is progressive and welcome. It would be ungenerous of me not to acknowledge that fact. I previously stood here and listened to a Minister for Social and Family Affairs deal with the Department's definition of cohabitation for the purposes of social welfare eligibility and he mentioned everything except for sex. Eventually he managed to

slip in one reference to sexual relations at the bottom of a three-page definition of cohabitation. I am glad we have moved on and recognised the complex nature of human relationships.

I welcome the provision of health care services without charge, as the Tánaiste mentioned. I wish we had a universal provision of health care services without charge. Maybe now that the enlightenment has begun to spread we will begin to move in that direction because that is what a civilised society should have. No citizen of a civilised society should have to pay directly for any health care service he or she needs.

I admire but do not share the Tánaiste's faith in the scientific method. The scientific method is what it is. I refer to various diagnostic tests. As an engineer and therefore, to a degree, a scientist, I recognise the value of science and accept the scientific method. However the scientific method is experimental and its real genius is that nothing is certain. Everything is only as good as the experimental evidence and one accepts the theory until better evidence emerges.

The genius of science is that it continuously questions what is there. Church leaders and others were horrified by the scientific method when it came along because it implied universal scepticism about accepted wisdom when people asked why it was true. The answer was because it was always true. Then they asked for evidence. One seeks evidence and maybe it is not true. We worked out that the sun did not rotate around the earth because the evidence suggested the opposite. To a degree, the original — naive, to be charitable about it — enshrining of one test in the legislation reflected an extraordinarily naive view of how science works. Diagnostic medicine is only one form of science. It can never be written in stone. As it is amended, future tests and diagnoses have been built into the Bill. It took a great deal of fuss to get us from a degree of certainty that one test would do to accept that several tests are necessary or acceptable and there may be better tests in the future.

Anybody who says there is only one answer to any scientific question, that something is absolutely clear in scientific terms or that science has proved beyond a shadow of a doubt that something is true, is being disingenuous. Speaking as a scientist I do not know any laws of nature. We have only the best possible model at present. That might change next year or years after that. I do not teach students laws of nature. Instead I tell them "This is what works. This is the model that describes it. Use it for a while, it may change in the future." That is what legislation such as this should contain.

If one is to use quasi or pseudo-scientific methods of diagnosis one must recognise that they are only the best we have at the time. They may be inadequate, limited or wrong and leave people out. There are so many areas of human

[Mr. Ryan.]

illness, particularly of a psychological or psychiatric nature, for which there is no agreed definition. One cannot prove that somebody is schizophrenic. One can run a series of tests leading to the conclusion that it is the most likely diagnosis but there is no scientific test which proves it. In this case, however, hopefully there is such a test.

I wish this Bill could have gone through the Houses in the tone and mood in which the central issue was debated. It is a matter of regret and it seems almost endemic in the Department of Health and Children that there must be a row about something extraneous that seems to many outside these Houses to have been slipped in, perhaps inappropriately, and definitely unnecessarily.

Mr. Minihan: I join previous speakers in welcoming the Tánaiste to the House. I support the legislation before us. It is admirable and indeed vital that all possible steps are taken to ease difficulties experienced by persons infected with hepatitis C and HIV through the administering of blood.

There is hardly a valid objection to be raised against providing reasonable access to the insurance market for those vulnerable persons for whom the cost is prohibitive or cover is unavailable because of this tragedy. The road that has led us here has been a hard one for those infected persons and their families whom we should not forget. Theirs has been a journey of grief, suffering and the loss of loved ones.

As the Tánaiste made clear, the infection of people with contaminated blood products was catastrophic for them. No monetary support or compensation can even come close to repairing the damage done. Nevertheless, it is unconscionable that steps which could be taken under legislation to remove some sources of added distress would not be taken.

I commend the work of the Tánaiste and the Government for the specific measures in this Bill. At her initiative, Ireland is doing as much, and more, compared with other countries, for victims in similar circumstances. This is as it should be. The Bill is an addition to the existing support for people, namely, the hepatitis C and HIV compensation tribunal, and the Health (Amendment) Act 1996, which provides for a range of health care services free of charge. This Bill is another step in dealing with this terrible tragedy and the legacy of the mistakes of the early 1990s. The legacy includes the deaths of at least 88 haemophiliacs who contracted HIV from contaminated blood products and the infection of more than 1,000 people with hepatitis C from infected batches of anti-D.

By the end of last year some 2,000 claimants had been dealt with by the hepatitis C and HIV compensation tribunal. Approximately 1,000

people were anti-D recipients, 700 were blood transfusion recipients, and there were others. The Irish Blood Transfusion Service was quoted in *The Irish Times* as saying there is a need "to accept the past without denying or discarding it". Dealing with the repercussions must be truly awful. The literature on living well with hepatitis C, refers to dealing with stress.

I cannot even begin to imagine how difficult this must be for the people involved. I hope, however, that the free GP services, free prescribed drugs, medicines and appliances, dental and ophthalmic services, home support, home nursing and counselling services supplied under the 1996 Act provide some help. Each of the Health Service Executive regions has a hepatitis C liaison officer whose job it is to ensure that all those infected with hepatitis C from blood or blood products receive the services to which they are entitled under the terms of the 1996 Act.

Notwithstanding this, it is wrong that infected people would face the obvious stress of being unable to buy life assurance or mortgage protection policies. This stress can and should be removed where possible. I welcome this Bill and the three forms of recompense now provided for, namely, compensation, the special health card and life assurance support. In addition, this legislation allows for the development of a travel insurance scheme. Money should not be an issue when it comes to measures for these groups. I welcome the provision of the estimated €1 million to €6.4 million per year, for up to 30 years.

Under the Bill, the State will pay the additional risk premium where the life assurer is willing to provide cover, subject to an additional premium. Where the assurer is not willing to provide this cover, the State will assume the risk. The State must do what it can to help infected persons and by making sure that the person requiring insurance will pay the average basic premium which an uninfected person of the same age and gender would pay, the State is making a real and important difference in this regard.

The scheme will be administered under the aegis of the Health Service Executive and the specific details on the administration of the scheme will be set out in regulations. I urge the HSE and the administrator, who is to be recruited as soon as the Bill is enacted, to work quickly on this valuable scheme.

Regarding the mortgage protection cover for purchasing, changing or improving the home, I am glad the provisions take the realities of our housing market into account. This element of the legislation will cover an overall maximum of the average Dublin house price plus 25% or €375,000 linked to the TSB-ESRI Dublin house price inflation index. We must, however, acknowledge the realities. This cannot always be the case, for example in respect of grants but in this case I acknowledge and welcome this provision.

I also commend the open period for young people, who are not ready to avail of insurance or mortgage protection until their 30th birthday. This provision makes for a more equitable scheme. The awarding of compensation to the spouses and partners of the people under discussion, if the relationship commenced before the diagnosis of hepatitis C or HIV was known, to which Senator Ryan alluded, is correct. I welcome this scheme, which is not without controversy. It is necessary and right that there should be a consistent approach to the supports provided by the State. I accept that the tragedy under discussion is particularly awful. The symptoms linked with hepatitis C are not particular to it. Having worked in the pharmacy sector, the Minister of State, Deputy Tim O'Malley, like all other Members of the House, will be aware that fatigue, aches, pains, depression, dry skin and rashes are symptoms of many ailments. They are not associated with hepatitis C alone. That poses a problem.

In this Bill, the State is meeting some of its many duties. We must not forget it has a duty to ensure that the support schemes it establishes are fair and equitable. Eligibility under those schemes must be determined against clear and consistent criteria. If it is to meet the duty I mentioned, it has to ensure that diagnosis is determined by means of an accepted test that is in line with best international practice. I welcome the fact that, as Senator Ryan mentioned, this legislation has been amended to provide that further tests, including tests which may become available in the future, may be used. While it acknowledges the valid concerns which were expressed last week, the Government has acted as it must by setting the internationally accepted standard method for diagnosing hepatitis C as the method to be used for the purposes of the Irish health care services. The legacy of the tragedy of infection by blood and blood products is a terrible one for those infected, their families and their friends. This Bill represents a welcome intervention by the State to help to deal with one aspect of that legacy.

I welcome the Bill. I commend the Tánaiste and the Government for this initiative. As I outlined, stress management is a large part of positive living for those who have been infected. The Bill is a valuable step in reducing and hopefully removing a source of stress from people who have suffered dreadfully already.

Mr. Bannon: I welcome the Minister of State, Deputy Tim O'Malley, to the House. I had not intended to speak on the Bill, but in the light of the upset caused last week in the Longford-Westmeath constituency and further afield on foot of the remarks made by a local Deputy in the Dáil, I felt I had to support the valiant women who have fought hard and desperately, despite the ill-

ness and stress caused to them by the State's actions, to get the basic compensation and care to which they are entitled. It was unbelievable that their difficulties were further exacerbated by the extraordinary statement made by Deputy Peter Kelly, who cited some pseudo-medical knowledge to belittle the suffering of the women in question.

Since last Thursday, my clinics have been filled with women and men who have expressed their support for the victims of the State who are experiencing the serious effects of hepatitis C. The people in question have condemned the insensitive and damaging remarks of their local elected representative, Deputy Kelly. I have spoken to women from counties Longford and Westmeath who strongly empathise with the unfortunate victims who walked out of the Dáil in protest at Deputy Kelly's remarks last Thursday and are demanding an apology from him and action by his party.

I advise Deputy Kelly and other members of his party to bear in mind that the patients in question were infected with hepatitis C by the State's health service. They should recognise they are obliged to provide the best possible medical care and compensation to these women. It is to the Government's shame that the negotiations have been unduly confrontational to date, unfortunately. The fact that citizens of this State were medically, socially and psychologically damaged has often been forgotten or left out of the equation. It is to the everlasting shame of the Government and the health service that assumptions were initially made about how the victims were infected. Deputy Kelly's glib dismissal of the seriousness of their condition represents a regression to an ill-informed, witch doctor-like, prognosis.

Dr. Mansergh: On a point of order, I do not think we can discuss at great length what was said in another Chamber.

Mr. Glynn: It is not right to mention a Member of the other House.

Dr. Mansergh: The Deputy in question cannot defend himself in this Chamber.

Mr. Glynn: It is totally out of order.

Acting Chairman (Mr. Finucane): Perhaps the Senator should desist from referring to a Member of the other House in that way.

Mr. Bannon: I cannot stress strongly enough the need to be proactive and to do all we can to assist people who deserve our help and sympathy. We need to unite to try to rectify the actions of the Government. All possible assistance should be given to those affected. The compensation scheme has failed the fairness test on many counts over the last two and a half years. This Bill

[Mr. Bannon.]

finally delivers on the promise in the programme for Government for just and fair compensation to be offered. The Government has introduced this last-gasp Bill in the dying days of this session, and possibly in the dying days of its time in office. Adequate compensation and every possible assistance must be given to these innocent victims without further delay. The actions of the Minister for Health and Children have rubbed salt in their wounds. It astonishes me that Deputy Kelly dismissed their suffering so glibly.

Ms Ormonde: I would like to share my time with Senator Mansergh.

Acting Chairman: Is that agreed? Agreed.

Ms Ormonde: I welcome the Minister of State, Deputy Tim O'Malley, to the House. I am grateful for the opportunity to speak on this legislation. I read many of the speeches which were made in the Lower House. I have also read the Bill and the submissions which were made available by the Irish Haemophilia Society. I have listened to the families of those who were infected by the contaminated blood products. The substantive part of this Bill puts in place an insurance scheme for people who contracted hepatitis C and HIV from contaminated blood products. The need to establish this life assurance scheme, as well as the earlier compensation tribunal for people infected through blood products administered by the State, stems from an enormously distressing chapter in Irish medical history. The shock and horror of those who contracted the diseases in question, through no fault of their own, will never be forgotten. The State is obliged to do everything in its power to help the people in question.

The insurance issue is the kernel of the Bill. Those who were infected experience many medical and associated difficulties. They also encounter problems when doing things many of us would take for granted, for example trying to obtain insurance or mortgage protection. Such problems are faced by many of the victims. The Bill will cover two categories of people — those who can get insurance but at an increased premium and those who cannot get insurance at all. The State will pay the additional risk premium for the first group of people and it will assume the risk for the second group of people. This insurance scheme is the first of its kind in the world.

Ms O'Rourke: Yes.

Ms Ormonde: The Tánaiste and the Government should be congratulated for introducing this badly needed legislation. The Tánaiste has said that everyone who receives a compensation award at the tribunal under the existing legislation will receive a special health card and will

automatically qualify for insurance cover. Two other components of support, the compensation scheme and the special health card, are already in place. The compensation scheme was put on a statutory basis in the Hepatitis C Compensation Tribunal Act 1997, which was followed by the Hepatitis C Compensation Tribunal (Amendment) Act 2002. The two Acts provided that a wide variety of people could be compensated.

The special health card is awarded at the direction of the chief executive of the Health Service Executive, which must establish proof that the infection resulted from the use of contaminated blood products administered by the State. The key to this diagnosis is the ELISA test for hepatitis C, which is used in the United Kingdom and Canada. The Tánaiste has now included in the Bill references to the RIBA and PCR diagnostic tests.

Any of those tests can be used to prove an individual was contaminated. I have spoken to the representative groups about their concerns that some hepatitis C sufferers will be excluded from the compensation scheme. Senator Ryan is correct that there are no absolutes. It is difficult for an individual to determine whether he or she is infected. It also poses problems for the State but guidelines must be introduced. The Tánaiste and Minister for Health and Children has stated future developments in tests and research will be accepted to endorse the diagnostic approach. This will include anyone given contaminated blood products but who shows up negative in the tests.

Dr. Mansergh: I welcome this Bill as an honest and conscientious attempt to repair, in so far as it is possible, the consequences of the tragic infection of people by State agencies. I do not often intervene in health debates. The reason for my contribution this evening is that a long-standing secretary of mine who has worked for many years in Leinster House is one of those infected by the anti-D product.

I do not share other Members' criticisms of the Department of Health and Children. One reason legislation comes before the Seanad is that we can explore with interested parties the possible flaws it may contain. This allows us to improve legislation as it passes through the Houses. Since the original Hepatitis C Compensation Tribunal Act was introduced some improvements have been made. That is not a serious criticism of the Act's originators. The legislation is subject to a legislative process and has, therefore, significantly changed. That is simply how legislation is supposed to work.

I welcome the Bill's main features such as the compensation scheme, the State stepping into the insurance market where the private sector is unwilling to go — a classic role of the State. The pledge of the medical card to all who receive

awards from the tribunal is also an important feature.

The remaining area of controversy centres on those who are eligible for compensation and the range of tests. It is important but not easy, as pointed out by Senator Ryan, to identify with certainty those who have been infected. It has been argued that a retrospective diagnosis by a competent hepatologist should be accepted. There are women who show the symptoms of hepatitis C yet do not respond to the tests. I understand public administrators must be careful that compensation goes to those who deserve it. If I was put to the pin of my collar, I would rather that somebody unjustly receive compensation than that somebody who justly deserved it be denied it. Most Members I suspect agree with this. The thinking must be inclusive and should not concentrate too much on how to stop the system being abused. Everyone who deserves to be included must be included. There is a moral obligation on the State to ensure this happens.

It is appropriate that there is a substantial discretion in terms of power of regulation. More scientific knowledge of hepatitis C may become available. A case can be made that in some instances it will be a substantial period before the disease manifests itself. I am uncomfortable about the idea of an absolute cut-off date. Not only can legislation be improved in the legislative process, but its implementation through regulation can also be ensured. If circumstances and knowledge require further legislation to be introduced, then so be it. We have an absolute obligation to ensure everyone contaminated by the anti-D product by a State agency is compensated in so far as it is possible. All the palliative measures part of this enlightened Bill are welcome. The only criticism against the Bill is that its provisions should be made more comprehensive and inclusive.

Ms O'Rourke: I welcome the Minister of State at the Department of Health and Children, Deputy Tim O'Malley. From reading the contributions on Second Stage in the Lower House, I feel the Bill is responsible legislation. It is only the least that could be expected from the Tánaiste and Minister for Health and Children and the Government that took their duties seriously. It is a follow-on from the 1997 Act which caused so much tension, dissent and disquiet at the time. In view of submissions made, the Tánaiste and Minister for Health and Children included the RIBA and PCR tests along with the ELISA test. That has greatly strengthened the Bill. The inclusion of the loss of consortium in a relationship is a welcome provision as it can lead to disadvantages to any partnership. The Bill is not paternalistic — or materialistic for that matter — in its approach but is the proper way to treat people infected by the State.

We blithely take for granted the right to travel insurance, life assurance and mortgage protection. It is not so for those infected by the State. Throughout their lives they will live in the shadow of something that has left them disabled in every aspect.

I have met people who were so infected. They cope with what they have now but live in dread of what may come and how their infection may affect them. The Tánaiste and Minister for Health and Children did well in introducing this Bill to the Oireachtas. I will not use the term “in the dying days” because it is proper legislation. The Bill was considered during its passage in the Dáil, as shown by the Tánaiste and Minister for Health and Children taking on board amendments which would be of great help to those affected. I welcome the Bill and I look forward to Committee Stage and what comes forward by way of amendment.

Ms White: I welcome the Minister of State, Deputy Tim O'Malley, to the House. I am pleased to have an opportunity to speak on this important Bill. I urge the Minister of State to make clear to the House the reasons behind the decision to incorporate certain amendments to the 1997 and 2002 Acts in this new Bill. Specifically, I would like him to clarify why sections 2 and 6 are not being considered separately to the rest. It is my understanding that discussions with victims' groups centred around the provision of an insurance scheme, and that the incorporation of new regulations into this Bill came as a surprise to them.

While I accept it is impossible to discuss every technicality ahead of the publication of a Bill, the response of interest groups to this legislation has been undeniably negative, and I must ask the Minister of State why that is the case. While he may defend the policy decisions behind the legislation, I find it difficult to accept the manner in which they were made. Victims' groups talk of feeling “ambushed” by this legislation. I do not understand why there was not more thorough consultation.

The provision of section 2, as I understand it, means that people who have been diagnosed with hepatitis C will not in future be allowed to claim compensation for the damage that this disease may cause to any relationship begun after diagnosis. Again, I am not clear why this is the case. One cannot choose when to enter a relationship. Would it not be fairer to pay compensation at the same level to all sufferers, regardless of their relationships? I also understand that future partners of children diagnosed with hepatitis C will have no right to compensation for the injury to their relationship and potential to have children that results from their infection.

Section 6 contains the provision that sufferers must pass specific tests that show they have hepa-

[Ms White.]

titis C in order to entitle them to compensation. It is my understanding that the tests referred to in the legislation, while used in some combination in Canada and the UK, are not fail-safe. In any case, I am not sure that the British health service is a fair indicator of best practice. In this circumstance, I would urge the Tánaiste to require an expert medical opinion instead. Surely this would allow doctors to perform accurate tests, without having to settle for a less than perfect result. It would be a travesty if a person who had suffered infection at the hands of the State were to suffer even further by being denied access to compensation for their suffering, or if they were told that the State did not believe them. I understand the desire to limit spurious claims, but under no circumstances should this be at the expense of a single legitimate case.

I believe the Tánaiste met with representative groups of those suffering as a result of the use of contaminated blood products, and that these groups were unaware that the Bill would contain anything beyond provisions for an insurance scheme. Will the Minister of State clarify whether the additional provisions of the Bill were developed in consultation with victims' groups? Surely the State should seek to ensure that every last person made to suffer as a result of this tragic situation is compensated generously — not that any compensation could ever be adequate.

The Tánaiste stated that over €500 million has already been spent on this scheme. I understand and largely agree with her desire to control claims under the nursing home charges scheme. However, I do not believe it is appropriate in this case to talk of limiting liability. This is not a technical illegality — it is a case of the State poisoning its citizens. I urge the Minister of State to ensure that we do absolutely everything we can to protect these unfortunate people from further trauma.

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I wish to conclude tonight's debate by thanking all Members for their constructive contributions on the Bill. I realise that this is a most sensitive debate and I am aware of the concerns raised tonight and in recent days on the contents of the Bill.

Each element of the Bill has been given long and detailed consideration. I would not be supporting it here tonight if I was not convinced that each section is serving a necessary purpose. It must also be remembered that the proposed insurance scheme is a unique provision among the many states where, tragically, members of the population were infected by contaminated blood.

I believe this scheme will remove the impediments experienced by people who up to now have had difficulties in obtaining insurance. It will clarify other aspects of the supports available to per-

sons with hepatitis C so that all three supports — the compensation scheme, the special health care package and the insurance scheme — operate effectively to provide the required services.

There have been some suggestions that the section on the definition of diagnosis is extraneous to the insurance scheme and should not have been included in the Bill. However, I would argue that this section is of vital importance and is intrinsic to the Bill, since it affects the definition of eligibility for the insurance scheme, as well as the other two support schemes which are already in place. This matter has been given careful consideration, and the Tánaiste and Department of Health and Children have received expert advice in regard to the internationally accepted diagnostic tests for hepatitis C.

The views of the four support groups for hepatitis C and HIV — the Irish Haemophilia Society, the Irish Kidney Association, Positive Action and Transfusion Positive — were also taken on board and, accordingly, two other tests which are internationally recognised as being the best methods currently available for diagnosing either the presence of the hepatitis C virus or its antibodies in the system have now been added by amendment. Not only are these tests used for health care purposes but all the international standards on blood transfusions use these tests to determine if blood is safe enough to transfuse to seriously ill patients. The intention at all times has been to be as inclusive as possible and that is why claimants will be required to satisfy only one test.

The ELISA and RIBA tests show that an individual was infected by hepatitis C in the past, so it is not necessary to show evidence of being currently infected. In this country, compensation and health care services have always been available to persons who demonstrated evidence of having been infected, rather than current infection. It has always been sufficient that a person has tested once on one of these tests to demonstrate an entitlement to compensation and the special health care package. Even if a subsequent test proves negative or indeterminate, one positive result is sufficient. It is difficult to see how anyone could put in place a fairer or more inclusive system than this.

The Tánaiste has also taken into account the views expressed that medical science is advancing all the time and that newer and more accurate tests are being developed. The Bill
9 o'clock now provides that additions may be made by regulation to the list of diagnostic tests accepted for demonstrating the presence of either the hepatitis C virus or antibodies, if and when such tests become available. This will ensure that infected persons are given every assistance in obtaining an accurate diagnosis which can be scientifically corroborated.

Let us not forget that the diagnostic process is a medical and not a legal process in the first

instance, and its purpose is to establish, with as much medical certainty as possible, a person's health status. This is the most important function of the diagnostic process regardless of what medical condition is involved. It goes without saying that the purpose behind it is that the patient can be given access to whatever medical treatment and supports are appropriate to his or her condition. In order to be as inclusive as possible in its definition of the diagnosis of hepatitis C, the Bill includes a provision whereby a person who displays symptoms of acute infection by reference to the presence of jaundice within 16 weeks of the administering of anti-D will also be considered to have a positive hepatitis C diagnosis.

Consortium is defined as "the living together as husband and wife with all that flows from that relationship including companionship, the rendering of services, sexual intercourse and affectionate relationship between spouses". As the Tánaiste explained, this is a heading of compensation which applies in law to the uninfected party only. The rights of infected persons, whether young or old, in first or subsequent relationships, are not affected by this section.

Persons who were directly infected with hepatitis C or HIV are compensated at the compensation tribunal in their own right, on the evidence presented, for all the effects of hepatitis C or HIV on their lives, including its effects on their relationships, in the past and into the future. As noted by the Tánaiste, the chairman of the tribunal has confirmed that this is the case, and that everyone making a claim to the tribunal has the right to present evidence on all the effects — past, present and future — which infection has had or will have on their lives. It is also worth pointing out that tribunal claimants are represented by experienced and capable legal companies, whose job it is to assist their clients in putting forward to the tribunal a comprehensive and accurate picture of both tangible and intangible losses.

However, it was never the intention to compensate future partners in relationships formed long after their partner's diagnosis with hepatitis C. For a loss to be compensated, the relationship that was lost or damaged must have existed in the first place. A person who forms a long-term partnership with an infected person does so in the knowledge of the diagnosis and the effects this has on their lives. Again, it cannot be reiterated too strongly that the infected person has and will continue to have this taken into account in his or her own compensation award. The younger the sufferer, the more account is taken of the potential effects of the virus on his or her personal relationships.

The parameters of the insurance scheme were discussed and agreed between officials in the Department of Health and Children and representatives of the four support groups during 2005. Part of the agreement was that the

maximum levels of mortgage and life cover would be indexed by the relevant current indices, or their successors. In order to fairly reflect the passage of time since these monetary levels were decided, a request from the support groups to update these limits was agreed and included in the Bill as amended. The implications of these changes for the benefits available under the insurance scheme were alluded to by the Tánaiste.

Travel insurance has always been a priority with the four support groups. It had always been the intention to implement the travel element of the insurance scheme as soon as possible after the commencement of the mortgage and life cover. The support groups asked that a timeframe be given for this measure. Accordingly, a statutory commitment was given that annual travel insurance will be provided as a benefit under the scheme within six months of its establishment day.

During negotiations on the terms of the insurance scheme, agreement was reached with the support groups that certain benefits will be available for everyone during an open period of one year after establishment day. Thereafter, some benefits will be made available on an incremental basis depending on the age and insurance rating of the applicant. It was always the intention that the phasing in of benefits would only apply to persons who were deemed uninsurable, either because of infection with hepatitis C or HIV or another medical condition. This was agreed with the support groups and was to have been specified in the regulations to be made under the Bill.

However, the groups have asked that this be specified in the Bill itself for the avoidance of doubt and this was agreed. It was included on Committee Stage and is in the amended Bill. Benefits for the category of claimant deemed insurable subject to the payment of an additional premium will apply immediately and will not be subject to a phasing in period after the initial open period. Another of the innovative aspects of the insurance scheme relates to the exclusion of other medical conditions which may affect claimants from being taken into consideration by insurers. For example, a person with hepatitis C or HIV who also has a serious heart condition but wishes to join the scheme will be able to take out insurance at the same basic premium that would apply to another person of the same age and gender who has neither hepatitis C nor a heart condition. This was negotiated early on in discussions with the support groups and was always a key feature of the plans for the scheme.

Some illnesses which are not immediately apparent to the lay person are linked with hepatitis C. There are other illnesses, such as diabetes, for example, of which there is a disproportionately higher incidence in the hepatitis C

[Mr. T. O'Malley.]

cohort than there is in the general population for reasons which medical science cannot yet explain. There are yet other conditions which, though not caused by hepatitis C, are exacerbated by the illness or their treatment made more difficult. The case has been made that it would be so difficult to separate out the direct and indirect effects of hepatitis C from other completely unrelated illnesses, that in fairness to all concerned this should not even be attempted. This provision was agreed from the outset but in discussion with the support groups after the publication of the Bill, they did not feel that the wording in the Bill was clear enough on this point. For the avoidance of doubt, it has now been stated more clearly.

Ease of access to the insurance scheme will obviously be a key concern for those people affected and it was intended to address this by regulation. However, the support groups were most anxious that this be specified in the Bill itself and the Tánaiste has taken this on board. Officials in the Department of Health and Children have been in discussion with the support groups on this matter and I understand the list of ways in which eligibility can be established for the purposes of this scheme meets with their requirements. Thus, a person who already has a Health (Amendment) Act card given by the HSE will be able to use this card to demonstrate his or her eligibility for the insurance scheme and will not be obliged to provide medical details again to another administrator. This is eminently fair and reasonable. It will maintain the confidentiality of the person applying for insurance and will not only benefit that person but will also be administratively efficient.

From the first anniversary of the commencement of the insurance scheme, the scheme administrator will make decisions on applications within 28 days of the applications being received, or within 28 days of the application satisfying the information requirements of the scheme. A reduction in the timescale for achieving the 28-day response time is not feasible. The first year of the scheme will be an open period during which all eligible parties will be able to apply for a range of benefits without restriction.

While the scheme administrator will be expected to make every effort to deal with these claims as expeditiously as possible, it would not be reasonable to expect a statutory guarantee that a 28-day turnaround time should apply to all claims made within such a short period of the scheme becoming operational. The four support groups asked to extend the time limit for leave to appeal decisions of the scheme administrator from 28 days to 90 days. Although 28 days is the

more usual time limit for appeals in regard to most schemes, the views of the groups on this matter were listened to and their concerns taken on board. Accordingly, the time limit for appeals has been extended to 90 days.

We have all been reminded today of the tragic events by which 1,700 people became infected with hepatitis C and HIV through the administering within the State of infected blood and blood products. Nothing can erase the pain and suffering of the men, women and children affected by either virus, or the suffering of their loved ones. The State has tried to do all possible to support the victims of infection since this tragedy came to light. The enactment of this Bill will result in the establishment of an insurance support scheme for persons with hepatitis C and HIV and marks a significant initiative which addresses a major obstacle encountered by these people because of their infection.

I give this Bill my full backing and I urge Members to support its passage into legislation tomorrow. This will allow the much-needed insurance scheme to be established and insurance products to be made available to persons with hepatitis C and HIV as a matter of priority.

Ms Terry: I expected that the question I asked of the Tánaiste and Minister for Health and Children while she was in the House would be passed to the Minister of State, Deputy Tim O'Malley. Questions that are asked on Second Stage should be answered; a prepared script is inadequate. Questions remain unanswered.

Acting Chairman: I accept that. However, there will be further opportunity on Committee and Report Stages to ask questions.

Ms Terry: I expect the Minister who replies on Second Stage to answer the questions Members have posed.

Acting Chairman: I have no control over the reply given by the Minister of State at the Department of Health and Children, Deputy T. O'Malley.

Mr. T. O'Malley: Every effort has been made in dealing with this to answer as many questions as possible. I may not have answered Senator Terry's specific question but I believe I have addressed it in a general way.

Ms Terry: If we come in here to ask questions of the Minister of State they should be answered by him. I thank him for his detailed response but that was prepared before he came in here.

Question put.

The Seanad divided: Tá, 29; Níl, 15.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Fitzgerald, Liam.
Glynn, Camillus.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.

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

Níl

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Burke, Paddy.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.

Finucane, Michael.
McCarthy, Michael.
McHugh, Joe.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Browne and Cummins.

Question declared carried.

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

Ms O'Rourke: Tomorrow.

Committee Stage ordered for Thursday, 6 July 2006.

An Cathaoirleach: When is it proposed to sit again?

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

Adjournment Matters.

Sugar Beet Industry.

Mr. Browne: I wish to share my time with Senators Bradford and John Paul Phelan. It would be useful, before the House rises for the summer recess, to raise the issue of the sugar beet industry again. My colleagues, Senators John Phelan and Bradford have raised the matter recently. It is important at this stage to find out exactly how many submissions have been received by the Department of Agriculture and Food on the EU sugar restructuring process and what criteria the Department will be using in allocating compensation to the various parties, namely, Greencore, beet growers, contractors and machinery operators, whose business has been wiped out overnight.

We wish the Minister to know that Members on this side of the House take the issue very seriously. The Government has a disastrous record in this area. We have seen an industry wiped out. While I appreciate that the world price for sugar as against what one would need to charge to make a profit necessitated a major change, it is a pity the Government has not been proactive in finding replacement industry or alternative fuel with the sugar beet and the plants. It seems to be quite happy just to wind the operation up. A test for the Government will be the restructuring plan and the compensation allocation. There is a demand by growers that they would get the lion's share of the compensation and most people would be very unhappy to see Greencore doing well out of the compensation package. The company has done well enough already.

Mr. Bradford: I thank my colleague, Senator Browne, for giving me the opportunity to speak on this issue before the Minister for Agriculture and Food makes a decision on the compensation package, in particular on the package of €144 million. We have debated this issue *ad nauseam* in the House and elsewhere in recent months. The crucial decision will have to be made by the Minister in the next few days, or weeks at most, as to how she allocates this fund of over €140 million. It is crucial that she reflects very seriously and deeply on the submission by the former growers and contractors, particularly those contractors who had specialised machinery.

[Mr. Bradford.]

The position as outlined by the authorities in Brussels is that a minimum of 10% must go to the farmers and contractors but I urge the Minister to give the maximum amount possible to the former growers and contractors, whose livelihoods have been wiped out by the stroke of a Brussels pen, which the Government was unable to prevent.

I read with some interest in one of the Sunday newspapers last weekend of how the chief executive of Greencore proclaimed defiantly that he was expecting the company would get the bulk of the compensation. I sincerely hope that will not prove to be the case. It is imperative that the farming community, the former growers and contractors receive the bulk of the assistance.

I am sure the Minister of State is aware of the dispute concerning the redundancy package for Greencore workers and I hope the Minister for Agriculture and Food can also ensure that some of the compensation fund is directed to the former workers, who are currently being treated scandalously by Greencore, which is failing to honour the recommendations of the Labour Court.

Mr. J. Phelan: I also thank Senator Browne for giving me the opportunity to speak on this matter. I wish to leave the Minister of State in no doubt as to the depth of feeling in the country as to where the €143 million worth of funding should be allocated. I am firmly of the view that Greencore should not get one cent of that money. Following the privatisation of Irish Sugar, that company now finds itself in the position of owning several very valuable sites in various parts of the country, which is more than adequate compensation. Furthermore, it has played a pretty poor role in the downfall of the sugar beet industry and I would hate to think that it would receive any compensation from this fund.

I agree with Senator Bradford that the producers and contractors should get all, or at least the vast bulk of, the €143 million restructuring fund. It is clear that the contractors and some farmers have invested thousands of euro in machinery that will now lie idle because there is no longer a use for it. For farmers, who are employed or involved in producing the product, they are now faced with the headache of trying to find an alternative product to produce.

In the next ten days or so the Department will make a decision, which will be a political one. The Minister for Agriculture and Food will have the final say as to where this funding will go, and she seemed to give positive soundings lately. Senator Browne posed a number of interesting questions concerning what criteria will be used. That is a crucial issue.

Another important issue is the number of submissions received. I wholeheartedly support the submission by the producers and the contractors.

They, through no fault of their own, have suffered a great loss and they, not Greencore, should benefit from the restructuring fund.

Minister of State at the Department of Agriculture and Food (Mr. B. Smith): I thank Senators Browne, Bradford and John Paul Phelan for raising this important issue, which they have also raised on previous occasions. I am pleased to have this opportunity to give Members of the Seanad an update on the arrangements for implementing the European Union restructuring scheme for the sugar industry.

The restructuring scheme forms part of the agreement on reform of the EU sugar regime of November 2005. The reformed sugar regime came into effect on 1 July. The restructuring scheme, which is an EU-wide scheme is governed by Council Regulation 320/2006 of 20 February 2006 and Commission Regulation (EC) No. 968/2006 of 27 June 2006. The restructuring aid, which would be worth about €145 million to Ireland, is to be drawn down in the framework of an aid application to be submitted by the processor.

The Council regulation provides that at least 10% of the aid shall be reserved for beet growers and for machinery contractors in order to compensate for losses resulting from factory closure under the restructuring scheme. That percentage may be increased by the member state after consultation of interested parties provided that an economically sound balance between the elements of the restructuring plan is ensured. In that context, in May the Department issued an open call for submissions from interested parties and more than 100 submissions were received from various groups and individuals. These submissions are subject to scrutiny by Indecon International Economic Consultants who were appointed by the Government to provide independent expert advice on matters relating to the implementation of the restructuring aid.

Those who made submissions were subsequently invited by the Department to a series of consultation meetings at the end of last month to afford them the opportunity to make any supplementary points regarding their submissions. A final decision on the percentage will be made in the near future having regard to the independent expert advice and following the recent publication of the commission regulation laying down detailed rules for the implementation of the restructuring aid.

The timescale for implementing the restructuring aid is very tight where, as in Ireland's case, restructuring takes place in the first year of the new regime. The Council regulation requires that the application for restructuring aid must be made by the processor by 31 July 2006. The application must include a detailed restructuring plan for the industry, including a social plan detailing

the actions planned in particular with respect to retraining, redeployment and early retirement of the workforce concerned. A decision on the granting of the aid must then be made by the member state by 30 September 2006 at the latest. Sugar factories that had closed before 1 July 2005, such as the Carlow factory, do not come within the scope of the restructuring scheme.

We have made clear from the outset our intention to ensure that the restructuring aid is implemented in a fair and equitable manner and strictly in accordance with the relevant EU regulations.

Mr. Browne: I wish to ask a question arising from the Minister of State's reply. He may not be able to answer this question now, in which case he can report back to me on it. The Minister of State said that "Sugar factories that had closed before 1 July 2005, such as the Carlow factory, do not come within the scope of the restructuring scheme". We asked on numerous occasions whether we would be entitled to more compensation if it had not closed. Was Greencore premature in closing the Carlow factory? The Minister of State's reply seems to indicate it was. The Minister of State might report back to me on that. A motion was debated in this House last January 12 months calling for a decision not to close the Carlow factory and to wait until the EU reform talks were concluded when we would be better informed. However, the Minister of State's reply appears to indicate that Greencore, by closing the Carlow factory first, has caused us to be in line for less compensation, which will affect everybody. The Minister of State may reply to that question now if he knows the answer to it and, if not, I will await a reply from him.

Mr. B. Smith: To be absolutely accurate I will revert to the Senator tomorrow.

Hospitals Building Projects.

Mr. Dooley: I wish to share my time with my constituency colleague and friend, Senator Daly.

Acting Chairman (Mr. Moylan): That is agreed.

Mr. Dooley: The development of a project at Ennis General Hospital is an important one for Senator Daly, myself and the people of County Clare. As the Minister of State will be aware, the hospital was awarded a project, the cost of provision of which is €20.9 million, in recent years and it is now at the various stages of progress towards construction. There appear to be some delays in its advancement. The delays are of concern to all of us and in particular to the people of County Clare. It is welcome that the project was given the green light and funding for it was sanctioned, for which I thank the Minister of State and all those involved in the Department of

Health and Children. Notwithstanding that, it is incumbent on all of us to ensure this project is brought to fruition in as timely a manner as possible.

In the early stage of the timescale scheduled for the implementation and roll-out of this project, it was expected that the project team would be in a position to apply for planning permission to Ennis Town Council around the end of June of this year. Unfortunately, that did not happen. I understand there is a phase two report, which the HSE indicated to Senator Daly and me last week would be signed without delay, but up until yesterday no signature was appended to that document and that has slowed down progress on the project. Notwithstanding that, difficulties have been associated with the various phases. There seems to be a sequential approach to dealing with the various stages rather than carrying out some of the work in parallel.

I am not a project management expert and I do not propose to lecture the HSE on how it should do its work but it seems ludicrous that from the time it obtains a signature to this document it will take another seven or eight weeks to prepare the more detailed design work necessary for the planning application. That work should be done now while the HSE is waiting for the document to be signed. I understand from the people involved that no further resources can be committed to the consultants until such time as this signature is obtained.

This delay is of particular concern to those of us who deal with the people of the County Clare on a daily basis. There are those who say the project will never take off or be completed. It is difficult on an ongoing basis to try to prove the opposite will be the case. It is important that the necessary steps are taken, that the timescales set for work are met and that the necessary impetus exists in the HSE to deliver this project without delay.

It is critical that we have the kind of medical facilities that the county needs. The population in the county is increasing and we need those medical facilities as soon as possible. We also need to ensure there is a continuation of the 24-hour accident and emergency service, which is working extremely well.

Mr. Daly: I thank Senator Dooley for sharing his time. I also thank the Minister of State for coming into the House to address this thorny issue. He will be fully aware from his several visits to County Clare of the urgency to provide this project and the necessity to ensure that the planning process for it is expedited. The funding for the project was set aside and ring-fenced a number of years ago. Members of the public were assured by Ministers and the Taoiseach that it will proceed.

[Mr. Daly.]

I am not happy that, for whatever bureaucratic reasons, the project has not proceeded to the planning application stage. There are a number of stages in the process and people, especially the community in County Clare, who are keen to see this project built find that frustrating. It is also frustrating for the medical personnel in the hospital, the nursing staff and the patients who are waiting to see work on this project commence. Various stages of the process has been delayed by bureaucratic requirements, which are difficult to explain to members of the public.

We would like the Minister of State to give an assurance tonight that there will be no further undue delay in getting this project under way. We would also like him to give a direction to expedite the plans in order that it will be possible to proceed with application for planning permission, a decision on which will take some time to come through. We need to see progress in getting this valuable project under way and the people of County Clare need to be assured that their health will be protected by the provision of an adequate hospital facility in Ennis for the county.

The Minister of State is also aware there is an ongoing issue in respect of a CAT scanner at the hospital and that there was a proposal to provide the hospital with a second-hand scanner. Administrators and staff at the hospital are not satisfied with this offer and want a modern efficient CAT scanning arrangement put in place. I understand that some funding was provided in the Estimates this year for this purpose and Senator Dooley and I would like to see the matter expedited. I thank the Minister of State for coming to the House and hope that he will be able to shed some light on the subject.

Minister of State at the Department of Health and Children (Mr. S. Power): I thank Senators Dooley and Daly for raising this matter on the Adjournment this evening. I had the pleasure of visiting the Mid-Western Regional Hospital, Ennis in the recent past and I am very much aware of the support both Members have given to this project. I will be taking the Adjournment on behalf of my colleague, the Tánaiste and Minister for Health and Children.

The Tánaiste approved the Health Service Executive capital plan for 2006 in May this year. The plan provides for €555.5 million spending on approximately 400 individual projects. This highlights the Government's commitment to a very high level of public capital investment in our health services. It is part of our €3 billion health capital investment framework for the years 2005-09. With prudent management of our strong economy and reform in the way we use our resources, the Government intends to continue a high level of capital investment in the health services.

The provision of services at the Mid-Western Regional Hospital, Ennis is the responsibility of the Health Service Executive. Significant developments and enhancement of services at the hospital have taken place over the past few years, including the commencement of a cardiology service, additional consultant appointments in anaesthesia and surgery, additional vascular day surgery, outreach clinics in Kilrush and enhancements to the accident and emergency service, which include the appointment of dedicated doctors to the unit on a 24-hour basis and the involvement of an accident and emergency consultant on a sessional basis. The Health Service Executive has initiated an independent review of all acute hospital services in the mid west region and how they can be developed in accordance with best practice. This review is to be completed by the year end, following which findings will be published. The Government is committed to developing the Mid-Western Regional Hospital, Ennis. In this context, the former Minister for Health and Children approved the establishment of a project team to prepare detailed briefs for identified priority developments at the hospital so that the long-term requirements of the catchment area can be addressed.

As with all major hospital developments, the development of the hospital at Ennis will be carried out on a phased basis. The priority areas for development in phase 1A include an upgrade of wards, the accident and emergency department, the radiology department, the outpatients department, the intensive care unit, the concourse and a general infrastructure upgrade. The priority developments identified will cost in excess of €20 million to build.

I have been informed that the design team is currently preparing detailed drawings of the developments and hopes to be in a position to submit the planning application soon. Additional work is also taking place to ensure the proposed developments are compliant with recent design guidelines in respect of the control of infection in hospitals. I will take up the issue of the CAT scanner with the Health Service Executive and get back to the Senators as soon as I receive news on it.

Mr. Dooley: I recognise that the Minister of State is representing the Tánaiste and Minister for Health and Children here tonight and that, to some extent, it is difficult to provide information because it is coming from the Health Service Executive. However, I am very disappointed that this answer was the best he could provide. Much of the information in his answer is already in the public domain. Only the last few lines deal with the situation and at best, the Health Service Executive can tell the Minister of State that the design team is currently preparing detailed drawings. The reality is that the team is not preparing

these drawings. It is not in a position to do so because it has not received the signature from the Health Service Executive's hospital section to allow it to produce the detailed drawings. It is awaiting this signature.

It is a very difficult situation. We are trying to move ahead with this project and, unfortunately, somebody somewhere in the bowels of the Health Service Executive is not proceeding with or delivering on this project in line with best practice. Such a state of affairs is unacceptable. I am aware of the Minister of State's commitment to the project and to the care of elderly people in particular, the way in which he has managed to deal with these situations in County Clare and the significant amount of money he has provided to the elderly care section. However, in respect of the acute hospital section, which is outside the Minister of State's control and remit, it is disgraceful that this situation can be allowed to continue. Incorrect information is provided to the Minister of State and does not allow for the completion of this project in a timely manner. I thank the Minister of State for his delivery.

Mr. S. Power: I am alarmed by what Senator Dooley has said. At the same time, I respect his comments very much. The provision of services at the Mid Western Regional Hospital, Ennis is the responsibility of the Health Service Executive. It is on the basis of information collected from it that I replied to the Senators in the fashion I did. I have been informed that the design team is currently preparing the detailed drawings of the developments and hopes to be in a position to submit the planning application soon. I will make further enquiries about the matter tomorrow to check the veracity of what I have said here because I have no intention of giving Senators anything other than the true position. I will get back to the Senators on the matter.

Mr. Dooley: I thank the Minister of State.

Hospital Services.

Mr. Finucane: At the outset I wish to read a statement by the then Minister for Health and Children, Deputy Martin, into the record. According to the statement:

The provision of an Alzheimer's unit for the hospital referred to by the Deputy is a priority development of the Mid-Western Health Board. It is included in the board's capital development programme as part of the national development plan. The board has recently written to my Department regarding the acceptance of tenders for the scheme. This matter is currently being examined in the department. I am not as yet in a position to confirm timescales for the Deputy but the

matter will be dealt with as expeditiously as possible.

I received this reply when I was a Deputy in the Dáil on 7 June 2000. It is now six years later. What did the Minister mean when he stated that the matter would be dealt with as expeditiously as possible? It is disgraceful that six years later, not one block has been laid. It reflects poorly on the Minister of State who is responsible for care of the elderly. I have previously raised this matter in the House with him and the Fianna Fáil-Progressive Democrats Government, which has been in power for the last six years.

I have consistently raised this issue in the Dáil and Seanad over the over the last six years. I am bitterly disappointed at the lack of progress on this project. It was agreed that a 12-bed dementia unit, which would include up to a maximum of four dedicated respite units, would be provided. The lack of such a dedicated unit causes much inconvenience to both staff and patients in St. Ita's Hospital.

Over the years, the usual retinue of successive Ministers and Ministers of State have visited St Ita's Hospital. It has been an automatic place to visit when one visits Newcastle West. The hospital has been visited by the former Minister for Health and Children, Deputy Martin, and the Minister for Finance, Deputy Cowen. It recently paid host to the Tánaiste and Minister for Health and Children and the Taoiseach visited it before the last general election. It has also been visited by the Minister of State and the former Minister of State at the Department of Transport, Deputy Callely. I am sure I have left out some other Ministers and Ministers of State who visited the hospital when they visited Newcastle West or the constituency of Limerick West.

All of these politicians are aware of the importance of the provision of this unit. They give commitments and talk about how important the unit is, from which the staff draw some encouragement. However, the issue seems to fade away after any visit. It is very hard to reconcile oneself to and justify the long delay in proceeding with this project, which is regarded as vital for providing for patients suffering from Alzheimer's disease in the west Limerick area. It is not good enough to delay a project for this long and I am tired of raising this matter over the last six years. At this stage, urgent action is required. I look forward to an assurance from the Minister of State that this project will proceed very quickly.

I would like a commitment on when the project will commence and be completed. It was anticipated that the first sod would be laid before the last general election. There has been enough of a delay on this issue and urgent action is now required. I look forward to the response of the Minister of State on this matter.

Mr. S. Power: I thank the Senator for raising this matter, as it provides me with an opportunity to outline to the Seanad the need for an Alzheimer's unit at St. Ita's Hospital, Newcastle West.

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

Provision had been made for this development within the HSE's 2006-10 capital plan. Planning

permission for the proposed development has been obtained from the local planning authority and the design work has been completed. I realise that the project has not progressed as quickly as the Senator or anyone would have wished, but it will proceed. It is anticipated that construction will commence before the end of 2006. I hope the Senator will welcome this news.

Mr. Finucane: I welcome the commitment in the last line of the Minister of State's speech. On 22 June 2005, he confirmed that planning permission had been granted, the health board had submitted documentation to the Department of Health and Children requesting approval to seek tenders for construction of the unit and work would proceed. If the project does commence at the end of 2006, perhaps the right type of progress will be made. The Minister of State must agree that the six years since this project was included in the programme has been a long time.

The Seanad adjourned at 9.55 p.m. until 10.30 a.m. on Thursday, 6 July 2006.