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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*

(OFFICIAL REPORT—*Unrevised*)

Thursday, 6 *July* 2006.

SEANAD ÉIREANN

Déardaoin, 6 *Iúil* 2006.
Thursday, 6 *July* 2006.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Death of Former Member: Expressions of Sympathy.

Ms O'Rourke: Today we pay tribute to a former Member of this House, the late Luke Belton. He served in the Seanad for a short period in 1982 and from 1983 to 1987, both times on the administrative panel. He also had a very active Dáil career and served his Dublin constituency with great gusto. His family hails from Longford and the name Belton still features strongly in the Fine Gael Party in that county. The family is also connected politically with Avril Doyle MEP.

He was a strong constituency worker and very active in the Dáil. He introduced a Private Members' Bill on the purity of water, which fell on the dissolution of the Dáil. He maintained a constant presence in the Seanad, the Dáil and in his constituency and survived a complete and radical shake-up of his constituency.

I did not know him personally but the name Belton resonates with public service, with Fine Gael politics and with people who want to do something for their constituency and their people. He had all of those qualities in abundance.

We on this side of the House express our sympathy to his wife, Elizabeth, and to his four children, three sons and one daughter. When I told people I was to talk about Luke Belton they said they knew him well. He had a strong personality, as the Cathaoirleach will know, and was a very definite person, both of which are good attributes. He will be a great loss to the Fine Gael Party and his own family. We also convey our sympathy to his political family and the wider Belton family.

Mr. B. Hayes: I join with the Leader of the House in expressing, on behalf of the Fine Gael Party in Seanad Éireann, our sympathies to the family of the late Luke Belton. Senator Ulick Burke is the only Fine Gael Senator who served with Senator Belton in the early to mid-1980s. Senator Ross and Senator Ryan also served with him, as may have Senator O'Rourke. I did not know him but met him around the Houses in recent years. It was nice that he continued to visit the House every so often and go into the bar to chat to people. As the Leader said, he was from a distinguished political family who have given tremendous public service to the people of this country over many years.

Over dinner last night I was speaking to a colleague who remembered Luke Belton well. I was told that when he first left Longford to come to Dublin to work in one of his uncle's pubs, he used to cycle from Longford to Dublin and back, though not all in the one day. He probably did not have the traffic difficulties he would have now.

A fact of which most are not aware is that he was the first Longford-born politician to represent a constituency outside Longford — Senator Bannon should take note — which is a distinguished example of how people in another part of the country, most notably in Dublin, took to him and regarded him, although he was not one of their own. He came to work in Dublin and was a very successful publican. With his brother, Paddy Belton, he managed to acquire an impressive number of pubs on the northside of Dublin over many years.

As the Leader said, he will be remembered as one who, with the Belton family, gave long public service to the country. His cousin, Avril Doyle MEP, is well known to us, as is a former colleague in this House and the other House, Louis Belton, who was Deputy for the Longford constituency.

We pass on our sympathy to his wife, Lil, his sons, John, Michael and Luke, and his daughter, Mary. This House and the Fine Gael Party understands and recognises the long service he gave to the Irish people, most notably the people of north Dublin, for over 20 years as a Member of the Seanad and Dáil. We will cherish that memory and it is right and proper that today we mark that memory and his great contribution to Irish politics.

Mr. O'Toole: It is normal on the Independent benches to ask a Member who served with the deceased to speak. Senator Ross is the only member of our group who served with Luke Belton but he has deferred to me in these circumstances, which I appreciate.

I did not realise when I married my wife that I was marrying into the Belton family and that, from then on, weddings, funerals and all sorts of occasions would include the Beltons. Luke was a generous man who fought his way up and stayed up. It was always a constant fight for him and was never easy. What the Leader refers to as the change in his constituency was much more than that. Luke's interpretation of that change was that the party head office dumped people on top of him by transferring Pat Lindsay from Mayo to take him on in an extraordinary election, which Luke was supposed to lose but, in the event, won

[Mr. O'Toole.]

by one vote, as I recall — I have not had time to check the circumstances.

He also served in this House as Government Whip. The first occasion I came into this august room was sometime in 1981-82. I called to see Luke Belton, as I was required to do for family reasons, although I was in the building on other business. I met him running out of the ante room and down the corridor. I asked him how he was. He replied, "I can't talk to you, Joe. O'Leary is voting against the Whip." That was the time when there was a left wing in the Fine Gael Party——

Mr. B. Hayes: Much like the Senator. It is amazing how one can buy people off.

Mr. O'Toole: ——and the now eminent member of the Judiciary, Sean O'Leary, was voting against the Offences Against the State Bill, as brought forward by the Government of the time. I always recall that occasion. The Government won the vote but former Senator O'Leary lost the Whip for a while. However, they shook hands later.

Luke had to work hard in business. The Belton name would always be seen as associated with wealth but, as Senator Brian Hayes rightly pointed out, while Luke came in as part of that, he had to work his way up. It was never that easy for him. He was always working to keep a business life and a political life going, so he was always on the edge. He and his wife, Lil, were always of the most generous nature and noted for being so, and they were very popular in their native Longford. It was on one a trip to a Belton event in Longford that I met the then potential councillor, now Senator and prospective Deputy, James Bannon, who was closely associated with them at that time.

It demeans tributes to talk too much in personal terms but I wish to record that Luke Belton was completely committed to political life. He loved it, wanted to make it work and gave it everything. He is a good role model. He did not become a senior Minister or anything like that, but he was a hard-working backbench politician who worked for his party and his country. To his wife, Lil, their four children and the Fine Gael Party, I offer my sincere condolences on behalf of the Independent Senators.

Mr. Ryan: I served in the House with former Senator Belton and was glad to know him. He was, like many of us, permanently on the backbenches but contributed significantly nonetheless. He would fit into anybody's definition of the traditional Fine Gael spectrum, which meant he was a man of strong views that would not necessarily have coincided with my own. However, he was a man who held those views because he believed in them, not because there was some electoral advantage in them. They were values he inherited and values he would wish to pass on. Whether one agreed with all of those values, they were worthy of respect and sincerely held, which is a characteristic of Luke Belton and the distinguished political family of which he was a representative.

It is always worthwhile to pay tribute to those who pass through these Houses and serve. To put one's head above the parapet in electoral politics is one of the great risks to take in life as there is no guaranteed outcome. Those like Luke Belton who came to the Houses and tried to represent their constituents with the best of integrity are those who are particularly worthy of tribute. On behalf of the Labour Party, I pass on my sympathies to his party and, in particular, his family.

Mr. Dardis: On behalf of the Progressive Democrats, I join with the Leader and the leaders of the other groups in paying tribute to the late Luke Belton. I extend our sympathy to his wife, his children, his extended family and his Fine Gael colleagues. He was steeped in the traditions and values of Fine Gael, and represented the party ably over an extended period. It is remarkable to consider that within the family, the Beltons have provided seven Deputies since the late 1920s, which is an extraordinary contribution to Irish public life and the State, and should be recognised.

Those of us who served with Avril Doyle MEP and former Deputy Louis Belton have them particularly in our thoughts when we remember Luke. He was a prominent member of the licensed trade and served on its committee when it was the Licensed Grocers and Vintners Association — it has come a long way since then. As Senator O'Toole stated, he struggled in business at a difficult time when pubs did not fetch the high prices we see nowadays. He made a serious contribution to the business life of the city as well as to the political life of the city and country. For all of those reasons, it is appropriate that we mark his passing and remember him with affection.

Mr. Bannon: I join with other Senators in extending a vote of sympathy for the late Luke Belton. I offer my condolences to his wife, Elizabeth, and his four children. I knew Luke Belton before I became involved in politics. It was a cousin of Luke Belton, who happens to be an aunt-in-law of Senator O'Toole, who first encouraged me to get involved in politics——

A Senator: That was a bad mistake. It was bad advice.

Mr. Bannon: ——and the GAA. This was the late Molly Lynam-Clancy, who lived on the farm adjoining my own. I have known the Belton family over many years. They are honest, hard-working, decent farmers from south County Longford. That is where Mr. Belton had his roots and the family farm is farmed by his nieces, Ms Ann O'Reilly and Ms Evelyn Rooney. They are

still active in Fine Gael in south County Longford and proud of their roots and heritage with the party.

Ms O'Rourke: And working for Senator Bannon.

Mr. Bannon: As Senator Dardis said, seven members of the Belton family became Deputies in Dáil Éireann and we all know Louis Belton and Avril Doyle. I worked with Mr. Louis Belton on the council. A Belton commands the ship in Longford. Councillor Paddy Belton is mayor, or captain, of the county and he is a cousin of the late Luke Belton. At one time there were three Beltons on Longford County Council, all cousins, and that was a record. It has not happened in any other local authority, so they made history.

I knew Luke Belton. I met him when he used to visit his cousins in Longford. He never lost contact with his roots. When he came to Longford he would always take one, two or three days to visit every member of his family. When I was very young he visited his cousins in my parish of Legan and gave me five shillings.

(Interruptions).

Mr. Dardis: And the Senator still has it.

Mr. Norris: Has the Senator declared it?

Mr. Bannon: When a person gives money to one as a child, one always remembers it. He had great time for children, his family and the neighbours he left behind in County Longford. He always came to the funerals of family and neighbours despite the fact that he was busy in Dublin developing a business. Ar dheis Dé go raibh a anam. Mr. Belton was a gentleman from head to toe and he carried that to his grave. My sincere sympathies to his wife and family and to his extended family in County Longford and throughout Ireland.

An Cathaoirleach: I would also like to be associated with the tributes to the late Mr. Belton, who served with distinction in both Houses. He was elected to the Seanad on the administrative panel. I had the privilege of knowing him and the honour of serving with him and found him kind, gentle and a wonderful personality. He was humorous and had a wide circle of friends in this House across the political spectrum. I extend my sincere sympathy to his wife, Lil Belton, and his sons and daughters on their sad loss.

Members rose.

Business of Seanad.

An Cathaoirleach: As this is the last day of our term before the summer recess I wish all Members a happy and enjoyable summer holiday, if they are taking one. I thank the Leader and her assistant, Mr. Eamonn McCormack, the leaders of the other groups, the Whips and assistant Whips, and the Senators who co-operated with me in my duties as Cathaoirleach. I thank the Clerk, Clerk Assistant and the staff of the Seanad office, who are most efficient. I also thank the superintendent, captain, ushers and reporters for their help. I thank members of the press and I would like to single out Mr. Jimmy Walsh, who always gives a good report of this House's operations in *The Irish Times*. I wish everybody an enjoyable holiday away from the trauma of the political events in this House.

Ms O'Rourke: I thank the Cathaoirleach and join him in the thanks he has paid. We have had a successful term under his aegis and for that we record our appreciation. I thank the leaders of the other parties, who were always available at the end of the telephone to discuss in a plain fashion how we could tweak the agendas on various days so that good service could be given to the Senators and to the public in the making of legislation. As the Cathaoirleach mentioned Mr. McCormack, I also have the right to do so. The Seanad would not run if it were not for him.

Mr. Norris: Hear, hear.

Ms O'Rourke: We would all be gone home. He has a wonderful mind and administrative ability which enables him to liaise with prince and pauper and to deal with everybody in the same way. Regarding legislation, statements and attendance we have had a good term. I thank the Chief Whip, Senator Moylan, his assistant Senator Glynn and the Deputy Leader, Senator Dardis, who has stood in for me on several occasions. I also thank Deirdre Lane, Jody Blake and the other staff in the Seanad office who from time to time give us sound advice or a telling off. They tell us the right way to do things, as opposed to the way we wish to do them.

I wish Members a happy season, be they on the election trail of the Dáil or the Seanad. I hope the doors will open happily to them and that everybody they meet will be approachable, nice and decent to them so that they may go with a light step to their next call. I hope people have a busy season. When people tell me I am on holidays for three months I tell them I will be at their doors soon. Few in this Chamber will be on holidays for that length of time, whether going for the Dáil or the Seanad.

Mr. Norris: I will.

Ms O'Rourke: I would prefer to go for the Dáil and deal with the ordinary public from door to door. The Senators have a difficult task in approaching their myriad constituents.

Mr. Dardis: The Leader is burning her bridges.

Ms O'Rourke: It is difficult to vote in a Seanad election. It is as well to be straightforward about saying for whom one will vote or not vote. Then the candidate knows the situation.

I thank the Cathaoirleach for his wisdom and tutelage over the year. I have made many friends in this House. Four years ago I thought my world had ended, but it had not. It had entered a new and delightful phase which I have found heart-warming, productive and interesting. The Seanad will occupy a large chapter in my book.

In the words of the late departed Taoiseach we collectively have "done the State some service" by our legislative skills. We take our role seriously and that is why we are annoyed when scant attention is paid to this House. We have a friend in Jimmy Walsh who is cheerful and bright, smart and intelligent. He knows what is happening even if one only half says it. He is a delight to deal with in his role as a journalist and in freer moments. I hope all those marching the roads this summer will have happy times, and have time to spend with their families.

11 o'clock

Mr. B. Hayes: On behalf of the Fine Gael group I thank the Cathaoirleach and his staff for the way in which business has been transacted during this session. I thank especially the Clerk, Clerk Assistant and the staff in the Cathaoirleach's office who have helped us, giving us the necessary advice on the many transactions conducted in this House.

I thank the Leader, Senator O'Rourke, for showing great flexibility at times to allow important debates and the space required to enable people put matters on the record. I join her in thanking Mr. Eamonn McCormack for his constant contact with the group leaders and the way he has attempted to show flexibility on the Government's part in respect of the advice he takes. I also join the Leader in thanking Jimmy Walsh of *The Irish Times*. It is the only national newspaper that runs a daily report on this House. I especially thank *The Irish Times* for doing so. I also thank the editor and producers of "Oireachtas Report" which ensures that even at a late hour every evening some bit of news from this House goes out to the country. I welcome that.

We have had a productive session and this has been a long week. Some of the staff in one section had to work until 6 a.m. to ensure that all the amendments were finally put through. This was an important week because the Criminal Justice Bill went through the House. It was the first time the Government accepted 12 or 13 of our amendments. I thank the Minister for Justice, Equality and Law Reform, Deputy Michael McDowell, for that approach. Whatever our differences on the implementation of Government policy, he has shown great ability to take on board amendments from both sides of the House. Other Ministers could learn from him.

I thank my group for putting up with me on the various occasions when I and the Whip have had to lay down the law.

Mr. Dardis: The Senator should look behind him.

Mr. B. Hayes: I never look behind — it is always dangerous. I thank them for putting up with us and the management of the party in this House.

This is the first time that most of the Bills on the Order Paper are in the names of Senators from all sides. We must find a way, possibly in the next session, of expediting those Bills outside the weekly two-hour session because they contain many good proposals which could be advanced if we found another time to do so. I join the Leader in wishing all my colleagues on all sides of the House an enjoyable break. We will need it going into the next eight or nine months for the fray that lies ahead.

Mr. O'Toole: I join the two previous speakers on behalf of the Independent group in recognising the people who work behind, and on, the scene in the House. I thank the Cathaoirleach for his courtesy at all times, and the Leas-Chathaoirleach and the various people who have taken the Chair at other times.

The work of the Leader and those in her office, particularly Eamonn, has facilitated the smooth running of the House and ensured that a substantial quantity of legislation is initiated here which has added significantly to the House. Those of us dealing with this all the time recognise the work so many do. The Leader will agree with me that the Chief Whip's work is extraordinary and receives little recognition. The House would not run without the effort of the Chief Whip in ensuring that work is done efficiently and effectively.

The Leader and Senator Brian Hayes referred to the continuing reports in *The Irish Times* under the stewardship of Jimmy Walsh and the staff of RTE which are very helpful. I find it ironic to read this morning of the crocodile tears shed in another major daily newspaper about us not being in this House for the next 82 days. That newspaper did not take much notice of us for the past 82 days, which might be brought to its attention.

Senators: Hear, hear.

Mr. O'Toole: The headline about people going on holidays should be hit hard on the head. Committees will continue to work in this House until the end of this month at least and will resume in September. The idea that people will not work when they are away from here is extraordinary.

It is time to be proactive about this issue and make it clear that it is wrong to think that elected representatives should spend all their time in the Houses of Parliament. Nothing is more assured

to put people out of touch with their constituents. There should be a rule that nobody would spend more than 50% of his or her time in the Houses, and the other 50% with his or her constituents. We should discuss this in the autumn. It is, however, extraordinary that we should break for 82 days. The year should be split up in a different and better way and we should discuss that another day.

The work of the Clerk and the Clerk Assistant on committees and sub-committees, and the business of the House is unknown to most of us. The myriad committees on which the Clerk sits as part of her role is not fully understood. It would be useful for people to see the list of those committees. The same applies to the Clerk Assistant who deals with internal committees.

My final words are for the extraordinary work of the Office of the Editor of Debates. I have said it before, but I will say it again, I am convinced that the work done by that office in these Houses of Parliament is ahead of that in any European counterpart. To be able to log onto the Internet tomorrow morning, or 12 hours after a debate, and find a report of proceedings is an extraordinary development for which we should be eternally grateful. It makes our job a great deal easier.

Mr. Ryan: I begin by way of a confession. Next August it will be 25 years since I was elected to this House and this is the first time I have been here on the last day before the summer recess. That may be a comment on either my indolence or my electoral resilience but I managed to get out of here early and be re-elected over that period.

I thank the Cathaoirleach. He is a difficult man with whom to have a row, which is probably a fine quality for one in the Chair.

The occasional moments of disorder on my side were part of the ups and downs of life and were not or could not be personal because it is not possible to have that sort of row with the Cathaoirleach. I thank him for his fairness. We are all aware of his determination to be fair and balanced which scarcely needs be mentioned it is so clear. This was not always the case because he had predecessors with whom it was easy to have rows. This Cathaoirleach recognises that a sense of fairness is an important part of our constitutional order which he wants to uphold.

Nobody could overestimate the amount of work the staff of the House do under extraordinary circumstances within limited timeframes. I do not think many of those who talk about delivery of service in other parts of the world would emulate the quality of service, efficiency and speed of delivery of the Clerk, the Clerk Assistant and rest of the staff of the House.

I support Senator O'Toole's comments on the quality of work of those who record our proceedings. They do their almost invisible jobs with a level of precision and efficiency that is of great assistance to all of us and of great credit to them. I would like to be associated with the praise in that regard.

It is difficult to have a real row with the Leader, partly because she is a very reasonable woman and partly because she always charms one into submission if she cannot do it any other way. Her capacity to charm us all is complemented by the extraordinary qualities of her assistant, Mr. Eamonn McCormack. Senator O'Rourke is the first Leader I can recall who has had an identified and identifiable assistant around the place. He is a significant asset to the Leader and the House.

Ms O'Rourke: Yes.

Mr. Ryan: The House has completed a considerable amount of business and considered a substantial number of issues without any serious rows. There has rarely been a serious disagreement about time allocations or anything like that. I was not present in the House earlier this week for the debate on the Criminal Justice Bill 2004, which was a classic example of the allocation of sufficient time. As Senator Brian Hayes said, the Minister, Deputy McDowell, with whom I disagree on almost everything and whose willingness to engage with the Members of this House we know about, created an atmosphere in which a considerable amount of work was done very quickly.

Like my colleagues, I pay tribute to Mr. Jimmy Walsh and *The Irish Times*. Senator O'Toole made this point very well. I hope those who fail to report the proceedings of this House will give us the kindness of their silence about our alleged holidays. If they are indifferent to our presence, they could extend that same indifference to our alleged absence. Much of what they say in that regard is untrue in any event. I would like to imagine the reaction of two journalists I can think of, without naming any names. One particular prominent leader of the nation in the media works, according to his definition of work, for five hours a week. If he is happy to judge us by our presence in the Chamber, I will judge him in the same way. He takes much longer holidays, as he would call them, than we do. He would be most indignant——

Ms O'Rourke: He earns much more than we do.

Mr. Ryan: No. I disagree with the Leader in that regard. He does not earn much more that we do — he gets paid much more than we do.

Mr. Glynn: Well said.

Ms O'Rourke: Yes.

Mr. Ryan: There is a fundamental difference.

I would like to conclude by thanking my colleagues in the Labour Party and the various members of the party's staff. I am the leader of a

[Mr. Ryan.]

group in this House who lives furthest from Dublin. Perhaps I am not here as often as most of the other group leaders. I have found all my colleagues most accommodating about that.

Mr. Norris: Can the Senator remember their names?

Mr. Ryan: The Labour Party group is quite small. My colleagues in the group, more so than me, participate in debates on virtually every Bill that comes before the House. They propose constructive amendments to every Bill, which is a considerable workload for a group of five people. I pay tribute to my colleagues in the Labour Party, in particular, for their level of positive contribution to the work of the House. I hope everybody has a good summer break. I am a little nervous following the Leader's reference to elections. Does she know something we do not know?

Ms O'Rourke: All I know is that it will be a long haul.

Mr. Ryan: It will be. I have been here for a long time anyway. This summer, Senator Ross and I will celebrate the 25th anniversary of our election to this House.

Ms O'Rourke: The Senators will celebrate together. It will be lovely.

Mr. Ryan: I was not here for a little bit of the last 25 years. We were temporarily separated.

Mr. Dardis: I thank the Cathaoirleach for all the work he has done during the year. He had handled the business of the House in an even-handed and fair manner. I applaud his humour and courtesy. I include the Leas-Chathaoirleach in that regard. Everybody has been thanked. I briefly thank the Leader of the House for the manner in which she has conducted her business and for everything she has done during the year. I especially thank Mr. Eamonn McCormack. I have personal reasons to thank him for his assistance, not only on the days when I stood in for the Leader on the Order of Business, but also on other occasions.

In particular, I thank the people who work in the Clerk's office. I emphasise again the increasing burden that is falling on their shoulders because of matters like the report on electronic voting, which is part of the duties of that office. The Houses of the Oireachtas Commission needs to examine the resources which are available to that office in comparison to the amount of work it has to do. When Bills are being considered, the staff of that office perform their duties very well in difficult circumstances. I refer, for example, to the Criminal Justice Bill 2004, to which many amendments were proposed.

I join those who paid tribute to Mr. Jimmy Walsh of *The Irish Times* for his unfailing and fair reporting on the proceedings of this House. It is obvious that the idea of a rural zoo does not resonate with that newspaper's sub-editors, but that is not Mr. Walsh's fault.

I would like to single out a group of people who do not receive the praise they deserve. I refer to the ushers who, according to a report produced by the Houses of the Oireachtas Commission, brought 72,000 visitors through the Houses in the past year. That they can facilitate so many visits without any disruption, while looking after the Members of the Oireachtas at the same time, is quite remarkable.

Ms White: Hear, hear.

Mr. Dardis: They deserve significant credit for that. Their work should be recognised because they do a difficult job extremely well. Every single one of them shows unfailing courtesy.

I would also like to mention the Editor of Debates and the people who report the debates. Some of us can remember when it took almost a month for the proceedings of this House to emerge, but they are now available to everybody on the Internet within a short period of time.

The message we can take from what I have said relates to the availability of democracy to a wider audience. It is good that our debates are available on the Internet. It is good that the ushers bring visitors through the Houses to allow as many people as possible see how we work in here.

I would like to conclude by mentioning that while the summer recess is about to begin, that does not mean we are going on holidays. The Curtin committee, for example, will meet in July and August. It is right and correct that its ongoing business will be conducted in private and will not be reported. A great deal of the work that will be done in the Oireachtas over the next few months will receive no attention, even though it is part of what we are paid for doing. We do not complain about it, but it is important to recognise that it takes place.

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

> The need for the Tánaiste and Minister for Health and Children to call a halt to the underinvestment in Tallaght Hospital.

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

> The need for the Minister for the Environment, Heritage and Local Government to amend the Planning and Development Act 2000 to include guidelines for the erection of telephone masts, in the interest of health and safety.

I have also received notice from Senator John Paul Phelan of the following matter:

> The need for the Minister the Environment, Heritage and Local Government to outline whether he has any plans to introduce a pension or an enhanced gratuity payment for retired local authority members.

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

> The need for the Minister for Transport to make a statement on the underutilised potential of the Athlone to Mullingar rail link and to update the House on the status of the project under Transport 21.

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

> The need for the Minister for Education and Science to provide substitute cover for primary school teachers who take days off as part of the three days of leave which are given to them in return for doing a summer course.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Ross, Bradford and John Paul Phelan and they will be taken at the conclusion of business. Senators Bannon and Browne may give notice on another day of the matters they wish to raise.

Order of Business.

Ms O'Rourke: The Order of Business is Nos. 1 to 7, inclusive. No. 1 is a motion to bring forward some new e-democracy initiatives to strengthen the position of the Oireachtas at the centre of the political process. It will enable a pilot exercise to be introduced to make use of new technologies to open a dialogue with citizens and other interests. It will offer the public an opportunity to make its views known to Members on a particular draft Bill. This idea originated in this House but was pinched by the Lower House. The Minister concerned and the Members of both Houses will benefit from gathering views before a Bill is formally debated in the Houses. This will be taken without debate.

No. 2, motion to establish a joint committee on child protection, comprising Members of Seanad Éireann and Dáil Éireann to examine the issues of child protection arising from the recent Supreme Court decision in the CC case; No. 3, Institutes of Technology Bill 2006 — Committee and Remaining Stages, to be taken on the conclusion of the Order of Business and to conclude at 12.30 p.m.; No. 4, the Hepatitis C Compensation Tribunal (Amendment) Bill 2006 — Committee and Remaining Stages to be taken at 12.30 p.m. and to conclude at 2.30 p.m.; No. 5, Planning and Development (Strategic Infrastructure) Bill 2006 — Report and Final Stages, to be taken at 3 p.m. and to conclude not later than 4 p.m.; No. 6, the Road Traffic Bill 2006 — Report and Final Stages to be taken at 4 p.m. and to conclude no later than 4.30 p.m.; No. 7, the Building Societies (Amendment) Bill 2006 — all Stages, to be taken at 5 p.m. and to conclude not later than 8 p.m., Second Stage to conclude not later than 6.30 p.m. with the contribution of spokespersons on Second Stage not to exceed 12 minutes and other Senators not to exceed eight minutes, the Minister to be called upon to reply not later than ten minutes before the conclusion of Second Stage. Committee and Remaining Stages to be taken on the conclusion of Second Stage. There will be a sos from 2.30 p.m. until 3 p.m. and from 4.30 p.m until 5 p.m.

I was taken aback when I first saw this week's schedule. It is due to the Opposition that we are able to break up this evening and not have to sit tomorrow. I thank the Opposition for its co-operation. It was helpful to my office. As the days advanced and the work became cumulative, working out the schedule was like a jigsaw.

Mr. B. Hayes: I thank the Leader for her kind comments.

I propose an amendment to the Order of Business in order that First Stage of No. 20 on the Order Paper may be moved. I seek the House's permission to have this Bill printed. The Bill is entitled the Irish Nationality and Citizenship (Amendment) (Garda Síochána) Bill 2006 and is in my name and that of Senators Ulick Burke and Cummins. It will give automatic rights of entitlement to Irish citizenship to non-national members of the Garda Síochána.

All Members know of the extraordinary work done by the staff of the Oireachtas Library. Not only is it a beautiful room with tremendous resource materials, it is staffed by knowledgeable librarians who help Members in their work on a daily basis. A decision was recently taken — where I am not sure — that only one librarian will be hot-desked in the library while the other librarians will be located in another building.

Mr. Leyden: It is ridiculous.

Mr. B. Hayes: Who took this decision? It certainly was not made by the Committee on Procedure and Privileges. It did not come to my attention. I use the library on a daily basis and its staff are first rate. Now they are to be shunted to the Kildare House extension. In what committee was this decision taken? When will it be implemented? This is another example of the diminution of services to Members without recourse to them. I am very annoyed by it. If anyone can tell me I am wrong, I will withdraw my comments. By the time we return in October, there will be only one librarian in the library servicing the 166 Members of the other House and the 60 Members of this House. That is not good enough.

Mr. O'Toole: No. 18 , the Offences Against the State (Amendment) Bill 2006, is in the name of the Independent Senators. Elements of it have been included in the Criminal Justice Bill, for which I thank the Minister. I withdraw it from the Order Paper.

The House should have a discussion on No. 1, when it comes back from committee. It cannot come back to House as a *fait accompli*. It is crucial that Members have an understanding of what process will be established to consult the public and if it will be before or after Second Stage.

Senator Brian Hayes's information on the Library arrangements is incorrect. The decision was taken by the Houses of the Oireachtas Commission. Over the years there has been a demand from Members of both Houses for a fully extended research and library service. The service will be increased to 12 times its current capacity to provide both librarians and researcher. It will allow Members to contact a research station, either based in the Oireachtas Library or Kildare House. It is not my understanding that there will be only one librarian in the library. Electronic, telephone or personal points of contact will be provided. A substantial staff complement will be in place from 1 September, bringing us almost into line with other parliaments. Members will be able to request information and research on topics and Bills. It will mean we are not restricted to the partial memoranda from Departments. We will be able to get a view that is not biased in one direction or another. It will add substantially and exponentially to the level of services available. An announcement on the arrangements will be made shortly.

Mr. Ryan: We need to clarify and delineate the roles and procedures of the Houses of the Oireachtas Commission and the CPP. Constitutionally, these Houses are run through these committees, which are representative of all groups and parties. The commission has a separate role. It is important it does not encroach into what should remain the sovereign right of the Houses in determining how they do their business. Any uncertainty in this should be ended.

I draw Members' attention to a letter in today's *The Irish Times* from a British-based doctor, describing his experience of working in an Irish hospital.

Ms O'Rourke: I read that.

Mr. Ryan: He was surprised at the salary, far higher than that in the UK, for a 33 hour week. He was also surprised at the number of medical insurance submission forms which he had to sign. He stated, "I was amazed to discover I was expected to submit a bill for my services and that I would be paid for looking after these patients whom I felt I was already paid to look after". Everybody knows I am sick of declaring my interest here but I wish to draw the attention of the House to that comment on the way we do our business from somebody who thinks that our doctors and nurses are great but who was astonished at the amount of money that was pouring into his pockets over the course of a short locum service he provided as a locum consultant physician.

Mr. Leyden: Will the Leader consider having a debate in the autumn session on the up-to-date position regarding the revision of the register of electors? I am sure this issue is close to the heart of many Members who are running for the Dáil in the next election. The Minister should be invited in here to explain the changes that have taken place and what progress has been made to ensure that the register is up to date and accurate for the next election.

I suggest to my colleague, the leader of the Opposition, Senator Brian Hayes, to consider amending his Bill, which it was agreed to take in the House, to provide for the naturalisation of all European citizens who are here for one year only to vote in the next general election. Would it not be a wonderful gesture?

Ms O'Rourke: It would be great.

Mr. Leyden: There would be approximately 250,000 Poles, Czechs and others becoming part of the electorate. The Opposition would like to have 250,000 new voters.

Mr. B. Hayes: That is impossible. What is Senator Leyden talking about?

Mr. Norris: Senator Leyden could do with a few himself to keep up his——

An Cathaoirleach: Senator Leyden has explained the point adequately.

Mr. Leyden: I make this point on a personal basis. I have not been requested to do so by the Fianna Fáil Party. The Opposition could incorporate this measure or the Bill could include an amendment from me in the autumn to allow for all European citizens who work here for less than 12 months to vote in the next general election. They should have a say in how this country is managed and in the investment of European funds.

An Cathaoirleach: Senator Leyden.

Mr. Leyden: They are sure to be delighted with the present Government and I expect the majority of them would vote for Fianna Fáil.

An Cathaoirleach: We can discuss all of that in the autumn.

Mr. B. Hayes: They probably will, whether they want to or not.

Visit of French Delegation.

An Cathaoirleach: Before calling the next speaker I would like to take this opportunity to welcome to the Distinguished Visitors Gallery a group of parliamentarians who are visiting this country from France. I understand they are mostly members of the French Senate. They are most welcome. I hope they will have a very enjoyable stay.

Order of Business (Resumed).

Mr. Finucane: I cannot let the opportunity pass to wish the French the best of luck in the World Cup final.

An Cathaoirleach: I congratulate the team on their victory last night.

Mr. Finucane: I support Senator Leyden's first point on the register of electors. We had a comprehensive discussion on it and various suggestions were put forward at the time. I regret the difficulty experienced by a number of people, many of whom are graduates, in finding summer jobs. They could have been deployed during the summer time to update the register of electors by calling to houses from 6 p.m. until 9 p.m. at night when people are at home. No doubt they would have done a good job but that suggestion has not been taken up. I understand the census enumerators may be deployed subsequently to do this work.

Senator Leyden is correct. Somebody should inform us about what is happening, as we have all heard an election is imminent next year and any of us who have looked at the register of electors in recent times have been amazed at how out of date the information is and the level of duplication, etc. This issue must be tackled.

Recently Professor Drumm of the Health Service Executive gave a comprehensive description of what is happening within the HSE. He also provided details of the orthodontic lists. The Leader may recall that I recently raised in this House the situation of people waiting for orthodontic treatment. In many areas, such as the area I represent, there is a considerable waiting list.

It is difficult enough to be classified as suitable for orthodontic treatment as one must fulfil certain criteria. Having determined one's eligibility, one is accorded category A or category B status. Having made the grade and been assigned to category B, one would expect to be called for treatment within a short time. However, once the classification process has been completed, the average waiting time in my area is two and a half years, which is too long. As a result, many people are only receiving orthodontic treatment when they are 15 or 16 years old and some are even as old as 17. People should be receiving this treatment at a younger age as it is too late when they are past their formative stage of development.

I previously asked the Leader to investigate if treatment could be provided under the National Treatment Purchase Fund but I am not sure if she had an opportunity to do so. We must do something about the waiting lists for orthodontic treatment. People in category B who are waiting a considerable period of time should be allowed to avail of the national treatment purchase fund. One is eligible for it if one is over six months on a waiting list for a hip or knee operation.

Ms O'Rourke: It is three months.

Mr. Finucane: In this case people have been waiting for two and a half years. This would be one way of dealing with the issue so that delays do not become a perennial problem.

Mr. Mooney: As somebody who has a brother living in Marseilles I can vouch that the party celebrating France's win in yesterday's World Cup match is still ongoing. I endorse Senator Finucane's comment wishing France well.

An Cathaoirleach: Senator Mooney should speak on the Order of Business.

Mr. Mooney: I endorse what Senator Brian Hayes said. I believe he has done this House a service. However, I wish to make a point of clarification which has been adding to the confusion about the provision of research facilities, namely, that the three existing library staff in question are qualified senior research assistants, they are not librarians. Therein lies the problem. The newly appointed librarian initiated this process. Within this structure there is an underlying tension between the profession of librarians and of research assistants. I have been attempting to establish why the Commission — of which Senator O'Toole, who made some comments about this matter earlier, is a member — agreed to the appointment of three senior research assistants, yet when two of the existing research assistants applied for the positions, along with a librarian, only the librarian was appointed.

An Cathaoirleach: Senator Mooney.

Mr. Mooney: As this is a matter for the Commission, I ask the Leader——

An Cathaoirleach: I advise Senator Mooney that this is an internal matter for the Commission.

Mr. Mooney: I fully respect the Cathaoirleach's ruling but, as Members of this House, the matter does affect us.

An Cathaoirleach: The Commission is now in session but some of us cannot attend because of our duties here.

Mr. Mooney: Would the Cathaoirleach not agree that because of the matter raised by

[Mr. Mooney.]

Senator Brian Hayes, the dispersal of staff affects the Members of this House in the pursuance of their duties?

An Cathaoirleach: We can address that issue by other means than referring to the internal matters of the Commission.

Mr. Mooney: Yes, but the point was raised by Senator Brian Hayes and I believe it is important to address it.

An Cathaoirleach: I accept that he raised the matter and it will be dealt with, but the internal functions of the Commission should not be questioned.

Mr. Mooney: I am not referring to the Commission.

An Cathaoirleach: The Senator mentioned the Commission.

Mr. Mooney: I did because it endorsed——

An Cathaoirleach: The Senator has referred to the Commission again. He should continue on the Order of Business.

Mr. Mooney: I fully endorse the comments made earlier by Senator O'Toole and others on the coverage of this House. In this morning's *Irish Independent*, a lengthy editorial criticised the privacy Bill but welcomed the new defamation Bill that I hope the Minister for Justice, Equality and Law Reform, Deputy McDowell, will bring before this House in the autumn. Perhaps the Leader will indicate when we can expect the Bill to come before the House. The point was made that the media is part of democracy also. I endorse what has been said. I wish the *Irish Independent* would devote a little of its space to the activities of this House, rather than constantly haranguing it for not being in session.

A debate on the media is currently under way and I ask the Leader to allow the House to have some input into that debate in the autumn. The Broadcasting Commission of Ireland is currently inviting submissions on the establishment of a code of conduct for advertising standards on television. It is astonishing that according to the statistics, 50% of Irish viewing is on channels that originate outside of this country and, therefore, is not subject to regulation, whereas the Irish based stations are subject to regulation. This anomaly is leading to a point where a significant amount of advertising is directed specifically at children before what is known as the watershed period.

I ask that this House be allowed an opportunity to debate this exceptionally important issue, one specific aspect of which is the growing crisis of obesity among young people. This arises because they are constantly and actively encouraged to eat the junk food they see advertised on television.

Mr. Norris: I am glad I was not involved in the paean of self-congratulation that occupied almost the first hour of the Order of Business. Members are reasonably well paid to do the job we do. I notice the Leader complimented herself on the tweaking of this week's business. I believe there has been far too much tweaking. I and others do not appreciate that having arranged our schedules to accommodate five sitting days this week, we then discover, thanks to the generous assistance of the Opposition, that we will not meet tomorrow after all.

Mr. B. Hayes: Fine Gael Members were here for yesterday's vote on the motion regarding the Middle East conflict.

Mr. Norris: I was here for the debate, unlike Senator Hayes.

Mr. B. Hayes: I did not run away from the vote.

An Cathaoirleach: Senator Norris should be allowed to speak without interruption.

Mr. Norris: It is great to turn up for a vote even if one has not opened one's mouth during the debate.

Mr. B. Hayes: I did not run away from it.

An Cathaoirleach: I ask Senator Norris to restrict himself to matters relevant to the Order of Business.

Mr. Norris: I am grateful to the Cathaoirleach for redirecting my attention.

Mr. Dardis: What was Senator Norris saying about a paean of self-congratulation?

Mr. Norris: Will the Leader agree to a process whereby this House can monitor the health service through a series of debates, as we did in regard to the war in Iraq? I have been contacted by a former patient of St. Luke's Hospital who is extremely concerned about the impending rationalisation that will, among other things, remove access to the hospital grounds. She made the point that a major part of her recovery was a consequence of the serenity of those grounds. I support the Hanly report's proposals regarding the concentration of services in centres of excellence. We must ensure, however, that the conditions in those centres of excellence are not in any way diminished relative to what currently pertains.

I have supported SIPTU in many of the positions it has taken, particularly with regard to the privatisation of Aer Lingus. However, I am horrified at the strike taking place today. It is absolute and utter madness and is deliberately provocative. It blows a raspberry in the face of the travel-

ling public, both domestic and foreign. SIPTU has announced it will allow passengers through the airport but will not unload their luggage until 11 p.m. It is about time it ended this madness.

If the planet survives until the autumn, will the Leader agree to a debate on climate change? She may have noticed that half the Members were fanning their faces with their Orders Papers at the start of the Order of Business. I have heard the word "humidity" used in the last several months, a reference I had never before heard in Irish weather forecasts. I assume it is another of President George Bush's gifts to the planet. It would be useful to discuss this issue and there are motions tabled in this regard in the names of the Independent Members.

Mr. Dardis: It is clear Senator Norris has never sprayed potato crops for blight.

Mr. Lydon: Unfortunately, I was unable to attend yesterday's Order of Business but I understand several Members were critical of An Taisce. This is a body which has done much good work.

Mr. Norris: Hear, hear.

Ms O'Rourke: We acknowledged that.

Mr. Lydon: In recent years, however, it has gone from being a respected body to being perceived as an interfering busybody. It has got to such a stage that if An Taisce was operating in Italy, Sorrento would never have been built.

Mr. Coghlan: We are all aware of the difficulties of Mr. Joe Meade, the financial services ombudsman, in terms of the major rise in the number of complaints he receives. Yesterday's report revealed that his office found that more than 50% of these complaints were justified. It is significant that the statistic is so high. It seems, however, that not all the financial institutions accept his right to exercise his role. All Oireachtas Members wish to see this issue resolved. In a constitutional democracy based on law, people have a right to recourse——

An Cathaoirleach: Senator Coghlan is making a statement. Does he have a question?

Mr. Coghlan: Yes. If there is a shortfall in this area, it is the duty of the Oireachtas to ensure it is put right. I request a debate on this report early in the next session. In some respects, it is not only interesting but shocking.

Ms White: I ask the Leader to organise a series of debates on ageing and ageism when we reconvene in the autumn. Last week, the Cathaoirleach kindly suggested to me that I submit a request for an Adjournment debate on this issue. We then had a tremendous revelation from the Minister of State at the Department of Health and Children, Deputy Seán Power, who has responsibility for the elderly, when he said that the general medical service contracts for GPs would be examined and that he would ask the Health Service Executive to review the case of Dr. Patricia Comer who must retire in August from serving her public patients.

We should have a united front on this issue as we did in regard to child care.

Mr. O'Toole: Hear, hear.

Ms White: We can achieve progress by working together. People are living longer and are healthier but nothing has changed for older people.

I will not throw bouquets at anybody but I apologise to the Cathaoirleach for any discourtesy I may have shown him at any time.

An Cathaoirleach: It is fine.

Ms O'Rourke: Senator White would never do so.

Mr. B. Hayes: It is impossible.

Mr. Finucane: The Cathaoirleach is overwhelmed today.

Mr. Ross: A motion in favour of social partnership was recently passed almost unanimously in this House. Today, the same trade union that is leading the drive for social partnership and promising industrial peace as its part of the bargain is calling a strike at Dublin Airport. We must ensure SIPTU can no longer have it both ways. These people are antediluvian in their outlook on industrial relations. They escaped from Noah's Ark several thousand years ago.

I commend Senator Norris for raising this issue because there is otherwise an extraordinary silence in this House about what is happening today at Dublin Airport. This is the most destructive measure that has been pointed at our economy for many years. The danger of what is happening is so clear that it merits some type of debate and a denunciation of SIPTU's actions. The damage it is doing threatens the proposed privatisation of Aer Lingus, something that could affect every taxpayer and every citizen, and it is being done deliberately and maliciously. It is also doing damage to the airline and the tourism industry.

The silence in this House in the face of SIPTU's actions is something of which we should be ashamed.

An Cathaoirleach: Does Senator Ross have a question?

Mr. Ross: Yes. I ask for a debate on the role of SIPTU in the national economy and in what is happening today. It is completely out of synch not only with IMPACT, which is behaving responsibly, but also with the workers it represents. This is a power play. When SIPTU leaders called a meeting last week, only some 40 out of 1,800

[Mr. Ross.]

members attended. The leadership of SIPTU does not have the support of its members. We should not allow a small group of antediluvian dinosaurs to hijack and damage the privatisation of Aer Lingus.

Mr. Glynn: I support Senator Finucane's call for a debate on orthodontic services. Following the publication of a report on this issue by a sub-committee of the Joint Committee on Health and Children, it is timely to have a debate on the matter. I am aware there is a problem with this service in the mid-west. I am pleased to say, however, that because of the proactive approach of a consultant orthodontist, the four midland counties of Longford, Westmeath, Laois and Offaly enjoy excellent orthodontic services. I ask the Leader to arrange a debate on this issue in the autumn during which I will outline the progress that has been made in revolutionising the service in the midlands.

Mr. Bannon: I am very disappointed the Planning and Development (Strategic Infrastructure) Bill 2006 is returning to the House today and I am also dismayed at the short amount of time that has been allocated to it. I am also very disappointed the Government has not published the report of the Barr tribunal on the death of John Carthy in Abbeylara, County Longford. The Government has been kicking this report to touch for some time. We all know it was signed off on several months ago and we were promised it would be published in February, March and May. The week before last the Tánaiste promised it would be published the following day. It has not been presented.

If the report is published in the coming weeks I ask the Leader to recall the Seanad to debate its findings. I have support on this side of the House because many people are disgusted at the Government's delaying tactics on this issue.

The Taoiseach, at the opening of M4 motorway, hailed it as a motorway of high quality, delivered on time and within budget. Within a month there was a hike in toll charges to pay for repairs which now, barely six months later, must be made. I ask the Leader to tell us if the toll barriers be lifted when lanes are closed during the summer to allow for these necessary repairs?

Mr. J. Walsh: That is a question of the reliability of the contractor.

Mr. Fitzgerald: Senator Bannon is misleading the House.

Mr. Bannon: We all know the motorway cost approximately €420 million and it will be a greater burden still on the taxpayer because of the negligence of the Government.

Mr. Fitzgerald: Rubbish.

(Interruptions).

An Cathaoirleach: Senator Bannon, please.

Mr. Bannon: The other side of the House is twisting this issue.

On another subject, dear to my heart, in County Longford where Longford General Hospital casualty unit provides a very important community service. However, the Tánaiste and Minister for Health and Children, Deputy Harney, is downgrading facilities there.

An Cathaoirleach: That is only a statement. Does the Senator have a question for the Leader?

Mr. Fitzgerald: The Cathaoirleach should ask Senator Bannon to sit down.

Mr. Bannon: Yesterday a man arrived there bleeding to death and was turned away and sent to Roscommon County Hospital for treatment. Can I ask a question? Can I not ask a question?

An Cathaoirleach: I requested Senator Bannon ask a question on five occasions and he ignored the Chair. Can Senator Bannon please sit down?

Mr. Daly: I attended a tense meeting of employees of Aer Lingus at Shannon Airport recently. They have fears that go beyond privatisation. The changing of the bilateral agreement may also cause problems for them at the airport. There are many talented people in that company with families and mortgages who are anxious about their futures and livelihoods in the Shannon region with Aer Lingus. I do not condone the action taken today but I feel it is understandable that they should express this frustration because they are caught in a spider's web between the company, the Government and their unions. Their situation should be clarified as soon as possible to allay the fears and anxieties of the workers and to return the company to normal so it can provide its service and develop.

The Government announced a €4 billion innovation plan.

An Cathaoirleach: Has Senator Daly a question?

Mr. Daly: Can the Leader indicate to the Ministers involved in the plan that this House would like to know, after the recess, what are the priorities attached to the fund and how it is proposed to be dealt with? It is a substantial amount of money that can make a major contribution towards the development of industry.

As we are leaving for summer break, perhaps a Member, on his or her travels, might find Pat Kenny. He seems to have vanished from the face of the earth.

An Cathaoirleach: I do not think we have any control over that.

Ms Tuffy: Has the Leader any update on the all-party Oireachtas joint committee dealing with child protection?

Ms O'Rourke: That was called out.

Ms Tuffy: Was it? I apologise, I missed that. Will Senators be included on that committee?

An Cathaoirleach: It is on the Order Paper.

Dr. Mansergh: Transport matters may be further debated on our return from recess. In the meantime I wish to point out that the M4 is a superb addition to our infrastructure.

An Cathaoirleach: We will not have a discussion at this point and we will not have a debate. Has Senator Mansergh a question for the Leader?

Dr. Mansergh: No, I have just indicated——

Mr. Norris: Well then sit down.

An Cathaoirleach: Has Senator Mansergh a question for the Leader?

Dr. Mansergh: Yes. A transport debate——

An Cathaoirleach: Order, please. I have ruled out debate on the M4 already and my position has not changed.

Dr. Mansergh: I will move on. While I deprecate any disruption in public services, what are antediluvian are some the attitudes to social partnership and industrial relations, which seem to date from pre-1913, expressed in this House and regularly espoused in the columns of a Sunday newspaper. Any attempt to introduce a neo-liberal system of Thatcherite industrial relations in this country will not succeed.

(Interruptions).

An Cathaoirleach: Senators, please. I did not hear Senator Mansergh's question due to the noise.

Mr. U. Burke: I support Senator Coghlan in his request for an early debate on the report of the financial services ombudsman, Mr. Joe Meade, particularly on issues relating to the sale of endowment mortgages by insurance companies during the 1980s and 1990s. It is a sorry situation that many of the people with such mortgages find themselves seriously under covered. This is reflected in the fact that there are nearly 1,700 complaints relating to insurance companies in the ombudsman's report. Unfortunately, Mr. Meade has found himself unable to deal with them as they are statute barred having been dormant for over six years. This is a disgrace that will cause great hardship to many. Most of the companies involved are British based, which causes further difficulties.

An Cathaoirleach: Has the Senator a question for the Leader?

Mr. U. Burke: I ask the Leader to contact the responsible Minister with a view to rectifying this situation with the companies involved.

I also ask the Minister for Enterprise, Trade and Employment to ask inspectors of employment to be more proactive in their work relating to the underpayment of foreign workers, particularly in the security and construction industries.

I met a young Polish man in Galway city who was working as a security guard from 8 p.m. to 8 a.m. His only facilities for doing his work were a hut on a building site, without services, and one hard chair. He was paid the princely sum of €4 per hour.

12 o'clock

We have a labour inspectorate that is allowing this type of situation, which appears to be rampant, to continue. I ask the Leader to contact the Minister for Enterprise, Trade and Employment to request that he instruct the inspectors to be far more visible on the ground so situations such as the one I have outlined are eliminated from our labour market.

Mr. J. Walsh: I ask the Leader to organise a debate early in the next term on industrial relations in the public service and semi-State companies. We have discussed Aer Lingus today and Iarnród Éireann in the past with regard to the disruption to the travelling public caused by disputes. In any well-regulated, dynamic economy, the customer is king but unfortunately that message has not got through to public servants with regard to delivery of services.

I also ask the Leader to organise a debate on the National Roads Authority. In the past, I was a strong critic of the NRA for its lack of vision and planning but we have seen significant improvements recently, perhaps because of significant investment. We have seen tremendous improvements in our motorways and dual carriageways. If we criticise an organisation, it is important that those criticisms are fair and just. Allegations should not be made regarding repairs having to be made by the NRA when those repairs are actually the responsibility of the contractor. We should have a debate on the NRA, toll roads and so forth as soon as we reconvene in the autumn.

Mr. P. Burke: An article was published in the *Irish Independent* recently which criticised the venue for the Ryder Cup. I am most disappointed that Fáilte Ireland has not condemned the article, given that it will spend €9 million promoting the venue for the Ryder Cup and the competition itself. There is no doubt that it will be one of the greatest sporting events ever to take place in Ireland and in that context I am very disappointed with the attitude of Fáilte Ireland. It should have condemned the article outright. The K Club is the finest golfing complex in Europe,

[Mr. P. Burke.]

which comprises restaurants, bars, hotels, two golf courses, driving ranges and so forth.

Mr. Coghlan: What about the golf club in Killarney?

Mr. P. Burke: There is no better golfing venue in Europe. I wish to take this opportunity to congratulate Dr. Michael Smurfit. Were it not for him the Ryder Cup, which is the biggest sporting event ever to be staged in Ireland, would not be held here. He has put a considerable amount of work into it on which he is to be congratulated. I ask the Leader to raise the matter with Fáilte Ireland, which did not condemn the article which criticised the venue. I am very disappointed, especially given that €9 million of taxpayers' money is being spent promoting the Ryder Cup. It begs the question as to whether Fáilte Ireland really believes in what it is backing.

Ms O'Rourke: I think the planned sos will have to be abandoned, but we will see.

Senator Brian Hayes brought up the issue of the wonderful library we have in Leinster House. He said there is only one librarian remaining there and asked when the decision regarding this was taken. We now know the decision was taken by the Houses of the Oireachtas Commission, of which Senators O'Toole, Ulick Burke and Mansergh are members, as is the Cathaoirleach, Senator Kiely.

The new library and research service will have two key service delivery points, one in the existing library and the other in the Kildare House extension. It is intended that four staff members will be on duty in the library in Leinster House. The staff numbers in the library and research service will be increased from 12 in mid-2005 to 30 by September 2006. This is in line with the finding of the benchmarking review undertaken by Deloitte and Touche on behalf of the office in 2002. All subsequent developments have been approved by the management committee and the commission, both of which considered the strategic and development plans for the library and research services.

Apparently, we will receive a better service. There may be some professional tension between the researchers and the librarians, as Senator Mooney has said, but I do not know. I have found the library very good and it is a lovely place to go to. The decision was taken by the commission and the management committee of the library.

Senator O'Toole wants No. 1 on the Order Paper concerning e-democracy to be debated in the autumn. He also spoke about the library but I have just dealt with that matter. Senator Ryan raised the issue of the role of the Houses of the Oireachtas Commission and the Committee on Procedure and Privileges. He then spoke about reform of the health service and referred to a letter published in *The Irish Times*, which I had also read. That letter points out what the Tánaiste has said constantly, namely, that reform is the key to unlocking the potential of our health services. If ever a mantra was needed for reform, it is the contents of that letter. The letter writer, who is a doctor, had no idea why he was getting so much additional money. He felt he was just doing his duty by caring for his patients. Reform is necessary.

Senator Leyden wants a debate on the revision of the register of electors and suggested there will be 250,000 new voters at the next general election. However, while that sounds like a very good rallying call, those people would have to become citizens of the country before they could vote in a general election.

Mr. Coghlan: Senator Leyden forgot about the Constitution.

Ms O'Rourke: They can vote in other elections, such as the local and European elections, but they cannot vote in general elections.

Senator Finucane agrees with having a debate on the register of electors.

Mr. Finucane: I agree with Senator Leyden's first point, but not his second.

Ms O'Rourke: Yes, that is what I said. I referred to the register of electors.

Mr. Finucane: I do not agree with his other hare-brained idea.

Ms O'Rourke: Senator Leyden always has very imaginative ideas.

(Interruptions).

An Cathaoirleach: The Leader to reply without interruptions please.

Ms O'Rourke: Senator Finucane also referred to Professor Drumm and orthodontic waiting lists. He spoke about the categories for treatment, A or B. The idea of including orthodontic treatments under the National Treatment Purchase Fund is a good one. Treatment is delayed and when children are examined after waiting two and half or three years, treatment is sometimes found to be unnecessary, although that is not always correct. Orthodontics should be included in the NTPF. I met the Tánaiste yesterday on her way out of this House and raised this matter with her because a case had just been brought to my attention.

Senator Mooney referred to tensions between librarians and researchers. He then spoke about the media and the code of conduct. Yesterday the Senator asked about the privacy Bill and the defamation Bill and I announced that they will be published as Seanad Bills and dealt with in this House. The Senator also referred to children being subjected to television advertising which is

making them plump because they are eating the wrong foods. He called for a code of conduct to cover that area.

Senator Norris called for an ongoing, monitoring debate on health. He said he would normally have supported SIPTU but is now horrified by what is happening at the airport today.

Senator Lydon argued that An Taisce has done a lot of valuable work in the past but now has become a busybody and not a reforming body. Senator Coghlan referred to the financial services ombudsman and the fact that 50% of complaints to the bureau were upheld. However, not all financial houses accept the remit of the financial services ombudsman. The Senator called for a debate on this issue.

Senator White called for a debate on ageing. She paid the Cathaoirleach a great compliment and apologised for any naughtiness in which she had engaged.

Mr. Coghlan: What a nice word.

Ms O'Rourke: Senator Ross pointed out that we debated social partnership in this House and, except for himself, all voted for it. He is aghast at the strike at Dublin Airport.

We are all aghast at it but, as Senators Mansergh and Daly said, we recognise that the workers have concerns which have not been addressed. If one is sitting in a comfortable leather armchair, it is all very well to rant about these issues, but it is a different matter for workers who have to explain to their partners and children that they do not know if they will have a job or, if they will have one, the terms on which they will have it.

Senators Glynn and Finucane called for a debate on orthodontics in the autumn.

Senator Bannon asked that if the Barron report is published, the Seanad would resume to debate it. He also raised the matter of the Planning and Development (Strategic Infrastructure) Bill. Does he realise that Bill was introduced and debated in the Seanad first? The Bill then went to the Dáil. We will only discuss the amendments made to the Bill in the Dáil today, that is the purpose of the debate on it today. We debated that Seanad Bill, for which considerable time was allocated.

Mr. Leyden: We did.

Ms O'Rourke: The debate on it petered out. The Bill then went to the Dáil, it must have made some amendments to it and the Bill has come back to this House for the sole purpose of considering those amendments. We could not keep ping-ponging legislation from one Chamber to another.

Mr. Bannon: On a point of order, I understand that the Minister has amended the Bill to delete an amendment I tabled that was accepted in the Seanad.

Ms O'Rourke: We will have to wait and see what will happen.

An Cathaoirleach: That is a matter for the debate on the Bill and not one for the Order of Business.

A Senator: It will not take long.

Ms O'Rourke: Senator Bannon also raised the matters of the Longford hospital casualty unit and the M4. I point out that if faults are found on any major road surfaces, the contractor repairs them, not the State.

Mr. Ryan: They are putting up the tolls.

Mr. P. Burke: It is not the contractor who raises those.

Ms O'Rourke: They have not increased since that road opened.

Mr. Bannon: On a point of order, the toll was increased by 30 cent a month after the motorway was opened.

An Cathaoirleach: I ask the Senator to resume his seat and allow the Leader to reply to the Order of Business.

Ms O'Rourke: Senator Daly raised the matter of a tense meeting in Shannon.

Mr. Bannon: What about the hospital in Longford?

Ms O'Rourke: I agree with a request for a debate on the allocation of the €4 billion under the science budget.

Senator Tuffy raised the matter of the all-party committee——

Mr. Bannon: What about the casualty unit in Longford?

An Cathaoirleach: Does the Senator intend to continually ignore the Chair?

Ms O'Rourke: Senator Mansergh raised the matter of——

An Cathaoirleach: I must interrupt the Leader, as I am asking Senator Bannon if he intends to continually ignore the Chair?

Mr. Bannon: An important issue concerning——

An Cathaoirleach: I have asked the Senator a question. Does he intend to continually ignore the Chair?

Mr. Bannon: I will not ignore the Chair but I raised an important issue——

An Cathaoirleach: The Senator raised the issue——

Mr. Bannon: The Leader did not comment on it.

An Cathaoirleach: ——and Leader replied to it. The Senator cannot interrupt as the Leader replies to the Order of Business. I hope he understands that.

Mr. Bannon: Sir——

An Cathaoirleach: That is it. I ask the Senator not to ignore the ruling of the Chair.

Ms O'Rourke: The Senator also raised the matter of the casualty unit on which I presume he wishes to have a debate.

Senator Ulick Burke raised the matter of the financial services report, particularly with regard to endowment mortgages. He requested that the relevant Minister come to the House to ascertain if the matter can be rectified. He spoke of workers from other countries coming here. Under the partnership agreement, Towards 2016, it is agreed that enforcement officers will be in place to ensure compliance in protecting the rights of such migrant workers. Nevertheless, the tale the Senator told was quite horrific.

Senator Jim Walsh raised the matter of the semi-State sector and called for a debate on the public service. He has sought such a debate for a long time. The Senator praised the NRA on its work. Roads are being completed under budget and within the timescale set for them.

Senator Paddy Burke raised the matter of a disparaging article a journalist wrote on the venue for the Ryder Cup. I read that article, which got significant coverage on "Morning Ireland" and other programmes. I do not know if the journalist's motive for writing it was mischief or something else but it was quite a contemptuous article. The Senator's point was why Fáilte Ireland did not hit back and state the magnificence of the K Club. I will make a telephone call to Fáilte Ireland pointing out that the matter was raised here.

An Cathaoirleach: Senator Brian Hayes moved an amendment to the Order of Business: "That No. 20 be taken before No. 1." Is the amendment agreed? Agreed.

Order of Business, as amended, agreed to.

Business of Seanad.

Mr. Ryan: On a point of order, there are only 15 minutes remaining to deal with the Institutes of Technology Bill through no fault of any of the Members who intend to speak on it. This is the position because we started the Order of Business so late. Can I suggest that we could survive without a sos?

An Cathaoirleach: Is that agreed?

Ms O'Rourke: The sos was to be from 2.30 p.m. to 3.30 p.m. Is the Senator suggesting we should not have a sos if it appears we need the time to deal with business?

Mr. Ryan: Yes.

Ms O'Rourke: We will see what progress we make. We may have to have a sos sooner or later than the time scheduled for it and, if necessary, we will not have a sos.

An Cathaoirleach: Is that agreed? Agreed.

Irish Nationality and Citizenship (Amendment) (Garda Síochána) Bill 2006: First Stage.

Mr. B. Hayes: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Irish Nationality and Citizenship Act 1956 and to provide for automatic citizenship of members of An Garda Síochána.

An Cathaoirleach: Is the Bill opposed?

Ms O'Rourke: No.

Question put and agreed to.

An Cathaoirleach: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Mr. B. Hayes: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

An Cathaoirleach: When is it proposed to take Second Stage.

Ms O'Rourke: On the first day of the autumn session.

Second Stage ordered for the first day of the next session.

Joint Committee on Communications, Marine and Natural Resources: Motion.

Ms O'Rourke: I move:

That it be an instruction to the Joint Committee on Communications, Marine and Natural Resources regarding proposals for legislation in relation to broadcasting that may be submitted to it by the Minister for Communications, Marine and Natural Resources, that it (or a sub-committee

appointed by it for that purpose) shall, prior to such legislation being published—

(*a*) cause the proposals, together with such related documents as it thinks fit, to be published to the Internet and advertise details thereof in the national newspapers as soon as may be after the proposals have been submitted to it;

(*b*) invite and accept submissions from interested persons and bodies, in a format to be decided by the joint committee, through the Internet and such other means as it considers appropriate in relation to the proposals;

(*c*) consider submissions received (or a synopsis of such submissions) and, based on such consideration—

(i) determine those elements of the proposals (or themes common to a number of such elements), if any, that should be supplemented by oral evidence, and

(ii) cause such submissions (or a synopsis of or extracts from such submissions) as it thinks fit to be published to the Internet;

(*d*) then, pursuant to paragraph (*c*)(i), proceed to hear such oral evidence as it thinks fit in relation to the elements identified at a meeting or meetings to be held in public and webcast;

(*e*) having regard to the foregoing, and to views (or a summary or synopsis of such) expressed in such Internet discussion forum as may be arranged in connection with the proposals for legislation and the joint committee's deliberations in the matter, report its opinions and observations on—

(i) the issues raised in respect of the proposals for legislation, and

(ii) the operation of the e-consultation process as comprehended by this order,

making such recommendations as it thinks and report back to Seanad Éireann.

Question put and agreed to.

Joint Committee on Child Protection: Motion.

Ms O'Rourke: I move:

(1) That a select committee consisting of four Members of Seanad Éireann be joined with a select committee to be appointed by Dáil Éireann to form the Joint Committee on Child Protection to:

— review the substantive criminal law relating to sexual offences against children;

— examine the issues surrounding the age of consent in relation to sexual offences;

— examine criminal justice procedures relating to the evidence of children in abuse cases;

— consider the implications arising from and the consequences of the Supreme Court decision of the 23 May 2006 in the 'C.C.' case;

— examine the desirability or otherwise of amending the Constitution to deal with the outcome of the 'C.C' case and/or to provide for a general right of protection for children;

— make such other recommendations on the protection of children as shall to the committee seem appropriate;

the committee shall report back to each House with recommendations in a final report by 30 November 2006.

(2) The Minister for Justice, Equality and Law Reform and the Minister of State at the Department of Justice Equality and Law Reform, the Department of Health and Children and the Department of Education and Science (with special responsibility for children) shall be *ex officio* members of the committee and shall be entitled to vote.

(3) The quorum of the Joint Committee shall be four, of whom at lease one shall be a Member of Seanad Éireann and one a Member of Dáil Éireann.

(4) The joint committee shall have the powers defined in Standing Order 65(1) to (8), inclusive, and 91(2).

(5) The Chairperson of the joint committee shall be a member of Dáil Éireann.

An Cathaoirleach: Is that agreed?

Ms O'Rourke: We must have a meeting to discuss this.

An Cathaoirleach: What is the position on this matter?

Ms O'Rourke: We have not had a meeting on it and names must be put forward before we can set up this joint committee.

An Cathaoirleach: I understand that the motion must be agreed before the members are selected.

Ms O'Rourke: We must have a meeting on it.

An Cathaoirleach: The motion must be agreed first.

Ms O'Rourke: I agree it.

An Cathaoirleach: Then the Leader can give the names for membership.

Ms O'Rourke: Yes, I will do that.

Question put and agreed to.

Institutes of Technology Bill 2006: Committee Stage.

SECTION 1.

Mr. U. Burke: I move amendment No. 1:

In page 5, subsection (2), line 24, after "provisions" to insert the following:

", but all sections shall come into operation within 12 months of its passing into law".

I welcome the Minister to the House. I hope she will consider this amendment on the basis of the discussion on a particular case yesterday in regard to people with disabilities.

I welcome the fact that, in the Minister's absence yesterday, people with disabilities were included in the amendment in the Dáil. They had originally been omitted from inclusion in the legislation. The Minister will recall that on Second Stage, I highlighted the existence of a very irregular response to the needs of people with disabilities in institutes of technology throughout the country. Some of them have a reasonably good record in respect of the percentage of people with disabilities among their student population, while others do not. It was a response to the absence of financial resources to provide the facilities to students with disabilities.

Now that this has been included, I hope that there will be a commitment in the legislation to regularise and streamline this matter within at least 12 months. Some institutions may have to do some catching up compared to others but this is the primary reason behind this amendment.

Minister for Education and Science (Ms M. Hanafin): This provision is already part of section 1(3) because it was amended on Report Stage in the Dáil.

Amendment, by leave, withdrawn.

Section 1 agreed to.

Sections 2 to 7, inclusive, agreed to.

SECTION 8.

Ms Tuffy: I move amendment No. 2:

In page 10, lines 1 and 2, to delete all words from and including "have" in line 1 down to and including "opportunity" in line 2 and substitute the following:

"facilitate life-long learning and promote gender balance and the attainment of equality of opportunity generally, as an object of the college".

I welcome the new section 7(6)(*c*), inserted in section 8, which requires a governing body in performing its functions to have regard to the attainment of gender balance and equality of opportunity and to promote access to education in the college by economically or underrepresented groups. The new section 21D inserted into the RTC Act 1992 by section 22 of the Bill requires each college to have an equality policy to implement the policies set out in a statement of its equality policy.

This requirement is similar to that placed on governing authorities of universities in the Universities Act 1997 and is a welcome improvement to the legislation for institutes of technology. Section 12 of the Universities Act deals with the objects of a university but there is no similar section in this Bill. This is despite the fact that, as I pointed out on Second Stage, section 52, which deals with the amendment of the Higher Education Authority Act 1971, contains a subsection that refers to the body having regard to the objects and functions of institutes of higher education currently in existence. Obviously, institutes of higher education encompasses both universities and institutes of technology.

The lack of a separate section in this Bill dealing with the objects of a institute of technology is a flaw. In particular, there is a need for a reference to the facilitation of lifelong learning, the promotion of gender balance and the attainment of equality of opportunity generally as an object of the college, as is contained in this amendment. The provision in this Bill is much weaker than that of the Universities Act because it refers to the functions, rather than the objects, of institutes of technology and includes the words "have regard to", rather than referring to objects. The provision relating to lifelong learning, gender balance and equality of opportunity is much stronger in the Universities Act than it is in this Bill. It is for this reason that I have tabled this amendment. I would like to hear the Minister's comments in this regard.

Ms M. Hanafin: I do not believe there is a need for this amendment. The record of institutes of technology in this regard is well recognised. They offer a wide range of opportunities for education and training. On Second Stage we discussed the progression from certificate to PhD level in institutes of technology. They also have very flexible arrangements for groups like mature students. Senator Tuffy mentioned how people entering institutes of technology at a trade level can progress through them. Approximately 30,000 people attend institutes of technology on apprenticeship and part-time programmes. Institutes of technology are already doing what is being asked of them.

I am concerned that inserting a specific legislative provision relating to lifelong learning might place a requirement on institutes of technology to deal with matters that were not within their remit.

If one takes lifelong learning to mean learning from the cradle to the grave, inserting such a provision could place an onus on institutes of technology to provide, for example, pre-school education which is not what is asked of them. It is better to support them in what they do and do well rather than place inappropriate functions on them through legislation.

Ms Tuffy: The Minister is correct in saying that the institutes of technology have a strong record in providing access to different groups of people. I have made this point myself. However, their performance is weak when it comes to matters like providing for people with disabilities. I do not know what the relevant statistics are for universities but I know the record of institutes of technology is very weak in this regard. Similarly, institutes of technology must improve in the area of very targeted programmes which cater for groups like people with disabilities, Travellers or people from RAPID areas. For example, Trinity College has the Trinity access programme and there are similar programmes in other universities.

Institutes of technology should not sit on their laurels. Their good record in terms of providing access has largely resulted from the types of programmes they present, their flexible models, their lower fees regime before the introduction of the free fees initiative and their geographical location. However, they do not have a strong record in respect of trying to encourage more students with disabilities.

The provision in this Bill is weaker than that of the Universities Act. What is the reason behind this? We cannot mandate that providing for equality be one of the objects of universities while merely stating that institutes of technology should have regard to it. Such a provision is not strong enough. However, I welcome what the Minister has provided in the legislation.

I disagree with the point made by the Minister about lifelong learning. I have repeatedly voiced my belief that lifelong learning should be at the core of the delivery of third-level education. This is very important when it comes to addressing access to education because it deals with the issue of second chances. It also affects the way in which programmes are provided, leading to a greater emphasis on part-time education and allowing people to have more than one chance of participating in third-level education. I do not believe this amendment could be logically interpreted as including pre-school education. Anyone interpreting the Bill would realise that it concerns third level education and that the measure provided for by this amendment involves the institutes of technology facilitating lifelong learning.

I agree that, compared to other Ministers, the Minister is very good at coming to the House to debate matters. However, I wish to return to a point made by Senator Quinn on Second Stage. I believe the Minister of State at the Department of Education and Science, Deputy de Valera, was present at the time.

Ms M. Hanafin: No, I was here.

Ms Tuffy: Okay. This is an opportunity for the Minister to consider accepting the amendments and returning the Bill to the Dáil as the Minister for Justice, Equality and Law Reform did in respect of the Criminal Justice Bill. Will the Minister reconsider? I know we will take Report Stage today, but perhaps the Minister will consider accepting my amendment between now and then.

Acting Chairman (Mr. Dardis): Before I call the Minister, we have lost a bit of time and the Order of the House is that this matter must conclude by 12.30 p.m. If the House is agreeable, I will call on the Acting Leader to propose a change to the Order of Business.

Mr. Fitzgerald: I propose that we amend the Order of Business to let the debate run until 1 p.m. to complete all Stages of the Bill.

Acting Chairman: Is that agreed? Agreed.

Ms M. Hanafin: Senator Tuffy is right when she says there is a responsibility on all third level institutions to ensure that people from various backgrounds, particularly those with disabilities, are included. The record has been abysmal, but one must admit that significant progress has been made by each college. The higher education access committee has done considerable work in this regard, not only by way of providing funding, but also by providing guidance.

I draw the Senator's attention to section 21D on the equality policy, which clearly states that the governing body must "require the Director to prepare a statement of policies of the college" in respect of access for persons who are socially or economically disadvantaged, have a disability or are significantly under-represented and to prepare a policy in respect of equality, including gender equality. It is interesting that the governing body must approve and implement the policy. The Senator's concerns about access and disability are covered in the Bill. This policy provision is similar to that in the Universities Act.

On taking amendments, the Senator is aware that I have previously accepted Seanad amendments to other Bills. It is not a question of today's timing. If something is worth accepting, I am always happy to do so.

Amendment put and declared lost.

Ms Tuffy: I move amendment No. 3:

In page 10, line 14, after "State" to insert the following:

"and in particular of the region served by the college".

[Ms Tuffy.]

The provisions herein are needed because the regional and local roles of institutes of technology are more important than the role of universities. I would like institutes to devote more attention to addressing the problems of social exclusion and inequality in pockets of extreme deprivation, such as RAPID areas and elsewhere. The roles of the institutes should be recognised.

Ms M. Hanafin: While I agree with the Senator, this matter is covered in the Regional Technical Colleges Act 1992, which obtains in respect of colleges. Regarding functions, that Act states: "with particular reference to the region served by the college".

Amendment, by leave, withdrawn.

Section 8 agreed to.

Sections 9 to 15, inclusive, agreed to.

SECTION 16.

Mr. U. Burke: I move amendment No. 4:

In page 13, line 41, to delete "months," and substitute "months".

Section 16 reads, "The governing body of a college shall, as soon as may be, but not later than 3 months, after the end". I do not know what the significance of that comma is, as it makes the situation meaningless. It is a technical error.

Acting Chairman: If this must be done, it can be done by direction.

Ms M. Hanafin: The former primary school teacher beside me advises me that the subordinate clause should run without a comma, but the comma is present to clarify that the time, as soon as may be or not later than three months, starts to run from the end of the academic year. The reference to the three months, including the comma, was inserted as a Report Stage amendment and was drafted by the Office of the Parliamentary Counsel.

Acting Chairman: Is the Senator prepared to dispense with the comma?

Amendment, by leave, withdrawn.

Section 16 agreed to.

Sections 17 to 21, inclusive, agreed to.

SECTION 22.

Mr. U. Burke: I move amendment No. 5:

In page 16, line 12, after "college" to insert ", including a time scale for implementation,".

If there is a necessity for the director to prepare a statement on the college's policies, it would be important to have a timescale for the implementation of those policies as prepared.

Ms M. Hanafin: I do not propose to accept this amendment or amendment No. 7, which contains similar terms, as both refer to the policies about preparing the statement and so on that I discussed with Senator Tuffy. The policy must provide for inequality in all of the institute's activities. Subsection (3) strongly requires each institute to implement those policies by stating that once a policy is included in the statement, it must be implemented.

Mr. U. Burke: Does the Minister not consider it important to set a date for the implementation of policy? It is a major statement of policy and such a date would be appropriate.

Ms M. Hanafin: I understand why people would want the policy implemented. As such, we have stated in plain English that it should be implemented. However, I envisage a director of a governing authority, in setting up and devising his policy, setting out a timescale for the implementation of its various elements. Some might be done immediately, some in three months and others in six months. There is flexibility in this regard, but the policy must be implemented. It is for each governing body to restrict the time.

Mr. U. Burke: Could the Minister not set a time limit within which the policy must be implemented? Often, reports and other implementation policies have not been implemented within such institutions.

Ms M. Hanafin: It is not necessary, given that a governing body will devise its policy rather than having such imposed upon it from outside. It is anticipated that the colleges will want to implement their policies, but they are also instructed by the legislation to do so. They must stick to the terms of the legislation, that is, writing statements and implementing policies.

Amendment, by leave, withdrawn.

Section 22 agreed to.

Progress reported; Committee to sit again.

Eighth Report of Committee of Selection: Motion.

An Leas-Chathaoirleach: The Committee of Selection reports that it has nominated the following Members to serve on the Joint Committee on Child Protection: Senators Geraldine Feeney, Derek McDowell, Sheila Terry and Jim Walsh.

The Committee of Selection reports that it has discharged Senator Shane Ross from membership of the Joint Committee on Enterprise and Small Business at his own request and has appointed Senator Joe O'Toole in substitution for him.

I move: "That the report be laid before the Seanad."

Question put and agreed to.

Institutes of Technology Bill 2006: Committee Stage (Resumed) and Report Stage.

Sections 23 to 25, inclusive, agreed to.

SECTION 26.

Mr. U. Burke: I move amendment No. 6:

In page 20, to delete lines 26 to 30.

It is difficult to understand why a particular official, director, president or so on with a view on a particular policy area would be restricted from expressing it, particularly at a committee as outlined. That opinion cannot or may not always be interpreted as a criticism of a Minister or Government, but if the person has a valid opinion relevant to an issue of policy or otherwise, he or she should be allowed to express it. Tying that person's hands seems to be a serious response if it is to be used to prevent an official from expressing a valid view instead of using this facility to criticise a Minister or Government. However, for a director to be prevented from expressing a valid view is a callous way of muzzling somebody.

Minister for Education and Science (Ms M. Hanafin): This is now a standard provision that appears in many other pieces of legislation. It only refers to the director of an institute appearing before the Committee of Public Accounts. A director appears before the Committee of Public Accounts to be accountable for the finances of his or her institute. In that context they cannot make excuses by saying, for example, that Government policy prevented them from spending more money. They can, however, say so much outside the door of the Committee of Public Accounts, to the media and in many other fora. It is only in so far as they are accountable for the expenditure in their colleges that they will not be allowed to criticise Government or ministerial policy in the Committee of Public Accounts. They can say they were or were not able to take a particular action as a result of Government policy but they cannot comment on whether the policy is good or bad. It allows them to say they did not go ahead with a particular building because of Government policy but they cannot go on to say the policy itself is detrimental. They can give facts but, when they are before the Committee of Public Accounts, they cannot give a commentary.

Examples of similar legislation for other bodies include the Ombudsman for Children Act 2002, the Houses of the Oireachtas Commission Act 2003 and the National Tourism Development Authority Act 2003. Outside the Houses those bodies have been vocal in their criticism of Government policy but they cannot be so before the Committee of Public Accounts.

Ms Tuffy: The Minister may have covered what I was going to ask. Was it in order for college heads to come out against the free fees initiative?

Ms M. Hanafin: Perfectly in order.

Mr. U. Burke: The Minister said directors cannot make excusesfor not spending certain moneys, if it could be taken as a criticism of policy. If, however, a director had a valid opinion it may not amount to an excuse and it may, in certain contexts, be appropriate to express it. The Committee of Public Accounts has, at times, been critical of Ministers and Government policy but where a director has a valid view as to the operation of his or her institute it is not right to muzzle him or her.

Ms M. Hanafin: From the opposite perspective, it also serves as a protection for the director. In the event of his or her appearing before the committee and being asked by the Chairman or another member as to their view on a policy, then rather than being drawn into a political debate, which is not their role, they have the protection of being able to say they are not allowed to comment. For the head of an academic institution it can work both ways.

Amendment, by leave, withdrawn.

Section 26 agreed to.

Sections 27 to 46, inclusive, agreed to.

SECTION 47.

Mr. U. Burke: I move amendment No. 7:

In page 30, line 30, after "Institute" to insert ", including a time scale for implementation,".

This amendment is similar to amendment No. 5 in that it recognises the importance of an implementation date for policies.

Ms M. Hanafin: As I said in respect of amendment No. 5, such a provision is not necessary and will not be accepted.

Amendment, by leave, withdrawn.

Section 47 agreed to.

Sections 48 and 49 agreed to.

SECTION 50.

An Leas-Chathaoirleach: Amendments Nos. 8 to 10, inclusive, are related and may be discussed together by agreement.

Mr. U. Burke: I move amendment No. 8:

In page 33, to delete lines 24 to 28.

[Mr. U. Burke.]

These amendments are similar to amendment No. 6. I still believe that there are instances when a valid opinion should be heard.

Ms M. Hanafin: The same principle applies as to amendment No. 6. Nobody is trying to muzzle directors in public fora, such as the media or their own conferences, because they have a major contribution to make to policy. As I said, it also serves as a protection for them, preventing them from being drawn into political debates in a Dáil committee by being asked to comment, either favourably or unfavourably, on Government policy.

Amendment, by leave, withdrawn.

Section 50 agreed to.

Sections 51 and 52 agreed to.

Amendment No. 9 not moved.

Section 53 agreed to.

SECTION 54.

Mr. U. Burke: I move amendment No. 10:

In page 37, to delete lines 46 to 50.

I hope this provision does not come back to haunt us in the future and that directors of institutes will not feel inhibited from expressing a view on what they feel may represent better policy going forward. If they are prevented from expressing opinions at meetings of the Committee of Public Accounts it would be regrettable.

Ms M. Hanafin: I reiterate that nobody is trying to muzzle chief executive officers or directors of any of these bodies because they have an important role to play in policy making. The place to play that role is not before the Committee of Public Accounts.

Amendment, by leave, withdrawn.

Section 54 agreed to.

Section 55 agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Business of Seanad.

Ms O'Rourke: I wish to amend the Order of Business by proposing that Committee Stage of the Hepatitis C Compensation Tribunal (Amendment) Bill 2006 be taken at 1 p.m.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Institutes of Technology Bill 2006: Fifth Stage.

Question proposed: "That the Bill do now pass."

Mr. U. Burke: I thank the Minister and her officials for presenting the Bill to the House. It is probably the most important recent Bill concerning third level education as it gives autonomy to the institutes which they have sought for a long time. It takes responsibility from the Minister's jurisdiction and puts it under the Higher Education Authority. It also provides a level pitch for the institutes with regard to the other third level institutions.

We all agree that the work of the institutes over the years, particularly in the regions, has been of tremendous benefit to the development of industry. Their close links with industry have benefited many small industries that needed expertise, support and guidance, which they received from the institutes in many different ways. The institutes in Athlone and Galway are both flagships in terms of their close identification with the development of industry in the area and, consequently, the creation of employment.

The institutes have many advantages over other third level institutions in that they have initiated many of the links with industry and have developed and extended those links. As a result, many new courses have been devised. It is appropriate, following the Minister's recent announcement with regard to science and technology, that the number of students enrolled on science-related courses in the institutes has increased. That is a great vote of confidence from those studying for degrees and other qualifications at the institutes.

I ask that every possible encouragement be given to the institutes to encourage adults to study there. If the OECD report highlights anything, it is the small number of adult students in third level institutions.

I hope the institutes will continue to grow and benefit from this legislation. All of the directors who communicated with public representatives in recent years have indicated the importance of allowing the institutes the increased autonomy which they have now been given. I hope it leads to continued success for the institutes.

Mr. Fitzgerald: It is obvious from her bringing forward of the Bill that the apprenticeship the Minister served from 1985 onwards, and her educational reskilling, coming as she did from a rich educational and teaching background, was not lost on her. The mission she embarked upon then has been taken to a further and much higher stage of fruition today by her enabling, facilitating and empowering the DIT and other institutes throughout the country to go forward with a mission, a vision and the pioneering spirit. It is a clear acknowledgement and demonstration by the Minister of what she saw then and sees now as

leading to a holistic journey for education, and the central and constituent role the institutes of technology play in that journey.

Well done to the Minister. She served her apprenticeship well from 1985 onwards, as she is clearly demonstrating today. I congratulate her for it.

Ms Tuffy: I thank the Minister and her staff. I reiterate the point made yesterday by Senator Ryan that it is very important for the Government and the State to provide the type of facilities available in universities for students in institutes of technology. The level of resources available has an affect on students. While students will consider the type of course and what they intend to do after college, the choice of where to study will be influenced by the type of facilities available. I know of students who have been happy with their education at institutes of technology but felt disadvantaged by the comparison with facilities at the universities.

I refer particularly to the facilities that help students to enjoy college life, not just those related to classes or the canteen. Some colleges have more space for clubs, societies and sports facilities and are effectively mini-campuses. Students might be in college until late at night and can spend the bulk of their time there. They need somewhere to mix and relax with fellow students. The institutes of technology need more resources to provide that service to the level that is available in some universities.

It is important that the institutes of technology have a role in terms of what is planned for the new type of medical education. If we want to develop access to medicine courses by people from different socio-economic and educational backgrounds, and mature students, it is important the institutes of technology feed into the postgraduate medical courses and perhaps develop a role in postgraduate medical education.

1 o'clock

Minister for Education and Science (Ms M. Hanafin): I thank Senators for their consideration of the Bill, which has given rise to a considered debate. It is always interesting to hear the range of direct experience — as students, teachers, board members, authority members and so on — that Members of both Houses have had. That experience has fed into the Bill, ensuring it gives the institutes of technology extra status, which not only concerns education but has also been backed up by considerable investment. Within a five year period, at least €8 billion will be spent on the higher education sector, which is an investment not just in students but also in the future of the country.

I must pay credit to the officials in my Department, including Mr. Gerry Murray and the legal officer, Mr. Dalton Tatton, who has given sterling service, but who unfortunately is leaving me for higher things. He certainly has put a great deal of work into this particular Bill. Go raibh maith agaibh.

Question put and agreed to.

Hepatitis C Compensation Tribunal (Amendment) Bill 2006: Committee and Remaining Stages.

SECTION 1.

Mr. Browne: I move amendment No. 1:

> In page 3, lines 33 to 36 and in page 4, lines 1 to 27, to delete paragraph (*b*).

I welcome the Tánaiste and Minister for Health and Children and her officials to the House. This amendment will ultimately remove the scientific tests for hepatitis C for people and leave matters as they were before, that is, dependent on clinical diagnosis which seems to have worked very well in the past. There were problems with the testing. The Tánaiste has admitted that the ELISA test is not fully satisfactory for people with hepatitis C and might not pick up on the condition. We would prefer to leave matters as they were. We believe that clinical diagnosis has worked well in the past and could do so, again, in the future.

Tánaiste and Minister for Health and Children (Ms Harney): I am not in a position, unfortunately, to accept the amendment. Senators made reference to this issue, yesterday, on Second Stage. We do not believe any genuine claimant will be affected by what is being done here. When legislation was proposed in this area in 1995-96, Mr. John Rogers SC and Ivor Fitzpatrick and Company Solicitors, on behalf of the affected groups, put forward the ELISA test as the diagnosis that should be acceptable in testifying to hepatitis C. I do not know why that was not accepted at the time.

In 1998, the expert group on hepatitis C chaired by the chief medical officer of the Department of Health and Children — which includes representatives from the liver consultants' group in Ireland and Positive Action — agreed that the ELISA test should be the standard accepted for getting the health card. That was a unanimous agreement and there was no difficulty about it. The Senator might ask why we are taking the opportunity to do it in this legislation and why there was no consultation, and I want to address that. This test is used in Canada and the UK. In Canada, in fact, not only must a claimant satisfy the ELISA test, but the results must be confirmed by another test. We are prepared to accept the evidence of ELISA, RIBA, PCR or any test that arises. If within 16 weeks of getting the anti-D product, a person presents with jaundice, that clinical diagnosis will be acceptable as well.

Why are we doing this? A case was refused by the tribunal that went before the High Court. Essentially, on the basis of fatigue, even though

[Ms Harney.]

the claimant had not presented before a doctor over many years and there were no records over a long period as regards illness, a substantial award was made, and there is another case pending. As a result, I believe it is important for the tribunal to have a scientific basis on which to be able to make awards. As everyone in this House has acknowledged, the tribunal has worked extraordinarily well. The tribunal is now bound to take on board the decision of the High Court, which clearly made its judgment on the basis that the legislation did not say any particular test criteria had to be met. We are therefore introducing internationally accepted scientific tests and saying that if a claimant was clinically diagnosed as having jaundice in the 16 weeks after getting the anti-D product, that will be acceptable. It is either one or another and it is not a case of the ELISA test being confirmed by something else. Any test will be acceptable.

Senator Ryan asked me yesterday why we had included RIBA and PCR, which, as he rightly said, were not in the initial draft. They have been inserted at the request of the various groups. As to why we did not discuss the issue with the various groups, clearly the Government is making a decision on something that can affect the public interest, where possible litigation can ensue, sometimes on a large scale. Remember, 15,000 people got the anti-D product in this country. We all accept that the vast majority, thankfully, were not affected with hepatitis C and the whole purpose of the compensation scheme and the insurance support as well as the health card is to support genuine claimants who were seriously infected as a result of the administration of blood and blood products in this State in the 1970s and the 1990s. I have described their situation as catastrophic. Unfortunately, I am not in a position to accept the Senator's amendment.

Mr. Ryan: The faith of the Attorney General in scientific tests is naive and touching. Science is not as precise as that. If somebody applied for disability benefit and a scientific test was called for to prove he or she was suffering from clinical depression, it could not be done. Neither could a scientific test, such as those the Tánaiste outlined, prove someone was suffering from schizophrenia.

A number of red herrings arise. From the famous 15,000 quoted by the Tánaiste, how many of those relate to the infected batches between 1991-94? My understanding is that a good number of the 15,000, if not the vast majority, are in those categories of infected people. The point is that the particular infection they received is different from that which people contracted in the 1970s. The infection in the 1990s is treatable and the vast majority of those people have been cured. That is what clinical hepatologists are telling us. It is the Tánaiste's job to respond to this. The fact Canada or some other country was excessively harsh is interesting but not central to the issue.

Similarly, the fact that my party colleague, Mr. John Rogers SC had a hand in drafting a Bill does not give him any more authority as regards what is appropriate for diagnosing a particular illness. He is a lawyer, perhaps the best, and a former Attorney General. However, the Tánaiste and I are in the Oireachtas long enough to realise that Attorneys General get things wrong. Some of the great embarrassments of Government have happened because of Attorneys General either giving bad advice or having poorly run offices. I have a number of questions, but let us deal with the 15,000 first. What proportion of the 15,000 is accounted for by people infected between 1991-94?

I do not know the purpose of this. I believe the Department of Finance got at this legislation and, being staffed by good civil servants, wanted something that was defined and precise, and did not want the wooliness of general medical diagnosis. I will come back to scientific evidence later but first I want to talk about the 15,000, because the Tánaiste raised it.

Ms Harney: Some 12,000 people received the product between 1991 and 1994, and of those 139 tested positive. My point on the KL case was that there was no evidence that the claimant received an infected batch of the product or had gone to a GP or other medics in the long period of time that elapsed. Yet on the basis of symptoms that can be related to other diseases, for example fatigue, the claimant got a substantial award. Given that the legislation required no specific diagnostic test, the court had no alternative. That causes difficulties for the tribunal. If I thought even one infected person would be denied entitlement to compensation, insurance or a health card, this would not be pursued. I have put much thought and discussion into this.

Although it is a medical and not a legal issue, it has legal consequences. Everybody here is aware of that. I am not making a point about Mr. John Rogers SC because I have the height of respect for him and it was 1995 and 1996. However it is interesting that this was put forward at that time. In 1998, which is more interesting, the expert group, including liver consultants and a representative of Positive Action said the health card should be given only if there is a positive test.

One cannot say a person may receive compensation without a positive test but may not receive the health card as that would be inconsistent. As infected people have serious health problems, they probably need the health card more than the compensation. As a gesture of goodwill I have decided that, in the context of this legislation, anybody who has received compensation or who has made an application that has not yet been determined either by the tribunal or the courts will receive the health card even if he or she does not test positively. Anybody who has received compensation but does not qualify for the health

card because he or she did not test positive will receive the health card from now on. This is a gesture of goodwill and because I am concerned about them.

This will bring consistency, as everybody who received compensation will also get the health card and insurance. However from 20 June, when this legislation was published, to qualify for compensation, insurance or the health card, people will have to have a positive test, ELISA, RIBA, PCR, or any other test that emerges, or have had jaundice up to 16 weeks after the administration of the anti-D product. That is accepting a clinical diagnosis or a scientific test. Nobody could argue that we should base the compensation scheme on the word of a doctor. We would not do it an any other area. It is not that I do not respect or trust doctors, but they make mistakes. We must go beyond doctors and have a scientific basis. Some 52,000 of these tests have been conducted in the centre in UCD by Professor William Hall and the personnel there have strong comments on the sensitivity of this test. I accept that some conditions, such as back pain or depression, are difficult to diagnose conclusively. We spent some time in this House in the context of personal injury insurance discussing whiplash. Some conditions have grey areas, but this does not.

Mr. Browne: Listening to the Tánaiste one wonders if this is a legal rather than a medical issue. I accept what she says, that the tribunal rejected the claim of a person who subsequently went to court, where a different ruling was obtained. I wonder if we are going about this the wrong way. Should the legal aspect of this draconian measure be examined? It is amazing that a court would take a different line from a tribunal. One would imagine that a person making a claim would have to prove that he or she has hepatitis C and contracted it through infected blood products, showing the State to be negligent. However, the Tánaiste said the courts overruled that and did not take it into account. I wonder if this is a legal rather than medical issue.

Mr. Ryan: We have established that 12,000 of the 15,000 were infected with a curable form of hepatitis C and are capable of being dealt with in a different way. Although I do not agree with the Tánaiste on much, I have great respect for her. With respect to her, it is a red herring to quote the 12,000 because we are not talking about that issue. The Tánaiste's virologist can tell her about longitudinal studies that have been done. He has publicly acknowledged that one study dates back to 1977. Follow-ups throughout the 25 years of the study found people who had initially tested positive but three years later tested negative on all tests. Similar and equally compelling tests have been done in parts of Germany, France and Italy and are available to the Department of Health and Children. These tests were peer-reviewed, published and not challenged, and they provide compelling evidence that a number of people who were infected in 1977 would not have tested positive for any of those three tests but would still be infected. We knew they were infected because the initial evidence showed that. Is the Tánaiste aware of this study?

Ms Harney: Does Senator Ryan suggest that such a person would not have presented with jaundice within 16 weeks of receiving the product? The court made the award in the KL case on the basis that the anti-D was probably given, although this could not be proved, and the person was suffering from, among other symptoms, fatigue. If we accept this basis, potentially everybody who received the product could receive compensation, with no scientific test or clinical evidence after the administration of the product. The Oireachtas, the public and the four groups we have sought to support through this legislation would not wish to see that. This is why we are introducing the requirement for scientific tests.

Of course it is a medical issue. We can never make up to the affected group for the damage done through compensation, health support, insurance or any other recompense. We are trying to do our best. We are trying to put in a level of support that any decent, civilised society should give to a vulnerable group of its citizens, approximately 1,700, who were infected with hepatitis C as a result of maladministration. In that context we are entitled to accept the scientific knowledge available. I am no scientist or medic. I do not know if that is a good or bad situation. When I became Minister for Health and Children somebody wrote to me and said she was delighted that at last a doctor had taken over at the Department. I realised she was confusing me with Senator Henry because she went on to say I treated her veins a number of years ago. I told Senator Henry about this and I understand she occasionally receives irate calls on her home telephone looking for me.

Mr. Browne: Perhaps the writer was psychic and foretold the day when Deputy Twomey will be Minister.

Ms Harney: It is a medical issue with legal implications. There are lawyers in this country who are more than happy to pursue any route available to them. We know about the compensation culture and no fair-minded person would want that to happen. Anybody else in my position who had the information available to me in the context of what has happened would take do the same.

Mr. Ryan: The Tánaiste accepts that there are people who will not test positive for any of these tests who have been infected with hepatitis C.

Ms Harney: Is the Senator suggesting they test positive? If they test positive anytime they will

[Ms Harney.]

receive the compensation. They do not have to test positive now.

Mr. Ryan: Jaundice is a varying illness and not everybody would get a clinical diagnosis for it. Some people would just deal with it. When I had jaundice as a child the doctor never came near the house because my mother knew what it was and I got better and went on. It was regarded as one of the hazards of life.

One might not have a clinical diagnosis which the legislation seeks. Somebody may not show up with jaundice and have it clinically diagnosed within the first number of weeks, and it has been scientifically proven that many lose all traces of what can be found by these three tests within as little as three years. Does the Department of Health and Children accept that this scientific study exists and that its conclusions are as I have stated? The answer is either "Yes" or "No".

Ms Harney: The Department is aware of the study to which the Senator refers.

Mr. Ryan: It is possible for somebody to have been infected and not test positive on any of these tests. We must accept that anybody who has been infected would have to have had such a severe level of jaundice that she would have it clinically diagnosed. I am not in a position to argue about that but I am told by people who know that it is not necessarily the case for everyone.

I must accept what Dr. Liz Kenny from Cork University Hospital says, namely, that a significant number of people would not show up under these tests and who she is satisfied are suffering from hepatitis C. She has been told that as an expert witness she will be manipulated by lawyers. She would have to swear a false oath. It would be possible to define the level of expertise necessary, namely, a consultant hepatologist and a consultant gastro-enterologist, or two of them. This happens all the time in company law cases and compensation cases across the spectrum. Expert witnesses swear on the basis of their professional judgment not according to some scientific test. That is universally accepted, except apparently in this case and I do not understand why.

We know that 15,000 people is the upper limit of possibility. The Tánaiste, however, seems to want me to believe that those 15,000 people would successfully persuade a consultant hepatologist, or two, to enter the witness box and swear an oath that the clinical symptoms indicated to their satisfaction that the person was infected with hepatitis C. I do not want to attribute negative motives to anyone but this Bill reflects a naive belief in the ability of science to solve the problem and so tidy it up.

I am something of a scientist. Science cannot prove what it cannot find. It can prove only what it can find experimentally. Science evolves by way of tests being done, experiments conducted and theories put forward. The theory is that these three tests are conclusive. The next level is to test that. That is done in the same way as the studies in Europe which showed that it is not scientifically valid to assume that those three tests are conclusive. The science the Tánaiste uses to justify this proves that it is wrong. One either believes science all the way or opts for a naive selective belief in science. The worst part of the Green movement is very good at picking out the little bits that suit its argument. To a degree the Tánaiste is culpable in the same way.

I do not believe the figure of 15,000 people. A colleague and I went through the analysis. People say the maximum number might be approximately 40. They are limited by certain categories, such as a time period, and being a woman who had a baby, who was rhesus negative and whose husband was rhesus positive. There may be 15,000 but there are few who would initially qualify.

I am at a loss to understand why a small amendment to section 1 to add the well-known symptoms cannot be accepted. The symptoms include fatigue, skin rashes, dry eyes and others with which the Tánaiste and her officials are more familiar than me. For a consultant hepatologist to say that he or she was satisfied is as scientific a conclusion as the one reached by somebody in a laboratory running a blood analysis. I am at a loss to understand the reluctance to accept science.

Mr. Browne: I am still baffled about the court case. Did the State appeal it when the award was made? I cannot understand how in the case of the person who did not prove receipt of contaminated blood and whose complaint the tribunal did not uphold, the court overruled that finding. While I accept the Tánaiste's point, and am happy with the scientific test, I wonder was the court decision appealed and if not why not. I find it incredible that a court could make such a ruling when the tribunal did not accept the case.

In the United States, 4 million people have hepatitis C which can be contracted through sex, contaminated needles, tattoos, etc. The Bill caters for people who contracted hepatitis C purely as a result of contaminated blood products, caused by the negligence of the State. It is incredible that the court would give money to a person who did not prove that he or she received contaminated blood from the State. Why did the State not appeal that decision?

Ms Harney: The State could have appealed that decision only on a point of law. Anybody who goes to the tribunal is entitled to appeal to the court, whether he or she received no award from the tribunal or was not satisfied with the award made by the tribunal. There is a case pending to be heard soon. This Bill does not affect any of those cases.

In respect of the 40 persons mentioned by Senator Ryan, they would have made an application to the tribunal or an application is in process. Why, almost ten years later would they not have done so? Why did all the experts consulted believe unanimously that the health card should be given only on the basis of this test but we should use other criteria for deciding compensation? I do not accept that because surely if one has an illness one needs the health benefit and the compensation would be of little benefit.

The health benefits reassure people. Only yesterday, a person who got an award through the tribunal, but did not qualify for the health card because she did not test positive, contacted my office to say how much she appreciates the fact that people in such circumstances will now receive the health card. She said it is reassuring for them because they do not have to worry about their health needs. The health card can be used not only for health services, but also for home help services, respite care and other similarly essential services.

The National Virus Reference Laboratory at University College Dublin, which is headed by Professor William Hall, who is a national and international expert in this area, accepts that this is the definitive test. There is no consensus among medical experts, to the best of my knowledge, that fatigue, dry eyes, aches and pains and depression are symptoms which can be attributed to hepatitis C.

Mr. Ryan: What about increased ALT liver function?

Ms Harney: Yes. The symptoms I mentioned can also be attributed to many other things, as we know. The consumption of alcohol, for example, can cause depression and fatigue and increased liver function. There is no consensus in that regard.

I would like to speak about the jaundice issue. We are talking about a woman who has just had a baby and would be in hospital during the period in question. It is not as if we are talking about somebody at home who had jaundice but did not contact anyone about it. If the person was in hospital during the relevant period, as I suggest she would be, it is clear that clinical records would exist to establish whether she had jaundice. I am not suggesting and I have never suggested that 15,000 people will suddenly be convinced by lawyers to start lodging applications for compensation.

Mr. Ryan: The Tánaiste is almost suggesting that.

Ms Harney: I am not suggesting that. I am saying that is the kind of potential number we are talking about, based on the High Court decision. I am not suggesting that such a figure would be realised. There is no doubt that a large number of such applications could be made on foot of the position in which we found ourselves after the High Court case. We know what happened in other circumstances — we had to take the lawyers out of the equation, in effect, in the case of personal injury claims. As a result, motor insurance costs have decreased by approximately €1 billion over the past three years and employers' liability insurance costs have decreased by approximately €300 million per annum.

Such reductions took place because we challenged a particular vested interest and introduced a new, speedier and more effective way for claimants to get compensation. This change has had a dramatic impact on the level of claims and the cost of making such claims. Before we took action, 50% of the cost of making a claim comprised legal fees which were paid to lawyers. The Government's proposals in this regard are fair and reasonable. No genuine claimant will be adversely affected by what we are doing.

An Leas-Chathaoirleach: Is amendment No. 1 being pressed?

Mr. Ryan: I am not quite finished discussing this amendment, a Leas-Chathaoirligh.

An Leas-Chathaoirleach: We have been considering this amendment for over half an hour. The Senator can ask a final question.

Mr. Ryan: I would like to say more than that. I wish the Tánaiste had been more careful with her words when she referred to "no genuine claimant". She said that 14 weeks after receiving——

Ms Harney: I said "up to 16 weeks".

Mr. Ryan: Given that the people in question do not tend to spend 16 weeks in hospital, the Tánaiste has accepted that people could develop jaundice long after they leave hospital. I do not doubt the Tánaiste's bona fides. As I have said on three or four occasions — I do not intend to test the Leas-Chathaoirleach's limitless patience much further on the last day of the session — we have been hijacked by people who have a wrong understanding of science.

I do not doubt there is a clear possibility that somebody could have jaundice without it being clinically diagnosed. There is clear scientific evidence from well-tested studies across Europe that people who were originally infected could have tested negative, under all three tests, three years later. The study to which I refer was conducted between three and 23 years after the event. Therefore, the Tánaiste accepts that there could be people who will test negative under all three tests. She is relying on there being a clinical diagnosis of jaundice in the cases of such people. I do not know much about jaundice, but I have been told that not everyone who has it goes to a doctor

[Mr. Ryan.]

and gets a clinical diagnosis. It is possible that genuine people will be affected in this way.

I do not want to get into a debate on the origins of this problem, because it was not the Tánaiste's fault — she was not there at the time. I do not dispute for a second that the Tánaiste has dealt with many of the State's failings in this instance with considerable courage. A tone that is becoming evident in her defence, however, reminds me of words which were put in the mouth of a former Minister for Health, who spoke about the need to defend the financial position of the State. We are talking in this instance about people who were poisoned by the State. There are many ways of reducing the numbers involved — it has been decided that the people in question must be likely to have been recipients of contaminated blood over a period of time.

Somebody in the Office of the Attorney General got involved with this Bill and decided it was nice to have scientific tests. I accept that the advisory group said that too. It should be borne in mind that hepatitis C is an illness with a limited history. It is new in the sense that it did not exist, or was not known, 20 years ago. It is not the subject of a great deal of history. I assume the advice that was given and accepted seven or eight years ago was based on what was known then. I presume we are having this argument because what we know now is more comprehensive than what was known then.

I am absolutely certain that a small but significant number of cases will, regrettably, become *causes célèbres*, like some other tragic cases in this country in the past, because it will transpire that the people in question are not covered by any of the provisions which are being made in this Bill. I refer to people who, from now on, will be diagnosed late and, as a result, will not be able to go before a tribunal. Such problems will have developed because somebody in the Office of the Attorney General got the wobbles about crooked lawyers and developed what could be most generously described as a naive view of the universal validity of scientific tests. We now have comprehensive scientific evidence that the three tests mentioned in the legislation are not universal and do not always apply. If I have to choose between an analyst in a laboratory and a clinical hepatologist, I will believe somebody like Liz Kenny because I think practitioners are the best judges.

That is my final word, a Leas-Chathaoirligh. It is a matter of considerable regret that the Tánaiste is walking into something that could end up seriously tarnishing her reputation.

Ms Harney: Senator Ryan and I will not agree on this matter. Does he accept that the tests in question are used throughout the world to establish that blood is safe to be transfused to seriously-ill people? They are tests which are used. The Senator is saying they are not acceptable in the context——

Mr. Ryan: Yes. I will answer that.

Ms Harney: That is the reality. There is no consensus anywhere of which I am aware — in Ireland or internationally — that the symptoms to which the Senator refers are associated solely with hepatitis C. While many people have opinions on the issue, there is no consensus on it. Opinions are not sufficient in this case.

Mr. Ryan: Okay.

Ms Harney: I will repeat what I have said previously. If it is the case that as late as 1998 the expert group, which included a representative of Positive Action——

Mr. Ryan: That was eight years ago.

Ms Harney: Yes. Nobody has contended since then that it was not the basis on which a health card should be given. The affected group, which was upset at the time that it did not get the health card, will now get the card because I think it is fair that it should. We are bringing clarity and consistency to this area. The same principles will apply to compensation, insurance and the health card.

The members of the expert group, including liver consultants, a representative of Positive Action and the Chief Medical Officer who chaired the group, believed that the health benefits should be bestowed only on those who tested positive under the ELISA test. Therefore, I cannot understand why we should use another method when making decisions on compensation. I do not believe that a woman who developed jaundice after giving birth and having a blood transfusion would not have done something about it. The likelihood that a woman who just had a baby would not seek medical attention in such circumstances is quite small.

Mr. Ryan: The Tánaiste asked me whether——

Ms Harney: I am not——

Mr. Ryan: The answer is that the scientific study shows that the shortest period of time in which those tests were found not to be positive was three years. One presumes that the blood that will be used for transfusions will be tested. I sincerely hope the blood transfusion service tests the blood products soon after it receives them and does not leave them for three years in storage. According to the scientific study, these tests will always be positive if they are conducted within three years of the infection. The symptoms would be——

Ms Harney: We accept the blood tests from anti-D product recipients who test negative. It is right that we do. Using Senator Ryan's argument, we would not.

Mr. Ryan: The blood transfusion service is still finding a few people who are infected every year. On the diagnosis, separate from the tests, it concerns rhesus negative women who had a baby whose father was rhesus positive. In time, they can also have a raised ALT level, joint pain and so forth. This is not a large amorphous group. It is a group who are within a clearly defined at-risk category who also have these symptoms. That is a perfect legitimate way of targeting that group. If the original legislation was sloppily drafted so that the courts did not have to ensure the person received infected blood, then the fault lies with it. The Tánaiste and Minister for Health and Children must accept that the representative groups are outraged by this. They will never trust the Department of Health and Children again. They know the Tánaiste and Minister for Health and Children will move on and a new Minister will be appointed but they will never trust the Department again because they believe they were let down.

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

The Committee divided: Tá, 27; Níl, 16.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
Mansergh, Martin.
Minihan, John.
Moylan, Pat.
Ó Murchú, Labhrás.
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.
Feighan, Frank.
Finucane, Michael.
Hayes, Brian.
Norris, David.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Browne and Cummins.

Question declared carried.

Amendment declared lost.

Section 1 agreed to.

SECTION 2.

Mr. Browne: I move amendment No. 2:

In page 4, line 30, to delete "by substituting" and substitute the following:

"by—

(*a*) inserting the following after paragraph (*a*):

"(*b*) a person who

(i) has been diagnosed by a consultant hepatologist and adjudged by him or her to most likely have Hepatitis C, and

(ii) has no risk factor that would indicate a risk of contraction of Hepatitis C other than the receipt of contaminated blood products," and

(*b*) substituting".

Section 2 relates to eligibility for compensation in respect of loss of consortium. Fine Gael is concerned that people entering into new relationships would not be covered under the proposals and we seek to address that by amendment. If a person who has contracted hepatitis C through contaminated blood products goes into a new relationship, he or she will not be covered by the legislation. We take the view that this is unfair on them.

Ms Harney: There is no question but loss of consortium is covered by the compensation scheme. In fact, Judge Murphy from the tribunal has assured us that this is fully taken into account because I was sympathetic to introducing an amendment to ensure that young people were not adversely affected because they had not yet formed relationships. What we are doing here is

[Ms Harney.]

removing the possibility that somebody could get compensation for loss of consortium in a situation where the diagnosis had been made before the relationship began and therefore they could not lose something they did not already have. Loss of consortium is the change in a relationship as a result of a diagnosis and clearly if a diagnosis is known before a relationship begins, that does not arise.

I understand that in five cases where compensation has already been paid for loss of consortia, second relationships have been formed. I do not think it is reasonable or fair that in those circumstances compensation would be paid for loss of consortia. However, partners or spouses are entitled to get out of pocket expenses or to be compensated for mental distress, loss of society and other things. There is no question of that.

Young people infected with hepatitis C who have not yet formed relationships will, as part of their compensation package, get damages for future loss of consortia. The judge has reassured us on that point so therefore there is no need to introduce an amendment. All we seek to do is to bring clarity to what is the intention, namely, that loss of consortia should be given in cases where there is a loss of consortium, but in cases where the partner or spouse was aware of the infection at the time the relationship began, clearly he or she cannot claim for loss of consortium although he or she can claim for a host of other things. I think that is fair and reasonable.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Acting Chairman (Mr. Brady): Amendments Nos. 3 to 5, inclusive, are related and will be discussed together by agreement.

Mr. Browne: I move amendment No. 3:

In page 4, line 46, to delete "or".

Amendments Nos. 3 and 4 are purely technical and are dependent on amendment No. 5 being passed. I welcome the Minister of State, Deputy Tim O'Malley, to the House. I am aware he has been in the Dáil Chamber for the past couple of hours.

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The purpose of this amendment is to add a new type of claimant to the tribunal, namely, someone who was not diagnosed by a consultant hepatologist prior to the commencement of the paragraph. However, the Bill emphasises that such diagnosis is not sufficient when there are internationally accepted scientific tests which demonstrate that the person was infected at some stage with hepatitis C. I propose therefore that these amendments are not accepted.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendments Nos. 4 and 5 not moved.

Mr. Browne: I move amendment No. 6:

In page 5, between lines 6 and 7, to insert the following:

"(v) who was a minor on the date on which he or she was diagnosed positive for Hepatitis C or HIV,".

The purpose of this amendment is to provide specifically for those persons who were minors when they were diagnosed with hepatitis C or HIV.

Mr. T. O'Malley: Section 2 relates to the issue of consortium. 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". This form of compensation applies in common law to the spouse or partner of the injured party only. It does not have legal application to the injured party. 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 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.

No partnerships already formed and no applications already submitted to the tribunal will be affected by this legislation. I do not propose to accept this amendment.

Amendment put and declared lost.

Mr. Browne: I move amendment No. 7:

In page 5, line 10, after "HIV," to insert the following:

"but these sections shall not apply in relation to any claim for compensation to the Tribunal before the 20th of June 2006,".

This amendment will ensure the new Act does not affect those persons who made claims to the tribunal prior to 20 June 2006.

Mr. T. O'Malley: This amendment proposes that section 2, in respect of the loss of consortium, should not apply in regard to a claim for compensation to the tribunal made before 20 June 2006. It is not my intention to commence this subsection until the date of enactment of the Bill, which will obviously be later than 20 June 2006. Unless I misunderstand this amendment, the text in the Bill represents a slightly more favourable provision. I do not propose to accept the amendment.

Amendment put and declared lost.

Question proposed: "That section 2 stand part of the Bill."

Mr. Ryan: As I said on Second Stage, the extraordinary aspect of this Bill is that the Government managed to turn what should have been good news into a highly political issue. It is matter for political scientists to discover how this was done.

I compliment the Government on the breadth of section 2. The willingness to take into account non-marital, including same-sex, relationships is a brave step. Those of us in the Opposition who sometimes have great fun at the Government's expense ought to acknowledge when it does something right. This is a brave step and it is the correct one. It must have passed unnoticed by some of our moral arbiters or perhaps they felt they could not fire their moral arrows given the group of people they would hurt. It is undoubtedly a step on the way to providing some compensation to those people.

I hope, moreover, it will be a model for reform of our legislation generally to ensure that stable couples, whether of the same or opposite genders, will acquire a body of rights. It is a pity that, in general, the same-sex partner of a person who is seriously ill with an illness like hepatitis C or HIV does not have next of kin status and has no inheritance rights under law. There is no need to refer to "gay marriage"; it is a question of legal recognition for partners in terms of inheritance rights and so on. This Bill is a step in the right direction in this regard and I compliment the Government on that.

Mr. Glynn: This section deals with the reality of life for those affected by this terrible condition. That our primary concern should be the welfare of the victims is given *de facto* recognition in this section.

Question put and agreed to.

SECTION 3.

Question proposed: "That section 3 stand part of the Bill."

Mr. Browne: In her speech on Second Stage yesterday, the Tánaiste and Minister for Health and Children referred to certain age limits in respect of some aspects of the insurance scheme. She said:

> 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.

Senator White has led the way in the House on the issue of ageism. Will the Minister of State clarify the purpose of this provision? I am concerned it constitutes a form of ageism but I may be misreading it.

Mr. T. O'Malley: My understanding is that this particular age limit was agreed with the four representative groups and that they are satisfied with it.

Mr. Browne: I accept the Minister of State's response. However, I am always concerned about the inclusion of specific age limits in legislation. None of us knows when we will leave this life. A person eligible for this insurance scheme who lives to 100 years would be without coverage for 25 years. Perhaps the Minister of State will consider whether this should be amended in future.

Mr. T. O'Malley: My understanding is that an age limit of 70 years is the norm in insurance. In this case, 75 years was accepted as the limit. The representative groups were agreeable to this because it is to their advantage. However, I will get back to Senator Browne on this issue.

Mr. Browne: My point is that a person of 75 years is no longer considered old. When people die in their 70s these days their deaths could be considered premature. Given that people are increasingly living longer, I am nervous of including a specific age limit in legislation such as this.

Question put and agreed to.

SECTION 4.

Mr. Browne: I move amendment No. 8:

In page 15, to delete lines 40 to 50.

This amendment relates to amendment No. 1 and refers to the testing procedure. Both Senator Ryan and I have elaborated on the several reasons for our dissatisfaction with the provisions in this regard. Given that amendment No. 1 was not accepted, however, I do not expect that this one will be either.

Mr. T. O'Malley: It has always been the intention that legislation would be consistent across all of the legislative schemes, backing up supports to persons infected by hepatitis C and HIV from the administration of blood or blood products within the State. This section of the Bill emphasises the insurance scheme will be consistent with the other two schemes and I cannot therefore accept the amendment.

Amendment, by leave, withdrawn.

Section 4 agreed to.

Sections 5 to 7, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I request the Chair to direct the Clerk to make two corrections to the Bill under Standing Order 121. On page four, line three and again on page 17, line 16 to insert the word "or" after the word "assay" in each case. This would not affect the meaning of the text but would clarify the intention of the section.

Acting Chairman: I will arrange for the Clerk to do that.

Mr. T. O'Malley: I thank the Acting Chairman and all of speakers who have participated in the enactment of this sensitive legislation. Members of both Houses of the Oireachtas, are conscious of the pain and hurt caused by the State to these people over the years. This legislation is very worthwhile and I particularly thank the four groups representing the 1,700 people infected by the State for their input. I thank the officials of the Department of Health and Children and everyone involved in this difficult legislation. The Government has done the right thing and has paid attention to all views expressed on all sides of the House.

Mr. Browne: I concur with the comments made by the Minister of State in thanking the officials for the work they have put into this. I also thank the Tánaiste and Minister for Health and Children, Deputy Mary Harney, for appearing before the House today and yesterday, the Minister of State and the other spokespersons.

Like Senator Ryan, I knew this Bill was on the way and made inquiries about it. I was told it was very simple, uncomplicated and that everyone would be happy with it. We now know that was not the case. This has happened before and hopefully the next health Bill before this House will not be as contentious. I acknowledge the complications involved and feel the Tánaiste clarified today some of the points on testing, although we are not happy with the testing element in the Bill. It is vital that people who were genuinely adversely affected by a blood transfusion in the past be adequately compensated to allow them and their families get on with their lives. The case the Tánaiste and Minister for Health and Children mentioned this morning is amazing and may present work for another day. I appeal to those genuinely affected to claim compensation. Those who are not affected, yet make claims, do a disservice to people in need. We should do what we can to discourage such actions.

I compliment the Irish Haemophilia Society, Transfusion Positive, Positive Action and the Irish Kidney Association, all of which have communicated with the Members here today. We sought to have some of their amendments made and, hopefully, our debate today might bring clarity to some issues for them.

Mr. Ryan: As I said on Committee Stage, this should have been a good news Bill which would have seen us trying to persuade the Government to be even more generous. Instead it has, in both Houses, shown a mistaken judgment by the Government that sought to introduce scientific clarity in a naive way. I do not believe science is as developed as that. If one believes in science one believes in the scientific method, which means one considers the evidence as it evolves. The evidence, now, is that the three tests are not conclusive and people can be infected yet not be detected through these methods.

I believe this Bill will, sooner or later, lead to high-profile embarrassment because somebody will turn up, clearly infected and with the support of medical consensus to that effect, who had not made a claim up to that point and will be denied compensation.

As I said on Committee Stage, I admire and compliment the generosity of the Government's definition of partnerships. It is a good day for the country and for the recognition of the realities of life and who matters in people's lives, as Senator Glynn correctly said. We will have to recognise those realities as a society, perhaps in a more formal fashion, hopefully in the not too distant future.

Mr. Glynn: I thank the Minister of State at the Department of Health and Children, Deputy Tim O'Malley, the Tánaiste and Minister for Health and Children, the officials, the Clerk, the Seanad staff and all involved in the passing of this legislation on all sides of the House. I compliment the four groups concerned on their efforts and communications with all sides of both Houses. This is a very important piece of legislation that gives recognition to the plight of people cast in a scenario where the cure was worse than the disease. Whatever we do cannot compensate for this.

One of the curses of being human is that we feel so helpless at times in addressing situations such as this. However, I believe that this Bill will help people who heretofore could not get insurance at all or could not do so without paying prohibitive premiums. I believe this is a step in the right direction. We must deal with the realities of life. We are discussing human beings, irrespective of status, who have been affected in a particular way. Hepatitis C and related conditions are terrible. When a person goes to hospital to receive a blood transfusion, that person believes it will be beneficial in dealing with his or her complaint. This turned out not to be the case for a number of people.

As the Tánaiste rightly said, nothing can compensate people for what has happened. I am glad this Bill will be passed, it is another step in the right direction. I hope in the near future other legislation may be enacted to alleviate further, in a small way, the plight of the people concerned.

Acting Chairman: I also thank the Tánaiste and the departmental officials.

Question put and agreed to.

Sitting suspended at 2.20 p.m. and resumed at 3 p.m.

Planning and Development (Strategic Infrastructure) Bill 2006 [*Seanad Bill amended by the Dáil*]: Report and Final Stages.

An Cathaoirleach: This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 103, it is deemed to have passed its First, Second and Third Stages in the Seanad and has been placed on the Order Paper for Report Stage. On the question, "That the Bill be received for final consideration", the Minister may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For the convenience of Senators, I have arranged for the printing and circulation of those amendments. The Minister will deal separately with the subject group of each related group of amendments. I have also circulated the proposed grouping in the House. A Senator may contribute once on each grouping but I remind Senators that the only matter that may be discussed is the amendments made by the Dáil.

Question proposed: "That the Bill be received for final consideration."

An Cathaoirleach: I call on the Minister to speak on the first group of amendments.

Minister for the Environment, Heritage and Local Government (Mr. Roche): I am pleased to report back to the House on a number of amendments made by the Dáil to the Planning and Development (Strategic Infrastructure) Bill 2006. The Bill was debated at great length in both Houses, with the debate starting in this House. Planning legislation seems to stimulate vigorous debate. Almost 70 Deputies contributed to the Second Stage debate in the Dáil, which was held over the course of four consecutive weeks. This level of engagement was continued in the highly detailed and constructive deliberation and debate on Committee and Report Stages.

A total of 138 amendments to the Bill were made in the Dáil and I was happy, in a number of instances, to accept Opposition amendments or to make amendments on Report Stage in response to points made during Committee Stage discussions. In light of the significant number of amendments made to the Bill, it would not be possible to deal with each individually so, as the Cathaoirleach has said, we have grouped them in terms of their significance.

Amendment No. 1 deals with section 3. We had a very long discussion on Committee Stage on the criteria on which the board will base its decision as to whether a particular project is strategic. Senators will remember that if a proposed project is of a type listed in the Seventh Schedule of the principal Act, the infrastructure provider must enter into consultations with the board. The first decision the board will take is whether the project is in fact strategic in nature. It will base its decision on the criteria set out in section 37A(2), which we discussed at length here.

While I was happy that the criteria were clearly set out in that section, on foot of the debate I have agreed to amend slightly the reference to the national spatial strategy and the regional planning guidelines. I amended 37A(2)(*b*)to require that the project would contribute "substantially" to the meeting of an objective in the national spatial strategy or the regional planning guidelines, rather than "significantly", as the paragraph read initially. This shows our intent that only the most important projects should qualify for the new consent process. The clarification on this point also makes it more evident that the Bill, when enacted, cannot be abused by private speculators who have something other than the wider public interest at heart.

Mr. Bannon: I welcome the Minister to the House and note he has taken on board many

[Mr. Bannon.]

amendments which were first tabled in the Seanad. He did not see fit to accept them at the time but I am glad that when the Bill was debated on Committee Stage in the Dáil and adequate time was provided to discuss those amendments further, the Minister took many of them on board. Those important amendments will strengthen the Bill and make it better, which was the aim of this House when the Bill was discussed here previously.

An Cathaoirleach: I ask the Senator to focus on amendment No. 1.

Mr. Bannon: Certainly. The Minister referred to the regional planning guidelines and I ask him to review those guidelines over the summer because they are not working. He must contact all of the local authorities in the State to determine how they are implementing the guidelines because there is an enormous variation between one local authority and another. When one is in a constituency that crosses two counties, one gets a flavour of what is happening in two different authorities. Many unfair decisions are being made in one county. It is easier to get planning permission in one county than in the other. This should be rectified.

We should have a uniform system of planning throughout the country. That is not the case at present and it must be addressed, particularly with regard to once-off dwellings and farmhouse developments such as slatted houses. I have seen situations where people are trying to comply with planning legislation passed in these Houses but they are not being facilitated by local planners. This issue that needs to be addressed.

On the issue of major infrastructural projects, many farmers are now developing quarries. Quarries are valuable assets for farmers to have on their lands. Farmers may apply to their local authority for planning permission to develop the quarry and extract the quarry stone and if the decision on the application is appealed to An Bord Pleanála, it may refuse planning permission for such development. This has been the experience of constituents of mine in counties Longford and Westmeath. It has also been the experience of farmers in other parts of the country. Therefore, this matter needs to be seriously examined and addressed. I hope I will have an opportunity to speak on other amendments. However, the issues I outlined need to be addressed urgently.

We have been criticised for our inability to deliver projects on time and within budget. The Minister's portfolio does not extend to the area of transport.

An Cathaoirleach: I ask the Senator to stick to the grouping of amendments under discussion.

Mr. Bannon: This matter is related. A 12 km stretch of the M4 motorway has to be repaired and replaced. That work will necessitate the closing of lanes during the summer months.

An Cathaoirleach: We are dealing with amendments made to the Bill in the Dáil.

Mr. Bannon: I am dealing with those amendments. In the interests of accommodating members of the public, whom we all represent, it would only be fair if the barriers could be lifted when the repair work is being carried out as otherwise the work will give rise to bottlenecks.

An Cathaoirleach: That is a different matter. I call Senator Ó Murchú.

Mr. Bannon: It is a major infrastructural project that was delivered and the issue I outlined needs to be addressed.

Labhrás Ó Murchú: This is excellent legislation. The Minister and his officials should be complimented on the consultative process that was put in place and the opportunities and time given to people to make an input, which is as it should be. The area of planning is currently possibly one of the most contentious issues. We know that in this House because at every opportunity a planning issue is raised.

One issue that is gaining prominence is that of wind farms. There will be few places where this issue will not come centre stage. As with all relatively new developments, the positive and the negative aspects of them are put forward. I recall when we discussed the issue of asbestos and it was proposed to locate an asbestos dump in Ovens in County Cork. Some of the people present are too young to remember that debate but I remember it well. The experts at that time made it clear there was no inherent health danger from asbestos. We all know that is not true because asbestos is cancer inducing. One dare not even remove asbestos except under the strictest conditions, which also apply to its disposal. That illustrates that it is right at times to listen to what people say on such issues and to listen to people who express a commonsense view. We also need to carry out sufficient research to obtain all professional information available on such developments.

I am informed that an issue related to wind farms is a cause of concern to medical people. As the sun sets and sunlight reflects on the blade of the windmill, there is as a flicker effect which can trigger various ailments, including epilepsy. If a person suffers from epilepsy, such an effect can severely aggravate it. That is a major concern because that is only one medical condition that is triggered by that flicker effect, but I am sure it may impact on many more.

There is also the issue of the flicker effect on animals. I am informed that it can have a major impact on animals, particularly bloodstock and horses. The Minister will understand the point I

am about to make. I am not putting the concern of the impact on animals above that of its impact on human beings, but the former is an issue that should be considered. We have a thriving bloodstock industry in Tipperary. People in Kildare and other parts of the country would say likewise about their counties. This industry is world famous and it means a great deal to us. If there is an inherent danger associated with wind farms, about which there is a growing concern, and the flicker effect can have a bearing on animals, this issue needs to be considered.

If provision to deal with this issue is not included in this legislation, guidelines or other measures might be prepared. The two issues I outlined, namely, the human and the animal aspects, are serious. I would like to hear a response from the Minister on this matter.

Mr. Kitt: I support what the Senator said. I will not cover the ground he covered on windmills. I wish to raise the issue of the national spatial strategy which is covered in this group of amendments. Senator Bannon referred to one-off houses. I also have a concern about that and I may deal with it when we reach a later amendment.

We should examine the settlement centres and development areas, particularly in our towns. The Minister recently visited Galway and we were delighted to spend a few hours with him discussing various issues regarding the way our villages and towns will be developed and such settlement centres. We had a useful meeting with different communities on improving water supplies, particularly the provision of small sewerage schemes in our towns, which is very much in line with the national spatial strategy.

We are lucky in the town of Tuam that it has been designated as a hub town. There are gateway and hub towns right along the west coast, and it is important that we build on that development. The development of towns and village settlement centres should be promoted. That issue is as important as one-off housing. I would like the Minister to take that issue on board.

Ms Tuffy: I was involved in the work that went into the Adamstown planning scheme, which is probably the best planning example we have at this stage. The Minister might think I am exaggerating, but I urge him to ensure the Government designates more strategic development zones.

The Adamstown plan took time to complete but it was worth it. However, the work involved did not take an excessive amount of time and relations were less fraught than if every planning application was objected to along the way. The plan was prepared as a whole unit. Any future planning permissions in the area must fit in with the Adamstown planning scheme.

The scheme was council and community-driven rather than developer-driven, although the developers were very much brought on board. It has mandatory requirements in terms of infrastructure and provides for the phasing in of infrastructure. It builds a community as a whole. An overview of all requirements was taken before the plan was drawn up as opposed to what would have happened otherwise. All the houses would have been built in any event in Adamstown but the development would have taken place in an *ad hoc*, piecemeal way without the safeguards that are in place in regard to infrastructure.

I urge the Minister to designate other areas as strategic development zones because the exercise in which I was involved was worthwhile. The Minister will not find a better example of planning in Ireland. While such a model is slightly removed from the point of what we are discussing, it could be related to the national spatial strategy.

Mr. Roche: I fully appreciate that the Senators want to make a brief contribution in the broadest sense. I agree with Senator Tuffy. The Taoiseach regularly points out to me that this is a good approach for precisely the reasons the Senator outlined. This plan was holistic, it involved the community and the local authority. It dealt with infrastructure and the social supports that were required to be put in place.

I also agree with the Senator that it does not arise directly under the Bill, but she will be aware that I have tried to move a little bit further in that direction. I have asked local authorities to be conscious of social infrastructure needs. We cannot simply build houses, we must build communities and in that context provide recreational facilities. While that would not be directly covered in this legislation, the Senator is right in the general sense that if we are to have a spatial strategy, strategic development zones are very much a part of it.

The rural housing guidelines are not strictly covered by the legislation. Senators Kitt and Bannon expressed concern about the rural housing guidelines and differentiation. My spatial strategy division is in regular contact with local authorities. There is evidence that the guidelines are being applied consistently but we will keep an eye on this matter. The Bill does not cover quarrying.

Senator Ó Murchú raised a very interesting point about the emerging debate on wind farms. The Bill places the threshold at 50 turbines, which is a very large amount with a certain output in terms of megawatts. Fine Gael tabled a number of amendments suggesting that we reduce this threshold towards 20 turbines. I did not agree with this proposition, although I fully understood the logic behind it and the concerns held by Fine Gael about wind farms. Fine Gael believes that the new progressive piece of energy system should be rolled out. I did not reduce the threshold from 50 to 20 because I wanted to keep a strategic size in mind.

[Mr. Roche.]

Senator Ó Murchú raised a very interesting point about one of the emerging issues in the debate on wind farms, namely, the issue of shadow flicker, of which I am aware. As the light falls, particularly during evenings when one looks towards the west and perceives very strong sunlight, an intervening wind farm could produce a variety of optical or visual effects. I am concerned about shadow flicker and Senator Ó Murchú will be pleased to learn that I have already addressed this matter.

I circulated the new guidelines on wind farms to the Senator last week. These guidelines deal with smaller wind farms and arise, in part, from the debate we had on the merits of farms with a strategic size of 50 turbines compared with 20 turbines. I put a condition into these guidelines requiring the non-operation of wind farms at times when predicted shadow flicker might adversely affect on an inhabited dwelling within 500 metres of a turbine, where such a provision may be appropriate. I was worried about the issue of epilepsy and effects on humans. Clearly, local authorities can, and should, use their powers in that regard. We will keep a close eye on how these guidelines are operated.

Senator Kitt kindly referred to a recent meeting I held in Galway with him, some of his colleagues and the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cúiv. During the meeting, they made a point which has been repeated in this debate. They made a very cogent argument about the meaning of the term "strategic" in different parts of the country. They specifically related it to the size of power lines. I had stated previously that a strategic power line would be a very substantial line of 220 kV. For a range of reasons, I did not originally intend to include 110 kV lines. I wish to put on the record of this House that the cogency of the arguments put forward by Senator Kitt and arguments put forward during the debate in the Houses of the Oireachtas, where reference was made to the specific needs of Galway, Mayo, Sligo, the general western seaboard and the border midland and western region, persuaded me to amend the Bill to change the amount from 220 kV to 110 kV. This will be very helpful, particularly in medium-sized towns and growing villages in the west.

A renaissance is taking place in the west of Ireland. I recently visited Ballyhaunis, Claremorris, Castlebar and Westport and was staggered by the degree of development taking place. This state of affairs is very positive. It is clear that the arguments made by Deputies and Senators, particularly those made by my colleague, Senator Kitt, were good and compelling. It is for that reason that I amended the Bill.

To return to the point made by Senator Ó Murchú, the issue of shadow flicker does not directly arise out of the Bill but I have already anticipated it in the guidelines. If he is concerned about the guidelines, we can discuss them further.

An Cathaoirleach: Group 2 consists of amendments Nos. 2, 16 and 51, which deal with the effects of development on proper planning, sustainable development and the environment.

Mr. Roche: During my remarks on Second Stage I stated my belief that the expertise of the board should be fully employed in the planning process as early as possible. I have introduced a number of specific amendments to this end. Amendments Nos. 2 and 51 extend the powers of the board to give advice on what considerations in respect of environmental effects of a proposed development will be taken into account. This provision is very important. A number of Deputies and Senators, particularly Deputies from a variety of parties, made the point that on many occasions, environmental impact statements are presented in a sloppy fashion and that issues arise out of this. I introduced these amendments to extend the powers of the board to give advice. The advice will be given during the initial pre-application discussions with applications for consent for strategic infrastructure for electricity transmission lines or gas pipelines. In essence, the board will have the power to advise on environmental aspects in general, as well as to respond to a specific technical scoping document. This is a significant improvement which has come out of the debate.

Amendment No. 16 will ensure that the planning authority, including the councillors, will include its views on the effect on the local environment of a proposed development in its report. Senators felt it was particularly important that matters be clarified for councillors regarding what will be included. This amendment strengthens matters and clarifies the role of councillors and will be welcomed by Senators because Senators from all sides of the House referred to the significance of bringing councillors into the picture. Members in the other House were less taken with the importance of this measure than Senators or myself. I have been pleased by the support the Seanad has given this measure. The amendments reflect some of the concerns and issues discussed here.

Mr. Bannon: The Minister is wise to accept the amendment even though it only concerns one word. It is our environment, which we must protect and look after. I understand that a heritage and monuments Bill will come before the House. We have been waiting for such a Bill for a long time. It would protect much of our national monuments. We have heard that it is due but we have not received an update as to when it will come before the Houses. It should be brought forward because we possess monuments which we appreciate very much and wish to see. They are part of our heritage and what we are as a

nation and should be protected. I understand that the Bill will come under the area of environment. Perhaps the Minister could update us as to when he will bring forward legislation in this area which relates to the environment and must be addressed by him.

An Cathaoirleach: We are dealing with the Planning and Development (Strategic Infrastructure) Bill.

Mr. Brady: I also welcome the inclusion of the environment in the overall picture. The crucial phrase in this particular section relates to the sustainability of these developments. A number of major infrastructural and housing developments are being built around Dublin city, particularly in the docklands area, where the ongoing sustainability of developments are crucial. The sooner all these issues are addressed, whether it is at the environmental impact assessment stage or later when the environmental impact study is produced, the better. It is crucial that the provision of schools and adequate leisure and shopping facilities is included in this system at the earliest possible stage. It is too late to row back when the developments are built. It is very difficult to do so from the perspective of cost and other factors. The emphasis on sustainability, as well as the overall environment, is crucial.

Mr. Kitt: I very much welcome the inclusion of the environment in this group of amendments. As well as sustainable development, about which Senator Brady spoke, the phrase about proper planning is very important. Senator Bannon referred earlier to the issue of one-off houses. I am sure all of us, including the Minister, are aware of a point made by Senator Bannon regarding different interpretations of proper planning and sustainable development in different counties and local authorities. In respect of interpretation, the question arises as to what is local. Does it mean a parish, school catchment area or certain mileage from one's home? I was never satisfied on this issue when I was a member of Galway County Council or when I dealt with the council as a Member of the Oireachtas.

There seems to be a ban on people from outside a county entering it, which is wrong and unfair. For example, people could rent a house for 15 years or 20 years, but they would still not be regarded as local. Trying to find an intrinsic link, which is the great phrase of planners, can be difficult if one is not regarded as local after renting a house for that period and being involved in the community. This matter should be examined and I hope that the local authorities reach agreement on the definition of "local". I welcome the amendments and thank the Minister for accepting my point.

Mr. Roche: Many of the Senators' comments do not directly arise from the Bill. We are striving for the interpretation of planning law, to which Senators Bannon and Kitt referred. I am conscious of the changes in the interpretation of the guidelines for one-off rural housing. Like Senator Bannon, I am rightly anxious that planning law is reflected in the same way everywhere. There is clarity of language in the guidelines, but less than clarity in their interpretation. This misinterpretation frustrates LAMA, the councillors' association, AMAI and me. I have requested the relevant section of my Department to keep the matter under review.

An Bord Pleanála has taken the guidelines on board and since their introduction, there have been significant changes therein in the incidence of success of one-off appeals, suggesting the degree of the board's anxiety about making local authorities aware that not only will the letter of the rules be applied, but also their spirit. Nothing enriches a countryside as much as people. Senator Bannon shares my view that a countryside without people is effectively a desert.

A skewed debate is taking place. While that matter does not directly arise under this section, I assure the Senators that I will keep it under review. I will examine best practice in councils. If the Seanad wishes to discuss the guidelines and councillors' frustration in the autumn, I will happily attend the Chamber and listen to and take on board the views of Senators.

An Cathaoirleach: Notice to planning authorities is the subject matter of group 3, amendments Nos. 3 to 5, inclusive.

Mr. Roche: When the Seanad discussed the Bill, it provided that a relevant planning authority would be informed of the board's decision only where it decided that a proposed development does not constitute strategic infrastructure and would, therefore, be subject to the normal planning process.

Amendment No. 3 ensures that the board shall serve a copy of its decision concerning whether the development was classed as strategic infrastructure to the relevant planning authority. Members were concerned about whether this would focus on negative rather than positive aspects. As they made their case well, I tabled this amendment because it would be more practical for the planning authority to be informed of the fact that consultations between the board and an applicant in respect of an application on strategic infrastructure had taken place and that an application to the board is likely to be forthcoming in the planning authority's functional area. This is fair notice to the authority and, more important, the councillors, who are the voice of the people, that this is a rising issue on which they should clarify their views.

Amendment No. 4 clarifies that the projects listed in the Seventh Schedule must enter the new strategic consent procedure and the initial screening. Project promoters cannot decide to apply for

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a normal planning application, which was an ambiguity highlighted by Members during the debate. We do not want to give a private developer a choice of A or B. If one argues that one has a strategic infrastructure development, one must engage in the process of going straight to the board instead of being able to make a choice. In effect, the amendment is that no normal planning application can be made for a Seventh Schedule project, which makes sense.

Amendment No. 5 is a textual amendment to correct an error. Amendments Nos. 3 and 4 will put into law the spirit of the debates held in both Houses.

Mr. Bannon: These amendments tidy up and clarify the planning situation. The Minister referred to local authority and county development plans, but there are also regional plans for the eight regions, plans for Objective One and Objective Two regions and plans for areas and towns. I understand that they will all be consulted and their views will be taken on board. Perhaps the Minister could clarify this matter.

Mr. Kitt: I welcome the subject matter of these amendments. Irrespective of whether applications are for major developments, they should be published in provincial newspapers. Too many applications have instead been published in national newspapers. Will the Minister comment in this regard, as it was my understanding that applications were advertised in local newspapers? Recently, applications for developments such as telephone masts have not appeared in provincial papers. This matter should be examined.

Mr. Roche: The regional plans will be factored into the board's consideration. On regional authorities and so on, the best approach is to ensure that where applications hit universally, as it were, the local authorities should get the information, as they feed into the regional bodies.

On advertising and notices, we had a lengthy discussion on site notices and I will differentiate the colours. We considered whether the colour should be red, green or both. These details are a matter for regulation and I take on board Senators' views.

Mr. Kitt: Could the county colours be used?

Mr. Roche: No. We will have the same colour across the country. If the colours were red and green, they would only refer to Mayo or Rathnew.

An Cathaoirleach: Further consultation with bodies and persons is the subject matter of group 4, amendments Nos. 6, 7, 52, and 53.

Mr. Roche: These amendments give the board the power to seek the opinions of any person or body with relevant views on information in respect of the consultation on a proposed development, particularly the scoping of an environmental impact statement. It is important that the board has the power to look for expertise in areas beyond what is immediately available to it, for example, that of a Department, relevant local authority, designated environmental authority or member of the public. It is intended to be used where the infrastructure provider has entered consultations on whether a proposed development is of strategic importance and where the board feels that other bodies or persons may have views that should be taken into account in determining whether such is the case.

This is the right way to give the board a general power to take the above approach. If we are giving the board the power to make the ultimate decision, it is logical that we give it the power to decide on whom it wishes to consult on the process. The power may also be useful in other cases where the board may wish to elicit views from relevant organisations on whether considerations relating to proper planning, sustainable development or environmental issues have a bearing. The overall objective is to give the board the flexibility it will require in respect of the procedures it must apply.

Amendments Nos. 52 and 53 make the same changes in respect of the consultation processes on electricity transmission lines and gas pipelines. Amendments Nos. 6, 7, 52 and 53 widen the board's discretion to discuss with as broad a range of people as it considers relevant.

Mr. Bannon: I am sure everyone in this House and every right-minded citizen of this State will agree that we cannot erode the democratic participation of our citizens in any decision-making process, particularly when those decisions affect their future and that of their children.

Can the Minister elaborate on the role of the Environmental Protection Agency? Will there be consultation with the EPA? Senator Brady and I had reason to visit the agency at Easter and saw the very valuable work it does for the environment. There is no mention of it in the Bill but it is an important, independent body and its role should be outlined. Has the Minister given the agency any special status?

Our citizens are very important. I have travelled extensively over the years but my heart is where I was born and reared and where I have lived all my life. There should be consultation with people locally and their views should be paramount in any decision making, because they might have local knowledge that can be taken on board.

Mr. Brady: These sections are particularly balanced. We must, as the previous speaker said, accommodate all views but we must also maintain a balance. The thrust of this legislation is to provide infrastructure for the greater good. There have been many examples over the years of major

projects being delayed, sometimes for very spurious reasons, but the balance is right in this Bill.

I agree with Senator Bannon that the expertise and knowledge the EPA has gathered should be tapped into at every possible opportunity. When the board looks for information, the EPA will be the first body it will call on for the benefit of its expertise.

Mr. Roche: The EPA is mentioned in section 37F(5) which states:

> Before making a decision under section 37G in respect of proposed development comprising or for the purposes of an activity for which an integrated pollution control licence or a waste licence is required, the Board may request the Environmental Protection Agency to make observations.

This set of amendments empowers the strategic infrastructure board to make reference to any agency. By definition that must include the EPA.

An Cathaoirleach: Group 5 comprises textual amendments providing clarification and is the subject matter of amendments Nos. 8, 15, 36, 47, 54, 76, 91, 92, 102, 105, 122, 136 and 137.

Mr. Roche: As is typical with complex legislation, it is necessary to make minor clarifications of a drafting nature and that is what these amendments do. I was seduced by Senator Bannon's mellifluous tones during the Bill's passage through this House and kindly accepted one textual amendment which, as it turned out, would have had a disastrous effect that neither of us foresaw, and which we had to reverse in the Dáil. The amendments do not reflect any policy changes but are purely textual, of a drafting nature and designed to produce clarity. They pick up on minor points made during the Dáil debate which were not picked up on during deliberations in the Seanad, thorough though the Seanad debate was.

Mr. Bannon: I agree the amendments bring greater clarity to the Bill. On the day in question the Minister agreed with me on a point and accepted my amendment. However, I think it was amendment No. 133, which is not included in this group.

An Cathaoirleach: Its subject matter is included.

Mr. Bannon: I agree the amendments improve the Bill for the purposes of interpretation and clarity. The people who draft Bills know better.

Mr. Roche: I would never suggest that a specialist in the arcane and dark art of parliamentary drafting necessarily knows better than parliamentarians themselves, but we must accept their advice when it is offered. The amendment the Senator tabled was firmly offered so I stand chastised, though I am still firmly on his side.

An Cathaoirleach: Group 6 concerns transboundary impacts and is the subject matter of amendments Nos. 9 to 14, inclusive, 32 to 35, inclusive, 37, 42 to 46, inclusive, and 123 to 128, inclusive.

Mr. Roche: These are interesting amendments because they expand public participation and take into account the transboundary elements of the EIA directive. The amendments require applicants for strategic infrastructure to include in the newspaper notice, where relevant, that a proposed development is likely to have a significant impact on the environment of another EU member state signatory to the transboundary convention. They cover what kind of decisions the board may make on such applications and also require that an application and its environmental impact statement be copied to the relevant other member state so that it be given a chance to comment.

We made the point that we were very concerned about planning procedures and policy decisions in a neighbouring state, particularly on the nuclear side. I included a very interesting reference to make sure there was no ambiguity on the issue. If we demand transboundary access and the right to comment on projects in other jurisdictions, we should abide by that for our own operations, as I am sure Members will agree.

An Cathaoirleach: Group 7 deals with the reporting of views of local authorities and is the subject matter of amendments Nos. 17 to 20, inclusive.

Mr. Roche: We had lengthy discussions in this House and in the Dáil about the need for the full range of views of councillors to be referred to the board for information. This is important to me because I want to capture the views of councils. The Bill incorporates a major innovation in providing for councillors to send their recommendations to the board. As I said in the Seanad, to general agreement, this is the first time in planning law since the 1960s that we have specifically set out to empower local councils in a planning context.

During the course of the Dáil debate, Deputies were concerned that even substantial minority views could be excluded. It appeared that the best and fairest way to ensure the full range of views be considered was to record all views, rather than require a substantial minority to vote on an alternative. Amendment No. 17 is intended to achieve this. The other Government amendments in this group are consequential on it.

Our view is that all cogent views of local authority members, often varied in nature, should be brought forward to the board. It is important to ensure that the relevant record is prepared and

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agreed at the same time as the meeting is held. There are deadlines in the Bill — Senator Bannon and I discussed deadlines at some length during the debate in this House — and we would not expect the board to delay its consideration until minutes were approved at the following month's council meeting. Accordingly, the solution allows for the record of the meetings administrator, as provided for in the Local Government Act 2001, to be acceptable for its purpose.

This is an obscure point. The provision of an administrator to record minutes at a meeting is provided for in the Local Government Act 2001 and we are using that device to ensure the views of councillors be recorded and transmitted immediately to the board, rather than forcing it to wait for a month for councillors to agree minutes, during which time amendments may be submitted, thus negating the whole purpose of the time horizons. I am sure Senators will understand this is an improvement arising from the debate in this House and the Dáil.

Mr. Bannon: On Committee Stage I spoke at length, as did other Members, on the issue of the involvement of local authority members. Many Members entered the House through the local authority system and served their apprenticeship on local authorities for many years. That is where one learns the nuts and bolts of how local government, and national and international government, works.

I served as secretary of the Local Authority Members Association for five years and got a great insight into local government in practically every local authority in the country because during that period I organised a series of conferences relevant to issues discussed at local authority level. Ministers often participated in these conferences, on one occasion five Ministers participated in a conference. There was always a major input by local authority members. If one serves on any committee which serves local authority members, north or south of the Border, one gets a great insight into their thinking.

It is important that local authority members be given a role because they are the foot soldiers of the democratic system. All around us, we can see facilities that were put in place as a result of the work of locally-elected representatives, although they do not get the credit for it. Public lighting, footpaths, water and sewerage facilities are all provided by elected members. Local representatives have an ear to the ground. As I have said on many occasions, they are the voice of the people at local level, and long may that continue. It is true democracy, in which the views of local people are considered.

I am glad the Bill gives a role to local authority members and glad that the Minister will take their views on board. Most local authority members have sensible views. Two types of local authority meeting are the most important. One type is the meeting which concerns the preparation of a county development plan. Facilities should be put in place whereby local authority members can employ or be empowered to employ expertise when preparing submissions on a county development plan. This should be considered by the Minister.

The second important type of meeting within the local authority system is the budget meeting. If one is not tuned in when a budget is being prepared for a local authority, one can be sidelined. These meetings prepare budgets for, say, five-year plans for roads or three-year plans for housing. If one is not involved in the funding decision at the budget meeting, one can talk all one likes afterwards. If a member wants a scheme in operation or a new development in a particular area, it is important to tune in to what is happening at the budget meetings, which are the most important and relevant meetings of a local authority. While I am not dismissing the other monthly meetings or strategic meetings, I see the two types of meeting to which I referred as the most important.

I would appreciate if the Minister would consider accepting that local authority members could bring in——

An Cathaoirleach: That might be an issue for another day. We are discussing the amendments.

Mr. Bannon: It is relevant to local authority members. Perhaps the Minister would consider putting in place a facility so that local authority members could bring in outside expertise and advice when preparing county development plans. It is a matter that needs to be addressed. As one who served on a local authority for nearly 19 years, I feel this is a major deficit faced by members of local authorities.

Mr. Kitt: I strongly support Senator Bannon's position on the views of local authority members. The Minister has been very forthcoming in meeting local authority members and obtaining their views. Senator Bannon is correct with regard to county development plans, budgets and annual reports in that every assistance should be given to councillors. It is also important to state that Oireachtas Members should keep in touch with local authority members. With Oireachtas colleagues, I met local authority members in Galway two weeks ago and will meet them again this Saturday. It is important that every assistance is provided.

To give an example, there are times when local authority members must get independent legal advice. An issue arises in that regard because they cannot simply go along with the county council advice from the legal adviser on all occasions.

Mr. Roche: I welcome the fact Senators endorse what I have done in the Bill. On the other issues, which, strictly speaking, are not dealt with by the Bill, I agree with the Senators. In particular, I agree with the last point on legal advice, which is a thorny issue on which I have engaged in debate. Local authority members have more powers than they sometimes realise in this regard. Unfortunately, local authority members lost a recent court case, perhaps because they were unwise in the direction they took during the case. However, that is a different day's work.

I agree with the point made by Senators Bannon and Kitt with regard to finance. My Department's website contains an increasing amount of comparative financial data for every local authority because councillors and Oireachtas Members need information if they are to react within the local government process. I am considering ways of increasing the information flow.

Senator Bannon will welcome the fact I have been giving consideration to a pet hobby horse of mine, namely, the issue of internal audit, which will ensure that we have efficiency. Local authority members, for all their talents, will need support in this regard. I am committed to this process. It will be an improvement that will give greater control in the direction of local government finance and will give taxpayers better value for money. I am seized of the importance of this issue and am working in that direction.

An Cathaoirleach: Group eight, which deals with amendments Nos. 21, 40, 49 and 93, concerns consideration being brought to bear in making decisions on strategic infrastructure developments.

Mr. Roche: We discussed this issue at length in the House and on Committee Stage in the Dáil. I introduced a number of amendments to amend the list of issues to ensure consistency throughout the Bill, and consistency between the Bill and the 2000 Act. Section 143 of the Act, which is being amended by this Bill, contains a broad list of issues to be considered when making decisions. These include ministerial and Government policy, the national interest, any effect that the performance the board's functions may have on issues of strategic or social importance to the State, the national spatial strategy and regional guidelines.

Instead of referring in a number of places to the national interest and other considerations, the wording of the Bill has been amended in the relevant section to refer to the considerations which were already set out and are law in section 143. This should help to avoid unnecessary confusion or problems for the board. The change also has the advantage of ensuring the board will consider any effect the performance of the board's functions may have on issues of strategic economic and social importance, as required in section 143. That is appropriate and necessary in the case of strategically important infrastructural decisions taken by the board, which can have an impact for generations. This is to ensure consistency between the primary Act and the new Bill.

4 o'clock

Mr. Bannon: These amendments are important. They are important in terms of what they contribute to the development of our economic life. It has been rightly emphasised that we have a very modern economy but it is generally recognised that we have Third World infrastructure. Some recent statistical information from Europe showed that Ireland was in 11th place out of 12 in terms of infrastructural development within the EU. This must be addressed because there are major deficits in infrastructure in some parts of the country, particularly in the BMW region.

Question put and agreed to.

Question proposed: "That the Bill do now pass."

Minister for the Environment, Heritage and Local Government (Mr. Roche): I want pay tribute the Members of the Seanad who put a very big effort into this Bill. I mention Senator Bannon, in particular, in that regard. I also wish to put on record my admiration for the manner in which Fine Gael has been very positive in this and has sought, throughout, to improve the Bill. One can never get a situation where everybody approves of everything, but we have made significant improvements in the Bill by listening to the Members of both Houses of the Oireachtas. I have done that and have been very flexible in so far as I possibly could.

I wish to mention one area which we did not get a chance to discuss here. We have done something unique in this Bill. On the issue of nuclear power, which was a concern in both Houses, I have uniquely made a cross-reference between this Bill and section 18(6) of the Electricity Regulation Act 1999 to emphasise that Members from all parties in this and the other House have a clear view on this matter. We want to ensure that the existing prohibition is retained. Somebody said that this was simply making a political statement. It is true that it is a political statement. However, the appropriate place to make political statements that reflect the views of the elected representatives of the people is in the Houses of the Oireachtas.

I have listened to the contributions both here and in the other House on an issue of great importance. This is a very significant Bill and it will have major impact in the years ahead. It has been greatly improved by the fact that so many Senators and Deputies put so much of their time and effort into it. I am grateful for that.

Mr. Brady: I thank the Minister and his officials for coming to the House.

Mr. Bannon: I thank the Minister for coming to the House this evening. As I said on Committee Stage, Fine Gael supports this Bill. At that time I wished it a speedy passage through the Oireachtas. I am glad, now, that we have signed off on it. Hopefully the infrastructural developments that are badly needed throughout the country will be delivered on in the shortest possible term.

Question put and agreed to.

Road Traffic Bill 2006 [*Seanad Bill amended by the Dáil*]**: Report and Final Stages.**

An Cathaoirleach: I welcome the Minister of State to the House. This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 103, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question, "That the Bill be received for final consideration", the Minister may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For Senators' convenience, I have arranged for the printing and circulation of the amendments. Senators may speak only once on Report Stage. The Minister will deal separately with the subject matter of each group of amendments. I have also circulated the proposed groupings. A Senator may contribute once on each grouping. The only matters, therefore, which may be discussed are the amendments made by the Dáil.

The Minister of State has indicated his intention to ask the Chair to direct the Clerk to make a correction to the Bill under Standing Order 121 as follows: "On page 28, to delete the comma after "Circuit Court"." This would facilitate the reading of the next text, without affecting the meaning. I will direct the Clerk accordingly.

Question proposed: "That the Bill be received for final consideration."

An Cathaoirleach: I call on the Minister of State to speak to the amendments in the first grouping.

Minister of State at the Department of Transport (Mr. Gallagher): These amendments to the Bill were passed by the Dáil and they bring greater clarity and consistency to the statutory provisions of the road traffic Acts and the Local Authorities (Traffic Wardens) Act 1975 as regards the operation of the fixed charge system and in particular some functions carried out by local authority traffic wardens. While there are a number of amendments, I will take as examples amendment Nos. 27 and 31. These ensure minor provisions are provided in section 103 of the Road Traffic Act 1961 and in section 3 of the Local Authorities (Traffic Wardens) Act 1975 as regards corresponding provisions in each statute in relation to the scope of the regulatory power the Minister can exercise.

It is appropriate that a common form will be used in both statutes. With the exception of amendment No. 27, already referred to, all of the other amendments are being discussed together relate to the Local Authorities (Traffic Wardens) Act 1975. Section 15 of the Bill refers to the Act of 1975. The purpose of the amendments is basically to streamline, clarify and update various provisions of the 1975 Act. The amendments in the main are of a technical and re-statement nature, but also include the following which are more substantive in nature. Where a traffic warden has issued a fixed charge notice in respect of an alleged offence, the Bill expressly provides — amendment No. 31 — that a registered owner of a vehicle will be liable to a fine not exceeding €1,000 on summary conviction in respect of an offence of giving false or misleading information to a local authority traffic warden regarding the identity of the person who is stated to have been driving at the time the offence alleged was committed.

The maximum fine, on summary conviction, for offences under the 1975 Act of obstructing a traffic warden or failure to comply with a request for a name and address in situations where the traffic warden has reasonable grounds for believing the person is committing, or has committed a fixed charge offence, was last reviewed in 1987 and stands at only the euro equivalent of £150. The level of maximum fine for these two offences has been increased in the Bill through amendment No. 32 to €1,000 to make it a more reasonable deterrent.

Mr. P. Burke: I welcome the Minister of State back to the House and wish him well with the Bill. I do not have any problems with the amendments as proposed by the Minister of State, particularly as regards traffic wardens.

On the question of clamping, while in some cases this has been farmed out by local authorities to private companies or individuals, there now seems to be a rowing back on this in some areas, so that the local authorities are themselves taking on the role of enforcement. I wonder why this is. Do they believe the original decision to farm out the work has turned out to be too severe in most cases and not enough leeway is being given? Perhaps it encouraged the companies concerned to take the view that every time a vehicle was clamped it meant that money was rolling into the coffers. I should like to know what is the current thinking as regards the rowing back by those local authorities who are choosing to enforce the regulations themselves. Other than that, I welcome the amendments made by the Minister of State.

Mr. Dooley: I welcome the amendments the Minister of State has introduced and believe they will help. To follow what Senator Paddy Burke said with regard to traffic wardens and the issue of clamping, something that should be considered is the matter of vehicles being parked wrongly in disabled persons' slots. While it is not appropriate to this Bill, perhaps it might be dealt with through regulation. This is something which has become much more prevalent in recent times. Respect for disabled persons' slots was adhered to for a considerable length of time, but more recently I have noticed a growing number of people infringe in this regard. I am not sure how the Minister might propose to deal with it, whether through clamping or penalty points. It is one of the most disgraceful acts anybody can perpetrate. Everybody seems to think that they can park there because they are parking only for two or three minutes. Around the country, particularly in County Clare, the slots are permanently full with people parking for short periods and it is not acceptable to see those who do not have their full mobility being hindered in this disgraceful way. I would like the Minister to do something about this.

Mr. Gallagher: I thank the Members for accepting the amendments. As I said, these amendments make sense. Senator Burke made a general point on clamping. We have discussed this and he realises that it is not part of this Bill but a matter for each local authority to contract this business out to others. I do not know why they are doing it. Perhaps it is lucrative. Nobody who is not disabled should park in the spaces reserved for disabled persons. Those who are not disabled are fortunate. We took into consideration the views expressed by individuals, groups and Members and on 3 April the Minister increased the fixed fine to €80. If that is not paid within 28 days it will increase to €120. Perhaps one might say that is not high enough but we will keep it under review. Perhaps it is not a sufficient deterrent but we should wait and see. While I accept the principle of Senator Dooley's point, it is not part of the Bill.

Acting Chairman (Mr. Moylan): I call on the Minister to speak to the amendments in group 2.

Mr. Gallagher: As in this House, Members of the Dáil referred to the challenge, at a time of continuing innovation in communications technologies, of legislating to regulate the use of mobile telephones and in-vehicle communications technologies. In such an environment I am conscious of the need to be far-sighted on the drafting of section 3 so that it will be sufficiently broad-based and flexible to enable appropriate and speedy regulatory responses to driver distraction risks associated with these technologies without having to resort to primary legislation on each occasion. In light of the Second Stage debate in the Dáil we reviewed section 3 so as to be as satisfied as possible that its provisions are sufficiently robust and comprehensive to cater for future regulatory needs.

Arising from that review the Dáil approved ten Government amendments and one Opposition amendment to the section. These amendments are designed primarily to ensure section 3 will facilitate regulation-making in the future to deal with inappropriate and irresponsible driving practices associated with the use of communication and entertainment equipment, which is an important objective identified by both Houses. A number of the amendments relate to the prohibition of hand-held mobile telephones provided for in section 1(3) putting beyond doubt the status of Bluetooth, with which we are familiar, and other hands-free devices so that they do not come within the scope of the prohibition. The remaining amendments are designed to ensure that the definitions used in the section are sufficiently wide and comprehensive to remain relevant for regulation making in the longer term.

Mr. P. Burke: I welcome the Minister's amendments. Did the Minister say the Bluetooth system is not allowed in cars?

Mr. Gallagher: It is not prohibited in cars.

Mr. P. Burke: From some of the amendments it seems that the telephone must be in a cradle. When the members of the Joint Committee on Transport went to Australia, the transport committee members in Sydney told us it had done much research on hands-free and hand-held telephones and found no significant difference between them. Deputy Olivia Mitchell had a Bill in the Dáil on this and she thinks all mobile telephones are a distraction. I do not doubt this. They are probably the most serious distraction. The amendments do not mention the new navigation systems. Are they covered by any of the amendments? I expect there will soon be televisions in cars to add to the distractions. There is no doubt that when one is on the telephone in the car, one's mind is distracted from driving. Before we had mobile telephones one would often forget whether one had gone through a particular town, especially on long journeys. I wonder if being on the telephone affects the incidence of those blank spots, which would occur anyway. In Sydney they found little difference between hands-free and hand-held telephones. As there is no prohibition on the Bluetooth system, one can keep the mobile telephone on the seat of the car, not necessarily in the cradle, while wearing one's headgear. I welcome the Minister's amendments. Can navigation systems be controlled under legislation or would it require further legislation? Do they need to be brought to the same level as mobile telephones?

Mr. Dooley: I welcome these amendments and the fact that the Bluetooth situation has been

[Mr. Dooley.]

cleared up. As Bluetooth is a radio signal transmission, it was important to clarify it. Senator Burke made the point that there is probably not a great need to move from hand-held to hands-free and questioned whether it is safer. Anecdotal evidence suggests that many accidents are caused by people using telephones, which often prevent them from driving properly. I have seen people reverse articulated trucks while holding telephones to their ears. While the driver may not be involved in an accident, some of the behaviour leads to other people being involved in accidents. I welcome a move away from people taking their hands off the steering wheel to use the telephone. I also welcome the fact that the Minister has not banned the use of mobile telephones while driving because none of us could afford to stop at the roadside for the amount of time we spend on the telephone. The roadsides would become cluttered if everybody who had to take a call had to pull over. The modern technology helps to provide a safer environment and allows people to continue their journey while pursuing their busy lives. Could the definition of a hand held device include a telephone with an in-built speaker rather than a car kit? This may have been discussed already in the Dáil.

Many things can distract one slightly when driving such as having the radio on and changing channels. I am more alert with the radio off when I am driving. People eat in their cars and do all sorts of things. There are different levels of distraction. I accept Senator Paddy Burke's point that some studies have reported that even a car kit can be dangerous. I presume that constitutes a different level of danger. The Department should perhaps study the different levels of danger incurred by using a hands-free device or holding the telephone in one's hand.

Mr. Gallagher: Bluetooth hands-free devices do not come within the scope of the prohibition. Holding the telephone in one's hand or resting it between one's shoulder and neck is prohibited. It does not necessarily have to be in a cradle. If one uses Bluetooth it can lie on the seat. The same applies if one uses an earphone, or it can rest in the cradle.

Senator Paddy Burke referred to Australia where research showed that hands-free telephones could be just as distracting. This has not been confirmed and it would be wrong for us to arrive at any conclusions. In this subsection we deliberately left the definitions wide and comprehensive enough to allow the Minister of the day to make long-term regulations. Innovations in communications technologies have advanced considerably in recent years. It is only right that we include this subsection to enable this or any future Minister to introduce other prohibitions by way of regulation rather than primary legislation. Examples include a regulation to ban televisions and GPS on the basis that they would affect one's concentration. For those of us who drive long journeys the radio is sometimes the only company we have. Young people choose to listen to loud music which maybe does not affect them but one wag says some music would put a driver to sleep. He did not mention who the singer might be.

Mr. Dooley: I am sure that does not include any Donegal artists.

Mr. Gallagher: I appreciate the support of all parties for these amendments so that we can introduce regulations, if need be. The definition of the hands-free device is a device designed such that when used in conjunction with a mobile telephone there is no need for the user to hold the telephone by hand. That is the technical explanation. The holding of the telephone means physically holding, supporting or cradling it with another part of the body which would normally be the neck and shoulder.

Acting Chairman: I call on the Minister of State to address the third group of amendments.

Mr. Gallagher: These are drafting amendments advised by the Parliamentary Counsel as the Bill proceeded through its various Stages. They are technical in nature and are intended to add clarity through the deletion of unnecessary words, the correction of grammar and hyphenation, and the correction of sequencing in some instances. They also include references to certain Acts which were omitted and consequential repeals that arose from the provisions in the Bill.

Question put and agreed to.

Question proposed: "That the Bill do now pass."

Mr. P. Burke: Many of those who drive and have accidents have taken drugs. The incidence of this is increasing. It is a significant factor in Australia and I am sure it is a factor here. It is increasing in the United Kingdom too where there are moves to implement drug-testing. Will the Minister of State outline a timeframe within which we might introduce drug-testing? Does the Government believe this issue warrants attention? I would support any drug-testing measures put in place.

Acting Chairman: We may discuss only the content of the Bill.

Mr. P. Burke: I thought it would be in the Bill.

Minister of State at the Department of Transport (Mr. Gallagher): I can arrange a bilateral meeting.

I thank the Senators for their time and input into the development of the Bill which was initiated in this House, and for bringing it to its conclusion. The interest in the Bill in both

Houses indicated the concern of Members about the broad area of road safety.

This is an important road safety Bill. For the first time it will permit roadside breath testing and the privatisation of speed cameras. We know that most road deaths are attributed to drink driving, and speeding. It is essential to have the legal power to deal with this in the continuing effort by all to reduce death and injury on our roads. I call on all road users and drivers in particular, to observe the speed limits, not to drink and drive, to use safety belts and to remember that their fate or that of someone else with whom they may collide may be just around the next corner.

I also want to sympathise with all the families who have lost loved ones and dear ones over the past six months. I sincerely hope the record for the next six months will represent an improvement on the record for the corresponding six months last year. I believe more in the carrot approach than in the stick approach represented by this legislation. If individuals were to observe the rules of the road, care for others and change their behaviour, there could be a substantial reduction in the number of fatalities and serious accidents on our roads. Go raibh míle maith agaibh as ucht bhur gcuidiú.

Mr. P. Burke: I do not doubt that this legislation will save lives. When all Stages of the Bill were completed by this House before it was sent to the Dáil, we wished the Minister of State and his staff well with it. At that time, I thanked Senators Dooley and Wilson for their co-operation with the Bill. I am convinced this very good legislation will save lives. I wish the Minister of State well with it.

Ms Tuffy: I thank the Minister of State and his staff. I did not have a substantial involvement in the legislation during its passage as I do not have significant knowledge of this area. However, I can tell there are some very good things in the Bill.

Mr. Dooley: I welcome the Bill, as I did when it was originally passed by the Seanad. I recognise the tremendous effort that has been made by Senator Paddy Burke and his Opposition colleagues, who have co-operated with the Government during the passage of the legislation. It is clear that there is consensus in this House about the manner in which we should deal with the problem of deaths on our roads.

While this legislation is welcome, it will not save any lives on our roads unless everyone concerned makes a real effort to respect the rules of the road and to recognise that the use of the road is a privilege and not a right. We will not make any progress until such a change in culture takes place.

The Department of Education and Science needs to educate young people about the use of the road so they respect it and recognise it is a privilege rather than a right. That will take some time, however. I caution those who seem to think the passage of the Bill is the answer to the problem of deaths on the roads. If we are to see a successful outcome in this regard, everyone will have to co-operate over a long period of time.

Even though the number of cars on our roads is higher than ever and is continuing to increase, as some Senators mentioned on Second Stage, people seem to think the level of road deaths has increased. Given that there is more activity on our roads and the number of cars in Ireland has risen, the level of fatalities has not increased in real terms. We have to be careful in dealing with statistics.

I welcome this legislation. I hope it will receive the co-operation of the Departments of Education and Science and Justice, Equality and Law Reform, which is needed if the Garda Síochána is to be involved to the extent that is necessary to ensure that everyone adheres to the various provisions of this Bill to the best of their ability.

Question put and agreed to.

Sitting suspended at 4.35 p.m. and resumed at 5 p.m.

Building Societies (Amendment) Bill 2006: Second Stage.

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

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): The purpose of this Bill is to amend and update certain provisions of building societies legislation, contained mainly in the Building Societies Act 1989. The Bill is based, to a large extent, on reform proposals from an expert review group which comprised representatives of the relevant Departments, the Financial Regulator and the three building societies. It recommended that any building society wishing to demutualise and develop as a public company should not be unduly restricted as regards the conditions under which it could pursue that option. However, the group also recommended that any society wishing to continue to develop as a mutual society should be adequately protected in retaining its mutual status. In addition, it proposed that certain provisions of the legislation should be updated to widen the powers and flexibility of building societies, subject to an appropriate level of approval by the Central Bank.

Most attention has focussed on the proposed changes to the demutualisation options. I want to correct some inaccurate comments that have been made in this regard. The impression is given by some critics that it could, in some way, weaken the concept of mutuality. The opposite is the case. For better or worse, the option for building societies to demutualise has been available in law since 1989. The Bill merely provides additional options for demutualisation but is not prescrip-

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tive as to which, if any, of these options are taken. The Bill is primarily about giving building societies more options. It gives the existing building societies, and any that might come into existence in the future, a greater range of options for their corporate status. While it supports any society wishing to remain mutual, it allows any society that sees its future outside the mutual sector more ways to pursue that strategy. That decision rests entirely with each building society. That decision is ultimately made by the members of the building society, who must decide whether to approve a conversion scheme. This will still be the case with the Bill.

The criterion for opting out of the protective provisions has been formulated to ensure sufficient protection for a society that wishes to remain a mutual society. This is achieved by making it a condition for opting out of the protective provisions that a building society has, for at least five years prior to demutualisation, restricted access to membership by requiring a minimum deposit of €10,000 to open a share account. There will now be a five-year period of protection either before or after demutualisation, depending on whether a society wants to have the option of being sold following conversion to a public company or not. This is entirely logical.

The buffer period prior to conversion is designed to discourage any potential predators and carpetbaggers who could quickly emerge and have a destabilising effect if the post-conversion protection was dispensed with and nothing put in its place. This provision is also favourable to long-term members. Some people are looking forward to proceeds from conversion, offsetting possible shortfalls in endowment mortgages, which the Department played a key role in discouraging in the early 1990s.

Some who have criticised the Bill on the principle of mutuality have perversely implied that it could disadvantage EBS members. One key principle the Attorney General's office applied in clearing the Bill was the need to ensure, as far as possible, it provided for equal treatment of the members of all existing building societies and any that might be established in the future. It is not correct to suggest that a society like EBS that has not, up to now, restricted access to membership would have to wait for five years to convert from mutual status to a public company if it were to decide to embark on a policy of demutualisation. It is immediately open to any society to pursue demutualisation under the existing 1989 Act provisions in the same way as two societies have already successfully converted. The Bill does not alter this option. However, a society would have to restrict access to membership for five years before it could avail of the new option under the Bill to dispense with the five-year post-conversion protective provisions.

The Bill will result in building societies having a total of four possible options with regard to their status: to remain mutual; to demutualise under the existing protective provisions; to opt out of those provisions and be taken over immediately; or to opt out and be sold at any later date. There is no reason to assume a building society should inevitably take the demutualisation route. The legislation is designed to ensure that, in opening up additional options for institutions that do wish to convert, no new dynamic is created that might bring additional pressure for demutualisation to bear on a society that wishes to remain mutual.

I want to correct a report that, if a society wants to remain mutual, membership will be restricted to those who deposit a minimum of €10,000. This condition is merely the criterion for giving an institution the option to demutualise without the protection of the five-year ban on takeover after conversion. There have also been suggestions that the Bill is designed to look after the some vested interests. It does not change the status of any building society. It is an enabling measure to provide additional options for the development of institutions. The Irish Nationwide Building Society indicated a desire to be able to demutualise without the present five-year post-conversion ban on takeover. It will, however, still be open also to any society to demutualise with the cover of the existing protective provisions. The decision on these matters is for the society's members. If the members feel they are not getting a fair deal in a conversion proposal, they can vote it down.

The conversion of a building society involves an extensive and rigorous process of consultation and approval. This point is also relevant to comments made about the lending practices of building societies. Such issues are for either the Financial Regulator or the financial services ombudsman, depending on the context. They are not affected by the Bill. Senators who may have concerns about this must be aware of the robust process involved in the approval and implementation of a building society conversion.

It might be useful to outline a little more fully at this point how the conversion process actually operates. The demutualisation process is governed by a conversion scheme under the Act. While the conversion scheme is drawn up by the directors of the society, it must comply with detailed requirements in the Act and it must first be cleared by the Central Bank. The scheme must be explained to and approved by the members of the society, public notices must be given, and the scheme must be formally confirmed by the Central Bank which must consider any objections or representations and can refuse to confirm it on various grounds, including the public interest. There is also provision for members of the society to petition the High Court for cancellation of a conversion scheme. Where the conversion process is duly completed, the society must be registered under the Companies Acts, whereupon it

becomes incorporated as a public company, in effect changing from a building society to a bank.

Two societies have converted into public companies under the provisions of the 1989 Act. The Irish Permanent demutualised in 1994 and now trades as Permanent TSB, while the First National Building Society, now First Active, converted in 1998. Both of these demutualisations took place under the so-called "protective provisions" in section 102 of the 1989 Act, precluding takeover for five years. While an option of a five-year protection before rather than after conversion is now being allowed by this Bill, it is important to be aware that the process for conversion, which worked well in the previous cases, still applies and indeed is being made even more rigorous and transparent in some ways.

I will now outline briefly some of the main provisions of the Bill. While the main focus of attention in this area has been on the change in the demutualisation provisions, it does also provide for a number of other reforms in the legislation governing the operation and regulation of building societies. These arise from matters considered by the review group and some subsequent proposals from the sector, which have been agreed with the relevant Departments and the Financial Regulator. These include the following: amendments to increase the powers and discretion of societies, subject to approval by the Central Bank, as appropriate, in regard to matters such as the range of services they provide; how they source funding; bodies in which they can invest; categories of customers that can be given membership; and the extent to which specific approval of society members and the Central Bank is needed in order to undertake certain functions. I will outline briefly some of the main changes.

Section 7 of the Bill allows building societies to extend membership to additional categories of customers and to establish loyalty schemes for members. Section 8 broadens the scope of building societies to raise funds from different sources in line with other financial institutions and also extends the power of building societies to provide security for borrowings by various bodies in which they are empowered to invest. Section 9 brings the powers of building societies in regard to mortgages into line with those of other financial institutions, including clarification of powers relating to refinancing and top-up loans and allows mortgages to be provided without the society having a first charge against the property.

Section 10 permits a building society to make unsecured or partly secured loans without first having to adopt the power specifically to do so. The Central Bank will have a general supervisory role with regard to the making of these loans rather than prescribing a specific loan limit as is currently the case. Section 12 extends the existing powers of building societies to invest in or support other bodies, including investment in unincorporated bodies such as partnerships, as well as corporate bodies.

Section 13 extends the range of financial services that can be offered by a building society, including any activities under the EU codified banking directive that are not otherwise permitted by the legislation. Examples of new services that could be provided arising from this include trading for the account of customers in money market instruments and other financial instruments and portfolio management and advice. Section 15 provides that powers that are ancillary or incidental and related to powers that have already been adopted by members of a building society and approved by the Central Bank, will not have to be separately adopted and approved.

Sections 19 to 27 provide for amendments of the legislative provisions relating to demutualisation. The main change in this area involves giving a building society discretion to decide to opt out of the five-year post-conversion protective provisions in existing legislation. These preclude any individual or institution holding 15% or more of the shares of a demutualised society for five years. There are in fact two elements involved in this matter in the Bill. First, section 21 amends section 101 of the Building Societies Act 1989 to allow a building society, in specified circumstances, to propose a conversion scheme that will, effectively, disapply the provisions of section 102. This opt-out provision is designed to operate in a way that will not adversely affect any society wishing to retain mutual status. A society will only be able to disapply the protective provisions if it has, for the preceding five years, required a minimum of €10,000 to open a share account.

Section 19 contains a further provision to protect against pressure for demutualisation being brought to bear through members of a mutual building society. It extends an existing provision, in section 74 of the 1989 Act, precluding members from proposing conversion resolutions at AGMs. The reason for this change is that there were doubts as to whether certain types of resolutions referring to conversion were covered by the existing provision and also the need to cover resolutions relating to access to membership which, under this Bill, can constitute a route towards demutualisation. However, having considered concerns voiced in regard to this section that the current wording could be interpreted as being rather restrictive, I have brought forward an amendment which was made on Committee Stage in the Dáil to ensure that there is no question of restricting the right of members to raise any issue for discussion.

The second element of the provisions relating to conversion and sale of a building society involves the insertion of a new section in the legislation providing for an integrated process of conversion and immediate acquisition. Section 22 of the Bill provides that a society opting to convert without the protection of the five-year post-conversion protective provisions will be empowered to do so through a combined "conversion-acquisition scheme" which will form part of the

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conversion scheme and, as such, will be approved by the members of the society. This will enable the society to agree a trade sale of the company to be implemented immediately on demutualisation. If, for any reason, that acquisition does not proceed, for example, due to some condition of the agreement not being fulfilled, the conversion would be terminated and the society would continue as a mutual building society.

The intention of the Irish Nationwide Building Society to demutualise following enactment of the changes provided for in this Bill has been well signalled. The question of entitlements of members or borrowers of the society in the event of its demutualisation has been the subject of media speculation. However, these are not prescribed in the legislation itself. The only specific provision in that regard in the legislation is a condition that any entitlements arising from shareholding in a society are restricted to members who have held shares for at least two years. This provision is, in fact, being amended to make it absolutely clear that it does not restrict possible entitlements solely to shareholders.

As in the case of the two demutualisations that have already taken place, the details regarding entitlements are matters to be determined in the conversion scheme, which governs the conversion process, subject to confirmation by the Central Bank. While the details of the conversion scheme are matters for the society and the Central Bank, I would be surprised if the precedents of the two other demutualisations did not generally apply, whereby both qualifying shareholders and mortgage holders received entitlements and where a person qualified on both counts, he or she received dual entitlements.

The mortgage lending sector has developed out of all recognition since the 1989 Act. The lending institutions themselves have developed greatly and have, it must be said, facilitated hundreds of thousands of additional households in becoming home owners, especially during the past ten years or more of tremendous growth in the housing market. More recently, some have made a very welcome entry to the affordable housing scene. The lending market today is not entirely without issues, but they are very different from the types of issues that were current in the 1980s and early 1990s.

Since the middle of last year, I have consistently expressed concern about the likely impact on house prices of increased lending and 100% mortgages in particular. In a recent quarterly bulletin, the Central Bank commented that the gradual acceleration in house price inflation since last autumn had coincided with some easing of credit conditions and that this seemed, at least in part, to reflect an increased effort on the part of mortgage lenders to market some new products, specifically 100% mortgages. The president of the European Central Bank has also commented recently on the need for prudence.

There is nothing wrong, *per se*, in lenders trying to maximise profit and market share. I take issue, however, with executives of some institutions flaunting so-called "innovative products" and with the aggressive marketing of those products, particularly to first-time buyers. It would be foolish to ignore the potential implications of excessive lending in terms of house prices, both for the individual and at a macro level. House prices are determined not just by the numbers seeking houses but by the volume of funds available.

The real solutions lie in maintaining high levels of supply and increased output of affordable housing, not through pushing up loan to value ratios or stretching loan terms to a point where many mortgages are virtually interest-only repayments. The Government has taken a range of actions to promote housing supply affordability. As these measures increasingly have effect and the market calms somewhat with more restrained lending in line with the Central Bank's comments, we will resume the path towards house price moderation and stability in the market. I was pleased to hear reports earlier this week from the auctioneering bodies that the market may be cooling and hopefully easing back gradually to a more sustainable pattern. Those comments are not yet reflected in the statistics but we hope they are an indication of what will happen in coming months.

As regards the longer-term evolution of building society legislation, this Bill is not and was never intended to be a root and branch overhaul of building society legislation. The much-reduced number of building societies, their smaller share of mortgage lending, the fact that they are now supervised by the Financial Regulator in common with other financial institutions, and the further reduction of distinctions between building societies and banks under this Bill, have largely removed the rationale for a separate code of building society legislation. The Government has, accordingly, decided in principle that the building societies legislative code should be brought within general financial services legislation at a future date. This will give a chance to reflect further on the role of the mutual sector and its continuing contribution to promoting diversity and price competitiveness in the mortgage market.

Although the timescale for processing this Bill is tight, its enactment is desirable in order to avoid any uncertainty for the market and bring closure to the issues surrounding possible future building society demutualisations. It is quite a technical Bill consisting almost entirely of amendments to the 1989 Building Societies Act. It deals with financial services issues which are somewhat outside the mainstream of my Department's functions. Its production has been very much a collaborative process between the various Departments, the Financial Regulator and the Office of the Attorney General. The Bill implements several important reforms and updates building

society legislation. It brings clarity to the options available to societies regarding their future corporate status. I commend it to the House.

Mr. Bannon: I welcome the Minister of State. In the tried and trusted manner of being suspicious of Greeks bearing gifts, however, I am wary of his presence to discuss the Building Societies (Amendment Bill) 2006. This is legislation that could be classed as a time bomb.

Once again we are faced with undue haste on the part of the Government, following a marked dragging of its heels in bringing this legislation forward. A Bill is yet again being pushed through in the final days of the session. We must bear in mind the truism that rushed legislation is bad legislation. Moreover, rushed legislation that is slipped in towards the end of a session tends to be legislation that is beneficial in some way to the Government. We are told that this is merely a technical Bill. However fitting it might be to dispose of a technical Bill in two and a half hours, this Bill does not fall into that category.

Not only is it being stream-rolled with unseemly haste through the Seanad but it seems to carry a history of secrecy and even cover-up. Its provisions are based to a large extent on the recommendations of the building societies review group. Those recommendations were never made public because they were deemed too commercially sensitive. This seems strange given that such concerns should play no part in guiding the actions of the Oireachtas.

Without wishing to cast any aspersions, it is open to interpretation as to who exactly this Bill will benefit. There have been claims that the winners will be one particular building society and several of its senior employees. Despite supporting this legislation in principle, I will not be involved in passing any Bill that could be interpreted in such a manner. We must give careful consideration to any inference of this legislation which could be open to such interpretation. Apart from intimations of cronyism, any legislation that is rushed in this manner is open to suspicion. The dying days of a dying Government see strange happenings, but caution is indicated for those who must pick up the pieces.

We are presented with the unacceptable scenario that all Stages of the Bill must be passed in two hours and 30 minutes. It was similarly rushed through the other House. I remind the Minister of State that this is a parliamentary democracy and that this House should not be treated with such disrespect. The Government was unbelievably slow in bringing forward this legislation, which has been on the agenda for years. After such delay, it suddenly moved at breakneck speed. While I realise the hurry that many members of Irish Nationwide are in, the Government should have allotted sufficient time at an earlier juncture for the Oireachtas to debate the legislation. Sufficient time should have been allotted for Committee Stage rather than treating these Houses as a rubber stamp for a *fait accompli*.

I note that Mr. Brendan Burgess, a long-term campaigner on consumer issues, shares my concerns about this legislation. He has warned that it should not be rushed through the Oireachtas. In *The Irish Times* of 30 June, he is quoted as saying: "Serious debate needs to take place on this Bill. While we don't want discussion to drag on indefinitely, the Bill is seriously flawed and these flaws have to be fixed". He calls for members of the building societies to be consulted on the Bill's contents.

The Bill provides for the demutualisation and immediate sale of Irish Nationwide. It will also allow the EBS to remain a mutual society, while becoming more like a bank. This would enable the EBS to raise more money for growth and to offer products such as current accounts. I note media commentary suggesting Irish Nationwide plans to appoint corporate finance advisers as soon as the Bill becomes law, while prospective buyers will also become free to consider their options. This, of course, is the dubious nub of the matter. We as legislators are being railroaded into rushing through legislation which, whether rightly or wrongly, benefits commercial interests and this does not rest at all well with me.

The society is expected to sell for €1.5 billion, with interested parties likely to include several banks, including Danske Bank, the owner of National Irish Bank. Everyone in this House will be conscious of the fact that demutualisation will also prepare the ground for each of Irish Nationwide's 120,000 qualifying members to receive a windfall of several thousand euro in the event of a sale.

As the Minister has stated, the Bill allows for the demutualisation of building societies following recommendations of the Building Societies Review Group, which was too commercially sensitive for public consumption. As the Bill has the backing of this group, one could argue that it is safe to say that the measures contained within it are primarily sound and are worthy of support but there is, of course, an aspect of secrecy here to concern us. Indeed, while the Bill is technical in many of its provisions, there are many concerns. I would like to take this opportunity to raise some of them with a view to getting a response from the Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Noel Ahern.

The House will, of course, be aware of the many problems associated with Irish Nationwide in recent years. Campaigns have been fought for many years seeking the society's status to be changed to allow for payout. Under historical rules, a society that converted into a plc would have needed to wait for five years before becoming eligible for full sale. This Bill proposes that this five-year rule be removed for societies that have, for the preceding five years, limited their membership to customers who have lodged at

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least €10,000 to a share account. This is in the public domain.

I draw the Minister of State's attention to the borrowing victims of the actions of Irish Nationwide, which now look set to be copper-fastened by the actions of the Government. The Bill will release a windfall of around €1.5 billion to members, directors and the chief executive of Irish Nationwide. However, some contend that this huge windfall has been built up in large part on the backs of the borrowing victims of the society. Brendan Burgess, one of Irish Nationwide's dissident members, has stated that the Bill would allow the society to demutualise quickly. He went on, however, to describe the proposed legislation as "extraordinarily artificial" because of the way it accommodates "the separate aspirations of the boards of the EBS and Irish Nationwide". I invite the Minister to comment on this and the fact that Irish Nationwide Building Society rejected a proposal at its annual general meeting in May to earn a windfall by converting the institution into a public limited company. At that AGM a motion was tabled calling on the board to proceed immediately with the process of converting the society into a plc rather than waiting for a legal change that would allow its immediate sale. However, more than 80% of members rejected the plan.

The Minister of State will also be aware that Irish Nationwide systematically held back interest rate cuts from existing borrowers while passing on rate cuts to new borrowers. As Brendan Burgess has stated, between 1993 and 2003, interest rates for other lenders fell by 10% in line with Central Bank rates. The Irish Nationwide passed on these cuts to new business but passed on only half the cuts to existing customers. All other banks pass on rate cuts and increases more or less in full and reasonably promptly, despite the public perception to the contrary.

Irish Nationwide Building Society did not notify customers of the rate they were being charged on the notification of rate changes. They did not notify customers of the rate on the annual statements. Borrowers logically assumed that the rate cuts were being passed on. If they discovered the rate that they were being charged was excessive, they could negotiate a one-off reduction or move their mortgage elsewhere. However, the society refused to reduce rates for borrowers in arrears, as they knew that they could not shop around.

The Bill, on the face of it, does nothing for those who suffered under this regime, many of whom are going through the courts process to seek redress. As tends to be the reality with this Government, the Bill will benefit those at the upper end of the financial scale at the expense of the less well off and financially vulnerable. Those lobbying against the Bill have called on the building society, which is being sold on demutualisation, to set aside a fund which would be administered independently of the society and the purchaser to resolve all outstanding claims against the society. If the fund is not sufficient, the buyer must make up the shortfall. Any surplus in the fund would be distributed in a second windfall. I would be interested to hear the views of the Minister of State on this proposal and I wish to make it clear that we will be seeking to amend the Bill, on foot of what I have just said, to allow for a court appointed inspector to clarify if the assets and liabilities of all building societies seeking to demutualise are in order.

The Bill has huge ramifications for building society members and our banking system. The plight of the victims of the Irish Nationwide will be totally ignored in the rush to pass this Bill and that is an insult. We have raised issues on this Bill and it is entirely wrong that we have been given such a short time to deal with it. Strangely, Irish Nationwide cleared the last hurdle to a fast-track sale last week when the Government pledged to revamp the building society rule book following intense pressure from its managing director. Even more strangely, this is then followed by the rushing of this Bill through both Houses, in the dying moments of this session.

I sincerely hope this lack of scrutiny does not come back to haunt us or, for the sake of the Minister of State, be added to the already considerable list of dubious deals associated with this Government.

Mr. Kitt: I welcome the Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Noel Ahern, and I welcome this Bill also. I do not see it in the same light as the previous speaker because I do not believe that this is a time bomb. The building societies review group contained representatives of the building societies, Departments and the Financial Regulator. The Bill relates to taking measures for reform a package of which were proposed by the group. While the group concluded that a building society wishing to demutualise and develop as a public company should not be unduly restricted, it also stated that any society seeking to continue as a mutual should be adequately protected in terms of retaining mutual status. This is clear in the package proposed by the group.

The key element of the Bill relates to the amendment of provisions relating to demutualisation. This gives building societies discretion to opt out of the five year post-conversion protective provisions in section 102 of the Building Societies Act 1989. These preclude any individual institution holding 50% or more of the shares of a demutualised society for five years. Where a building society takes this option, it will be possible for it to be taken over immediately on demutualisation through an integrated conversion acquisition scheme approved by the members. This opt-out provision is designed to

operate in a way that will not adversely affect any society wishing to retain mutual status.

It will be open to any society to demutualise with the cover of the existing protective provisions. The Minister of State stressed during his contribution that members can vote on this issue. He referred to the flexibility that exists and the greater range of options that will be available to building societies.

Senator Bannon raised the issue of corporate status but it is clear that it is dealt with in the Bill. The legislation provides that any building society wishing to remain mutual can do so but allows any society that sees its future outside the mutual sector to pursue such a strategy through several means.

One of the building societies mentioned by Senator Bannon and referred to in the media, is the Irish Nationwide Building Society. It is well known that it has indicated a desire to demutualise without the restriction of the current five year post-conversion provisions. There are two elements in the Bill concerning this matter. First, a society can opt out of the current post-conversion protective provisions and, second, a society choosing to do so can agree a trade sale of the company to be implemented immediately on demutualisation.

Another society that has been mentioned is the EBS which, up to now, has restricted access to membership. It can, if it so wishes, pursue demutualisation immediately under the existing provisions of the 1989 Act in exactly the same way as the other two societies that have converted. The Bill does not alter that option. However, the EBS would have to restrict access to membership for five years before it could avail of the new option under the Bill to dispense with the five year post-conversion protective provisions. There has been no indication that the board or members of the EBS want to opt out of the five year post-conversion protective provisions or to convert under any circumstances. I understand the EBS has been pursuing policies aimed at retaining mutual status.

Some Members have suggested that the Bill is being rushed but I cannot understand that argument. The legislation has been promised for a long time and it was agreed that all Stages would be taken this week. The review group has been discussing this matter for a considerable period of time. It is important to enact the legislation quickly. There is no need for further consultation or analysis.

It would be worrying, as the Minister of State has said, if there was uncertainty in the market. We should bring closure to the issues surrounding the possible future of building societies and demutualisations, and end speculation in that regard. There is a concern that if there is a delay in the enactment of the Bill, it could lead to a degree of instability in the sector.

In his contribution, the Minister of State explained that there are four options regarding the status of building societies: they can remain mutual; demutualise under the existing protective provisions; opt out of those provisions and be taken over immediately; or opt out of those provisions and be sold at a later date. The Minister of State made the point that the five-year buffer period was designed to discourage any potential predators, which is a valid point. I do not see how the Bill will prevent members of a society from discussing conversion. Section 19 contains a provision to protect against pressure for demutualisation being brought to bear through members of a mutual building society.

Another issue raised was the need for additional controls over the process of demutualisation. Two building societies have already converted under the existing provisions without giving rise to difficulties and this Bill does not alter the basic framework under which those conversions took place.

The Minister of State made an interesting point about charging practices in building society. This is not just an issue of concern with regard to building societies but all financial institutions. The Minister of State referred to the financial services ombudsman in this regard and perhaps his office should be granted more powers to ensure dubious charging practices do not continue. We have seen a number of financial institutions having to put their hands up and admit mistakes were made. People received refunds, and rightly so, as a result of investigations that took place.

In the latter part of his speech the Minister of State referred to the further reduction of the distinction between building societies and banks under the Bill and that it has largely removed the rationale for a separate code of building society legislation. In terms of flexibility, one area that has not been covered — I am aware that it does not come under the remit of the Department of the Environment, Heritage and Local Government — is the question of credit unions. I raised with the Minister at the Fianna Fáil parliamentary party meeting last Tuesday the fact that credit unions are restricted as to the amount of money they can lend to members. Credit unions should be given the option to expand their business. As I understand it, section 35 if the Credit Union Act 1997 restricts the amount of money credit unions can lend to members over five and ten years. Credit unions can lend only 20% of their loan book over five years and 10% over ten years. That prevents credit unions from servicing members and their communities who are looking to the credit unions for loans.

An Cathaoirleach: I do not like to interrupt the Senator, but I suggest that matter is more appropriate for the Department of Finance.

Mr. Kitt: It is indeed and that is what the Minister told me. However, it is only right to put it on the record of the House that the credit union

[Mr. Kitt.]

movement is being restricted. If we are going to allow more flexibility for other financial institutions, credit unions should be given the same facility. Credit unions now have over 50% excess liquidity in their accounts and they have no choice but to invest that money in other financial institutions. That demonstrates that the restrictions should not be imposed on credit unions.

I know it is not a question of simply amending the Act. The Minister of Finance has told me that other issues are involved. However, if we are talking about competition in the context of other financial institutions, credit unions must also be given flexibility through the removal of the aforementioned restrictions. The Irish League of Credit Unions has made that point very strongly. It has sought the lifting of the restrictions, which would give credit unions a fair chance to grow and develop. The percentage limits could be changed from 20% to 40% over five years and from 10% to 20% over ten years. I hope that will be done soon.

I welcome the Bill. The issue has been discussed in great detail and now is the time for action.

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

I welcome the Minister of State and his officials to the House. While this is important legislation, I must say I find it very depressing and discouraging. I do not blame the Minister of State for that. It is clear that market forces are at work and this is inevitable. The Minister of State had no choice but to move forward and deal with the issues being dealt with in this Bill. I wish it were not so. I am committed to the concept of mutual societies and I regret their demise but the fact is this is happening. The Minister does not have any control over that and neither does the Government or anybody else. That is the way the market is moving and the way we must follow in this respect.

However, it is important to recognise what is involved when we talk about, to use the word used by the Minister of State, "conversion" or demutualisation. In a mutual society, the society and its assets are owned by the members. These are the members who have a loan from the society. Following the conversion to a public limited company, the company is then owned by the shareholders. The shareholders must get their dividend and profit. They get that by squeezing the mortgagees. In other words, they must put pressure on the people who are repaying their mortgages not only to run the company but to create a profit for the shareholders. Therefore, there is an extra tier of costs which is loaded on to the process and which must be paid for by the mortgage holder. That means we are moving away from the concept of people looking after each other in the buying of houses. It is one further step to make life more difficult for people who are trying to cope with paying for the cost of buying a house. In that sense, it is tragic.

I listened recently to comments by the Educational Building Society on this proposal. They were that the society was delighted about this legislation and that it would give it added protection. I have read through the Bill and do notsee where there is any such added protection in it. Nothing has changed. I agree with the Minister of State that there might have been some doubt about what was meant in the original Bill and he was right to change the legislation in the way he has. It was never the position that people could walk into the AGM of a building society and bring a motion that the society would be demutualised and get it passed.

People should recognise that there is no added support for mutualisation in this legislation. It does not make life any worse for those societies who wish to remain as mutuals and that is a good thing. Neither does it in any way make it less likely that they will demutualise. That is the case.

I have a particular interest in building societies because the Educational Building Society was founded by members of my union in the Teachers Club 70 years ago in the hungry 1930s. That is where the society got the name Educational Building Society. Therefore, I have always had a keen interest in it and closely followed its progress. I have admired the way it managed its business and the way it is trying to maintain mutuality, but I do not believe that it will succeed. Market forces will overwhelm building societies eventually and they will move in that direction.

I am not trying to draw in another strand to this debate but, as Senator Kitt said, this change will mean that the largest mutual service that will remain in the financial services area will be the credit unions. Significantly, the Irish League of Credit Unions was also founded by a member of my union, Ms Nora Herlihy. People involved in education have always been considering how we fund the buying and selling of houses.

If the largest mutual group remaining after the enactment of this legislation is credit unions, we need to examine that matter. I would like the Minister of State to give a commitment to come back to this House in the autumn and discuss some of the issues related to mutualisation and to allow credit unions to give bigger loans to people who wish to buy a house. Senator Kitt raised a related issue. There is merit in the issue he raised, but I do not fully agree with it because there are number of other issues involved. If we move into that area, we will have to ensure that credit unions are not used for money laundering purposes, are properly run and their debt properly managed. As Senator Kitt said, credit unions are investing in financial institutions. I am concerned that we have not put down a sufficient marker on how such funds are being invested in financial institutions. Taking all those aspects into account, credit unions will have a more important place in society than they have had previously and they

will take the place of mutual building societies in the future. We should proceed carefully down that road. Today is one step. I am disappointed this legislation is before us. I wish we did not need to have it, but I recognise the Minister of State's need to do so. I will support it on that basis.

Mr. Ross: I share Senator O'Toole's rather romantic view of a perfect world and how it would be very nice if we could all support each other in buying houses. I was a great believer in mutual societies for a long time because I thought that they were doing that. The evidence now is that this does not happen any more. None of the building societies remaining does this and would not survive in the market if it did so. I welcome the Bill with the same enthusiasm as Senator O'Toole in that I wish we lived in a world where we were all prepared to put money into a society to help other people to buy houses, but we do not. Those people who run building societies are not expected to do that or to run those societies any more for the benefit of the borrowers or for society as a whole. They run them specifically to make profits and are judged on the profits they make. The result is that demutualisation has become the fashion and mutual societies are almost non-existent.

The Government acted wisely in introducing this Bill and I welcome it in that sense. It should be recognised that this Bill is being introduced largely for the benefit of two building societies, and there is nothing wrong with that. There are two large building societies remaining, namely, the Irish Nationwide Building Society and the Educational Building Society. They need the flexibility that is currently demanded of them in the market. This Bill will allow the Irish Nationwide Building Society to take its course, which is for it to be sold, and it will also allow the Educational Building Society the protection, which apparently its board of directors desire, o remain a mutual. Modernising these building societies, which are sort of half banks — they compete with the banks with their hands tied behind their backs to a certain extent — is a sensible and inevitable move. They could not survive without such modernisation.

I am doubtful about the benefits of mutuality. They are an ideal but I am not sure they can happen. One need only reflect on the Educational Building Society and the way it operates to ask oneself whether it is being run as efficiently as other societies and other financial institutions. It makes enormous play of the fact that every year it issues a mutuality dividend, where effectively it says to its borrowers and savers that it gets a better rate because it is a mutual. The evidence for that is fairly doubtful. Sometimes the rates from the Educational Building Society are better but not always. Therefore, it appears that the borrowers are not really benefiting from the mutuality which exists in that particular society. The reality is that the only way borrowers can benefit in this way is if costs are cut rather than the way it is done at present. This building society is operating with — I am open to correction on this — a cost-income ratio of approximately 58%. I do not want to be technical but it is a high cost-income ratio. There is not the pressure on it to keep costs down, whereas its rival, the Irish Nationwide Building Society, is working on a cost-income ratio of under 20%. The mutuality dividend, if there is such a thing, is really largely illusory. The pressure on a building society, a real mutual in the market, to produce dividends is not great enough to force it to bring its costs down. If that were the case, deposit and mortgage rates would be lower than the competing banks, but that is not the case. I do not believe mutuality, in effect, is working.

I am also doubtful about it working in any democratic sense. None of the boards of the building societies has been beaten on any issue that I can remember recently, including the Irish Nationwide Building Society which was involved in some controversies and the Educational Building Society which was not involved in as many controversies. It appears that they always seem to get their own way. The members of the board of the EBS are paid as much, if not more, than the members of the board of Irish Nationwide. Those who control the EBS are extraordinarily well paid for the devotion to the principle of mutuality. They are major beneficiaries of the devotion to mutuality, something about which some people might be slightly sceptical.

6 o'clock

I welcome the Bill because it will introduce more competition into the banking sector. If Irish Nationwide is sold to a single buyer, it will, hopefully, introduce a new bank into the Irish market. There is every possibility that due to the extraordinary success of this building society and the incredible profits which it has been able to record, it will be bought by a new entrant to the market. The Irish banking market badly needs new entrants. We witnessed the sale of National Irish Bank and the entrance of the Bank of Scotland into the Irish market. The cartel is being broken up but it would be very welcome if some external bank bought Irish Nationwide because it would introduce more competition and do the job which mutual societies should possibly have done in the first place.

Mr. Brady: I welcome the Minister of State to the House and the publication of this Bill. As has been said previously, the Bill marks the end of an era. For many years, the first savings book that a young person received when he or she got his or her first job was a post office or a building society book. The legislation passing through the House today effectively levels the playing pitch for building societies. We have seen the changes which have taken place recently in the building industry. The construction of over 80,000 housing units year after year has completely changed the

[Mr. Brady.]

pitch. Building societies must compete for their ordinary members. We must remember that the vast majority of building society members are ordinary working people who took out mortgages or had savings with building societies. As the two previous speakers noted, the thrust of these mutual societies was aimed at everyone's mutual benefit. This fact must be remembered.

I do not know why people are surprised by this legislation. I received inquiries about what was happening from ordinary members of building societies almost over a year ago. Due to commercial sensitivities, the timing of the Bill was sensitive but it will come as no surprise to anyone. Building societies as they are now constituted must compete in what is an ever increasing competitive market. As Senator Ross noted, we need more competition in the banking market because it benefits consumers.

The legislation as it is framed is very fair. It allows building societies to decide which route it they wish to take for the benefit of their members. The different sections that deal with demutualisation, the different systems through which it will go and the conversions are subject to scrutiny by the Central Bank and the Financial Regulator before they are introduced to building society members. As the Minister of State pointed out, it is open to the members to vote on it and if they do not like it, they can vote against it. The legislation has been amended to take into account the fact that it cannot be forced through without the full co-operation of members.

The Bill leaves the decision on any changes with the society. Not only must the decision be approved by members, it must also be approved by the Financial Regulator. As we know, this legislation is largely based on the recommendations of the building society review group, which included the Financial Regulator, representatives from the three building societies and the Department. What has come out of this is very fair and balanced legislation.

The building societies looked for the options to opt out of the five-year post-conversion protection that was there. When the option to demutualise is taken, the society can be taken over, again with the full approval and to the benefit of the members. Due to the significant changes in the financial services sector recently, building societies accept that they must change. These changes are essential to enable them to compete and flourish in the current climate. It will put societies on the same footing as banks and allow them to compete.

Like previous speakers, I would like to plug credit unions in this regard. The World Council of Credit Unions, which is a meeting of delegates from around the world, will be held on 27 July 2006 in the Burlington Hotel in Dublin. This is indicative of the status of the credit union movement. As has been pointed out, there are more issues at stake than a change of legislation. It is something at which we must look.

In respect of corporate governance and how it is put into effect, it is accepted that good corporate governance is essential if a financial institution is to operate with transparency and within the regulations. This legislation does not simply deal with demutualisation. It also deals with a range of aspects in respect of how the societies will function from now on, including the loans they can provide, who can be members of the board and dealing with foreign currencies. As the legislation is currently framed, it is in the interests of societies and their members to make the decisions they want to make as regards the future role they have in the financial services sector.

I welcome the Bill, which marks the end of an era in the sense that building societies as we know them have now changed. As has been noted by previous speakers, mutual societies were set up with the aim of benefiting their members in a mutual fashion and supporting each other. The original ethos of the societies has changed over many years but the way in which this legislation is framed makes it an even-handed Bill which will enable the societies to place themselves in a highly competitive and changing market. There are obviously issues with individuals and different groups with the societies. It is open to them to put measures to the floor when they hold their general meeting, which is the appropriate forum for this kind of decision. I welcome this legislation because building society members have been contacting me for over a year to find out what was happening.

As the Minister of State noted, we have seen examples of carpetbaggers taking advantage of these situations. The measures in this Bill will prevent this from happening. There will be a two-year requirement for someone seeking to open an account or secure a loan or mortgage with a building society. The legislation is very even-handed and fair and will benefit building society members in the future, irrespective of whether they want their societies to become private institutions or maintain their status as building societies. Once this option is open to them and if they can compete fairly and equally with other institutions, it will be in their interest to allow for this situation. I welcome this legislation.

Mr. Ryan: While I am not sure I welcome the Bill, I am not prepared to fly in the face of reality. Senator O'Toole correctly spoke about mutuality, co-operation and so on. It is a pity that people insist on using incomplete criteria to judge the significant benefits of genuinely mutual organisations and the co-operative movement in general. My good friend, Senator Ross, stated that he did not know how the mutual organisations were better at delivering low interest rates. While I am sure he is right, the history of mutual organisations, that is, credit unions as originally envisaged, or credit unions is not one of maximising

members' profits, but of providing services for members that would not be available elsewhere.

I am old enough to remember people's difficulties in getting mortgages. In many cases, issues remain to be discussed in that regard. It is a pity we do not have a thriving not-for-profit movement beyond credit unions. I am more than a little sceptical of some of the bleating of the banks on what they call unfair competition in respect of credit unions, as that is a bit rich. No members of the voluntary boards that operate credit unions will be paid as much in their lifetimes as the senior executives of some of the banks are paid per year. They do this work for the good of their communities. To have powerful banks using their considerable public and political clout to undermine credit unions is a great pity.

However, I do not weep for building societies too much. For members of such societies in the old days, the idea that they were mutual was as far from reality as one could get and still be on the planet. The building society with which I had my major mortgage was controlled by one family that managed to reorganise the rules so that the allegedly mutual owners never knew how much the family members were being paid. In Cork, they made it compulsory to use a firm of solicitors with direct family connections to the building society and insisted that we bought insurance through a system similarly linked to the extended family. That was supposed to be a mutual organisation owned by its members. One could find out less about the payments to its directors and senior executives than the payments to similar people in plcs, which were not mutual organisations at the time.

However benevolent the sole survivor is, the idea that building societies were mutual organisations was far from reality and there is no point in pretending otherwise. The largest society became an extraordinary vehicle for the enrichment of a small number of people who were essentially members of a single family. The society was not what it was meant to be.

I liked the Minister of State's reference to the dangers of predators, carpetbaggers and opportunists because I agree with him. That is exactly what happened to Eircom, namely, a bunch of predators, carpetbaggers and opportunists bought its shares when they were cheap and sold them at a considerable profit, thereby milking Eircom of funds that should have been used to give this country a proper broadband service. We are not short of such people.

When these transformations occur, whether they are the privatisation of Aer Lingus, Eircom or Greencore or demutualisations, the one aspect and certainty we are not supposed to mention is that the salaries of the CEOs will be doubled, trebled or quadrupled. To even suggest that the enthusiasm of the senior managers of these companies for whatever procedure is involved might have anything to do with their getting richer is regarded as untoward. Every privatisation has resulted in CEOs moving from the public service range of salaries, which would encompass the Taoiseach at one end and the rest of us down the line with a couple of exceptions, to a range wherein the Taoiseach would be regarded as a poorly paid middle-ranking executive in many of the companies in question.

My mind boggles at the salary of our second largest bank's chief executive. This afternoon, I worked out the figures. He is paid 2.5 times as much as Pat Kenny, six times as much as Joe Duffy, 15 times as much as the Taoiseach, 25 times as much as a Deputy, 35 times as much as a mere Senator and 160 times the average private sector wage. This is the ballpark salary that an executive of a soon-to-be demutualised building society will expect to emulate. He or she might only get half of it, that is, €1.25 million per year.

Senator Ross and I agree on a number of issues, one of which is that people justify many of these salaries by the need to keep high achievers in the Irish financial services sector. Otherwise, they will be snapped up by international headhunting organisations. Funnily, not a single executive has ever been snapped up. I do not want to personalise this issue in a debate on concepts, principles and the aggrandisement of the senior executives of these companies, but they are undoubtedly driven by the profit motive. They believe it is the way to provide the best service, but tell us that they are as pure as the driven snow and the last thing on their minds is money. One or the other of their statements is untrue.

I am sceptical of the Minister of State's assertion that there is no question of bowing to vested interests. It might be a good choice of phrase, but there is no doubt that we are providing the vehicle for the ambitions of a particular building society, perhaps more so for a particular individual. This measure might be correct and there might be a push from within the organisation for such to be done, but to pretend that the major driving force is not the desire of a building society to get out of the constraints governing what it can do for the next five years is to be more than innocent.

The Minister of State took the liberty to discuss the housing market, which I will also do shortly. I am unsure why turning a building society into a bank should be the business of the Minister of State with responsibility for housing rather than the Minister for Finance. In the interest of housing, perhaps the Minister of State will examine the extraordinary way in which banks that swore they were operating in a cut-throat competitive environment suddenly discovered they could afford to reduce their margins when the Bank of Scotland arrived. Why did this not previously happen? At the time of the euro changeover, why did it virtually take dawn raids conducted by the European Commission against our two major banks to persuade everyone that they did not need to make money due to no longer having cur-

[Mr. Ryan.]

rency risks? They were beaten by the EU into doing what was obvious to the rest of us.

In terms of housing, does the Minister of State consider the best way forward is to buy a house for €350,000, sell it in a year at 10% more and pay less tax on that €35,000 than an ordinary working person would pay having sweated for 40 hours per week to earn €35,000? Is that fair? It is happening.

People do not speculate in property for the rental income, which is just a convenient way of getting a tenant to pay an owner for the privilege of keeping their property secure while it inflates, giving the owner a capital gain on which he or she will pay tax at 20%. Will the Minister of State tell me if he thinks that is fair? We should not give the best rewards to people who speculate at zero risk but to people who work and who deserve them.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): I thank Senators for their comments. It is fair to say there is general agreement with the objectives of the Bill. Senators raised some points of concern and suggested provisions they wanted to be included. However, some concerns voiced in the Dáil, in this House and outside in recent times are not relevant to this legislation. Points made about lending practices and charges are covered by special purpose legislation, such as statutes governing consumer credit and financial regulation. This Bill is not the appropriate place to address those. Issues relating to one particular building society have been referred to the financial services ombudsman, others are for the Financial Regulator to adjudicate on.

This Bill is framework legislation. It is not earth-shattering but is made up predominantly of amendments to the 1989 Act and is enabling legislation for the existing building societies, providing them with additional options. Although some of the points raised are not of direct relevance I recognise that people may have legitimate grievances about building societies coming together.

The fundamental point, which I think people understand but gloss over, is that we are not taking any action to sell or demutualise any building society. We are providing options. In future there will be four options to a building society. It can remain as a mutual organisation. It can demutualise under the existing protective provisions which have been in place since 1989. It can opt out of those provisions and be taken over immediately or it can opt out and sell at some later stage. We are providing building societies with the options. It is the members who make the decisions. The conversion scheme is a slow process and I accept that the directors have a lot of influence.

Mr. Ryan: They have a lot of money.

Mr. N. Ahern: They can put forward proposals but the ordinary members must accept them. If they do not like them they can say "No" and the right to say "No" is a powerful right in any walk of life. Some ordinary members might like to get their windfall but if they do not feel that what is on offer is fair and reasonable they can also say "No". They can also vote to get rid of particular directors, though I know that is difficult and there has to be a majority. The directors can put forward proposals but individual members must agree to them before they are referred to the Central Bank.

There are extensive and rigorous requirements for any such process. These involve consultation with the Central Bank, approval by the members, public notice, the right to make objections and representations and, ultimately, the right to petition the High Court. It is a long procedure and I do not deny that.

Senator Bannon said we had been talking about this Bill for a couple of years. It has been slow coming, even though not many building societies are involved. It has been tortuous and if there were more building societies it might have been easier to make decisions, for good or bad. There have been many discussions with individual Departments, with the Financial Regulator, the Office of the Attorney General and the building societies themselves. It has been quite difficult to arrive at a formula acceptable to the two sides.

One speaker said there was nothing in the Bill for the EBS, as though we were forcing it to demutualise. We are doing nothing of the sort. We are not forcing anybody and provisions have been included which will help building societies that want to stay mutual. They have expressed satisfaction with those provisions, seeing them as reducing the pressure that can be exerted by predators who might agree with Senator Brady that this is the end of an era. It is not the end of an era because, although there are three building societies at the moment and there might be two very shortly, the EBS is a large building society.

Mr. Brady: How long will it stay that way?

Mr. N. Ahern: I do not know, but it is not quite the end of an era yet. The EBS is holding firm in its stance. Complaints about practices within the Irish Nationwide Building Society are for the financial services ombudsman and the Financial Regulator and some have already been adjudicated on.

Senator Ryan referred to the salaries of the managing directors and he may be right. Private companies have a keen focus on profit and making profits is usually written into their contracts. It is relatively easy to determine an appropriate salary based on what a person makes for the company in a given year. It is probably harder to quantify the value a person adds to mutual building societies or State bodies, for which I have worked all my life.

Mr. Ryan: The chief executive of the HSE was deemed worthy of a bonus.

Mr. N. Ahern: That appeared strange to some people, as I have learned on the doorsteps. Bonuses are harder to evaluate in those sectors but maybe it is a new trend.

Mr. Ryan: They all think they are wonderful so they give each other bonuses.

Mr. N. Ahern: Traditionally that did not happen. Senator Ryan spoke as if we were facilitating the sale of a State asset, if not actually selling it. We are not. We are giving those companies options. He also spoke about rental income. People who buy houses to let have to pay capital gains tax, as well as tax on income. Do I think it is fair? Such people have done well in recent times and the State likes people to invest because a significant number of people require rented accommodation.

Mr. Ryan: The tax breaks should be on the rent.

Mr. N. Ahern: When we changed the tax rules in the wake of one of the Bacon reports rents went through the roof. A fine balance has to be struck between the rental market and first-time buyers. Some people have made obscene profits in recent times. If a bit of sense enters the housing market those people might be hurt but that is the game they are in. When they are winning they do well——

Mr. Ryan: When they lose they come looking for Government support.

Mr. N. Ahern: They will not get it from me. We are simply providing options.

On the point regarding credit unions, it might seem strange that building society legislation comes under the Department of the Environment, Heritage and Local Government as the Department mainly deals with social and affordable housing, and trying to encourage the private market. This is a throwback to earlier years, when the proper home for the provision of mortgages and building societies was seen to be the Department of the Environment, Heritage and Local Government. The Government has decided in principle that the building societies code should be brought within general financial services legislation at a future date. Senator O'Toole suggested we should have a proper discussion next year on mutuality and related issues. I do not know if that is necessary because this issue might not be under my Department for long.

While I can pass on views, the credit union issue is more appropriate to the Minister for Finance. One of the sections in the Bill approves partnerships. I can foresee building societies using that section to have partnerships with credit unions and to work in that way.

I thank Senators for their support.

Question put and agreed to.

Building Societies (Amendment) Bill 2006: Committee and Remaining Stages.

Sections 1 to 20, inclusive, agreed to.

SECTION 21.

An Leas-Chathaoirleach: Amendments Nos. 1 to 3, inclusive, are related and may be discussed together.

Mr. Bannon: I move amendment No. 1:

In page 12, between lines 9 and 10, to insert the following:

"(*a*) by substituting the following for subsection (2):

"(2) In order to convert into a company, a society must—

(*a*) approve a conversion scheme by a conversion resolution pursuant to section 71,

(*b*) obtain the confirmation of the Central Bank to the conversion scheme under section 104,

(*c*) obtain an order from a court under section A101A, and

(*d*) have the society registered as a company under the Companies Acts in accordance with the provisions of this Part and any regulations made thereunder.".".

I am disappointed the Government is pushing the Bill through all Stages today. I understand amendments were tabled in the Dáil yesterday but the Bill was guillotined, which was disappointing. Bills such as this, although we are in agreement on them, should be debated thoroughly. Rushed legislation results in bad Acts in the long run. We should consider this matter further. We had plenty of time to do so in that it was originally proposed to sit five days this week. I was not made aware Friday's business was to be condensed into today's business until the Order of Business today.

The Bill is being rushed in the mistaken belief that it is simply a tidying-up Bill. While I support the Bill in principle, it must be amended. Amendment No. 1 proposes to make a court order necessary for a building society to become a plc, which is important. Amendment No. 2 details the powers and duties of the courts in making the order and shows who has authority in this area, namely, the Minister for Finance, the Minister for the Environment, Heritage and Local Government and any person, including an employee of the society, who alleges that he or she would be

[Mr. Bannon.]

adversely affected by the carrying out of the conversion.

One matter overlooked by the Minister is the position of retired employees of building societies. Does the Bill provide for such staff? If they hold shares in the building society, I hope they will not be hard done by. In the past a number of hospital sweepstakes staff were hard done by in the legislation doing away with the sweepstakes. I hope nobody who has given years of service will be left without compensation, which is an issue the Minister should address.

Amendment No. 3 seeks to appoint an independent actuary to audit the building societies' liabilities. It is important to investigate a society seeking conversion into a company and to report to it on any issues arising from such an investigation.

The three amendments are important. I am interested to hear the Minister's view and hope he can accept the amendments. To sum up, amendment No. 1 proposes to make a court order necessary for a building society to become a plc, amendment No. 2 details the powers and duties of the courts in making the order and amendment No. 3 seeks to appoint an independent actuary to audit the building societies' liabilities. This makes sense and should be taken on board.

With regard to a compensation fund for those who have been hard done by in the past we should look after staff. I hope nobody will be treated in a slipshod manner. I await the Minister's response.

Mr. Brady: The Minister stated in his speech that there are a number of safeguards in how the process operates, particularly with regard to the membership. Approval must be sought from the Central Bank initially, which will obviously examine the case rigorously. It must then be brought back to the membership and voted on before being subjected to further scrutiny by the Financial Regulator. Irrespective of what steps are taken to protect the members of the society, the Bill puts that process in place.

As the Minister stated, it is the choice of the membership. Four options are available to all societies. The measures in the Bill are adequate.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): The amendments are not necessary and do not add to the Bill. The Bill provides additional options for building societies to demutualise. It has been drafted in a way that ensures there is a transparent framework for conversions under the 1989 Act, which is being maintained. Appropriate controls are in place and the rigorous framework for conversions already exists. It is not necessary to involve any other independent actuary, independent expert or court, as the Senator suggests.

We have had two conversions under the 1989 Act and this amendment does not change the basic framework. The legislation already has a series of controls as regards the demutualisation process. As I said earlier, the conversion process involves the preparation of the statutory conversion scheme by the society, on which the Central Bank must be consulted. In a way that is to bring in an outside body. Then the law provides that a statement must be issued to members outlining the proposals. People have the right to inspect that, the members approve it and, if required, an appeal can be made to the Central Bank later. There are many people involved in the set up.

Senator Bannon asked about staff and whether they would get shares. Those matters are not covered in the legislation which is separate from the conversion scheme. The legislation says that if a building society is being demutualised, a conversion scheme must be drawn up, checked with the Central Bank and eventually put to the members. The details, as regards who might get what, the entitlements of any saver or mortgage holder, director or staff member, will be in the conversion scheme. Previous conversions have included provisions as regards free shares for employees and indeed share options for senior management. However, the Bill requires that any directors' interests in the acquisition be specified in the statement that issues to members and this will ensure transparency.

Basically, the conversion scheme, as put to members, lays down what any saver, mortgage holder or staff member might get. That is where this is done. It is not done in the legislation. There is the precedent of what happened in previous times. Based on the good aspects of that, I would hope that the benefits that might be given to staff will be continued in line with such precedent. However, we do not lay down what those benefits should be in this framework legislation.

The Central Bank is completely independent, so there is no need to be setting up any other agency layer to look at the matter. Those are the basic points I wanted to make to the Senator.

Mr. Bannon: I am not sure on the last point made by the Minister of State. Is he taking the amendments on board?

Mr. N. Ahern: No, I said at the start that I was not.

Mr. Bannon: I am disappointed because the amendments are straightforward. As I said, the first one is a very necessary amendment. It makes it a requirement for a court order to be issued before a building society can become a public limited company. That is it in a nutshell. To improve the legislation it is important that this should be included in the Bill.

As regards the second amendment, it is important that we detail the powers and duties of the court in making the order. It is only right that

this should be done. It will definitely improve the legislation and it is something the Minister of State should consider taking on board.

I had laid down approximately 131 amendments for the Planning and Development (Strategic Infrastructure) Bill which came before the House earlier today. A good number of them were not taken in this House although, as Senator Brady is aware, one was taken. When the Bill came back from the Dáil today we discovered that 45 of the amendments we put forward in this House three weeks ago had been accepted. The Bill had to be returned to this House on that basis.

These amendments are worthy of consideration. I believe that rushed legislation is bad legislation. If the Minister of State had tonight, tomorrow or the weekend to think about this, I believe he would be taking the amendments on board. I again plead with him to consider the amendments, take them on board as they will very much improve the legislation.

Mr. N. Ahern: I am sorry to disappoint the Senator. We have considered them. Everything is worthy of consideration, but it is not intended to accept them. We do not believe they add anything to the Bill. I have outlined the process that exists. It may well be that this is how they do it in other countries. I do not mind looking at how it is done in other countries, but it does not mean we have to imitate them or slavishly follow their example. We have our own controls and processes, which are clearly laid down. It is not just done overnight because the directors bring a proposal before an annual general meeting. It is a slow process, involving the Central Bank, members vote on it and there is ample time to consider it. Ultimately, if people are not happy they can go to the High Court.

However, it would not be appropriate to give the courts the function of approving a conversion scheme. That function rests with the Central Bank, which has the expertise and the standing. No justification has been made to transfer this function. It might even be in conflict with the jurisdiction of the High Court to deal with petitions of members. Ultimately, if members are not happy their last court of appeal is the High Court, under section 105 of the 1989 Act for cancellation of a conversion scheme. It would be somewhat strange to go the court for approval on the first day and then members might ultimately opt to back to the High Court as their last court of appeal. The court might have a conflict of interest, in the event, as some people might want to ensure it stood by its original decision.

It is a financial matter. The Central Bank is involved early on, then the members. If the members are not happy, the High Court is the final appeal forum if they wish to go there to have the conversion scheme cancelled. We have considered the issues, but we do not believe they add anything to the Bill.

Amendment put.

The Committee divided: Tá, 11; Níl, 25.

Tá

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Feighan, Frank.
Hayes, Brian.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.

Níl

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Dardis, John.
Dooley, Timmy.
Fitzgerald, Liam.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
Mansergh, Martin.
Minihan, John.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Rourke, Mary.
O'Toole, Joe.
Ormonde, Ann.
Phelan, Kieran.
Ross, Shane.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.

Tellers: Tá, Senators Bannon and Cummins; Níl, Senators Minihan and Moylan.

Amendment declared lost.

Section 21 agreed to.

NEW SECTIONS.

Mr. Bannon: I move amendment No. 2:

In page 12, before section 22, to insert the following new section:

"22. The Principal Act is amended by inserting the following after section 101:

"A101A.—(1) An application may be made to the High Court for an order sanc-

[Mr. Bannon.]

tioning the conversion into a company of a society.

(2) In any application under this section, the following shall have right of audience:

(*a*) the Minister for Finance;

(*b*) the Minister for the Environment, Heritage and Local Government; and

(*c*) any person (including an employee of the society) who alleges that he or she would be adversely affected by the carrying out of the conversion.".".

Amendment put and declared lost.

Mr. Bannon: I move amendment No. 3:

In page 12, before section 22, to insert the following new section:

22.—The Principal Act is amended by inserting the following after section 101:

A101B.—

(1) Before the court may make an order under section A101A, the court must be satisfied that all the society's assets and liabilities are in order.

(2) In ascertaining its duty under subsection (1), the court making the order may appoint an independent actuary or other person who is deemed by the court to be sufficiently qualified for the purpose—

(*a*) to investigate the society seeking conversion into a company, and

(*b*) to report to it on any issues arising from such investigation.".".

Amendment put and declared lost.

Mr. Bannon: I move amendment No. 4:

In page 12, before section 22, to insert the following new section:

"22.—The Principal Act is amended by inserting the following after section 101:

"A101C. —Before the court may make an order under section A101A, it shall satisfy itself that the society has established a Board of Directors comprising no less than—

(*a*) two executive directors, and

(*b*) 7 non-executive directors, one of whom shall be a chairman.".".

Building societies can no longer be allowed to be run as one-man shows, as was pointed out earlier. This was the case with Irish Nationwide. Proper corporate governance must be included in this Bill, as several Members today emphasised. This amendment proposes that there be a minimum of nine directors, no more than two of whom can be executive directors.

7 o'clock

The windfalls or good fortune of demutualisation will amount to approximately €1.5 billion. This cannot be distributed according to the whim of one individual. Good corporate governance guidelines are necessary. That is why I tabled this amendment which I hope the Minister of State will take on board.

Mr. N. Ahern: I cannot accept the amendment. It is not appropriate because section 48 of the 1989 Act provides that a building society shall have at least three directors and this is in line with other credit institutions which should have at least two directors. In company law the requirement is also for a minimum of two.

The Bill is intended to address a range of issues based largely on the recommendations of the building society review group relating to the powers of building societies and their options for conversion. It is not intended to deal with matters relating to internal governance of building societies.

This has been the law since 1989 and it has worked well. The building societies, including those that converted to public companies have developed and progressed fairly well. The number of directors is in line with that in other financial institutions outside the building society structure. This works well so why change it or increase the number? The Senator's proposal would exceed the norm for any other similar institutions.

Mr. Bannon: The financial services ombudsman has found that the early repayment penalties imposed by Irish Nationwide were invalid and illegal but Irish Nationwide has made no provision to compensate borrowers affected by this. The amendment would counteract this problem, which is important. It is a sensible proposal and should be taken on board.

Amendment put.

The Committee divided: Tá, 12; Níl, 27.

Tá

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Feighan, Frank.
Hayes, Brian.
O'Toole, Joe.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.

Níl

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Rourke, Mary.
Ormonde, Ann.
Phelan, Kieran.
Ross, Shane.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Bannon and Cummins; Níl, Senators Minihan and Moylan.

Amendment declared lost.

Section 22 agreed to.

Sections 23 to 28, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

Mr. Bannon: I thank the Minister of State, Deputy Noel Ahern, for attending the Seanad this evening. He sat through the entire two and a half hours devoted to the Bill. The Fine Gael Party supports the Bill in principle but it is regrettable my important amendments were not taken on board. Hopefully, the Government will not live to regret that.

Mr. Kitt: I thank the Minister of State for his work on this Bill. It was well debated both in the Dáil and the Seanad. I hope it will prove to be good legislation.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): I thank Senators for their co-operation in ensuring the Bill was passed this evening. In an ideal world, we might like more time. I record my appreciation for the work done in the Department. While it may be thought of as a small Bill, tortuous work has been done behind the scenes to get agreement between the different sides.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: At 2.30 p.m. on Wednesday, 27 September 2006.

Adjournment Matters.

Hospital Services.

Mr. Ross: I am raising the issue of the run-down of the capital investment and the Government's commitment to the Adelaide and Meath Hospital in Tallaght. Concerns have been expressed by the hospital as the result of recent decisions. It is not just the recent decision on the location of the proposed national children's hospital. While the Adelaide may be losing its children's hospital, for some time there has been a certain amount of disillusionment in the Adelaide at the Government's commitment to the agreements made in 1996.

The main issue is that of tertiary paediatric care in the hospital and its removal. There is a deep feeling in Tallaght that this will dismember the hospital. The Minister of State will not need any introduction to the fact that Tallaght has the largest growing child population in the country. It also has the highest number of women of child-bearing age. The threats to the child and maternity care in Tallaght are not just serious for the hospital and its prevalent ethos but also to the area. The dangers of emasculating the hospital are serious and difficult to understand.

[Mr. Ross.]

Two issues must be addressed in the threat to Tallaght Hospital. First, there is the real threat to medical treatment for people in the area and the dangers of a fall in standards in quality and quantity of medical attention, particularly in child and maternity care. There is also the danger to the ethics practised at the Adelaide hospital for so long. It is unique in that it protects for minorities the privacy of the doctor-patient relationship which is not practised in other hospitals. The possibility that some of the facilities will be removed from the Adelaide threatens that particular relationship. This is a sensitive area. It is a matter of parents from minority beliefs having to make decisions on requiring medical treatment that may not be acceptable to other denominations. In the Adelaide's case, it is important the pluralist ethos is not removed from the child and maternity care area.

In 1996, the then Government committed to the hospital's charter and its guarantee of minority rights. The danger now is that it no longer seems to consider the commitment to the guarantee is binding. In the light of the children's issue, will the Government consider the proposal made by officials from the hospital? The proposal stated that if the Government insists on having the main children's hospital in the Mater, there should at least be a ancillary one on Dublin's southside. It is not just because it has the fastest growing population in the country. It is also because there are real dangers to children's health if there is only one hospital in Dublin that can treat certain conditions. Yesterday a doctor informed me that there are dangers of children dying because they will not get across Dublin city in time. That is not an exaggeration. It is essential that the Mater is made a hub hospital and that the spokes are in Bray, west Dublin and north Dublin. I urge the Minister of State to consider that. He might also consider the real issue of Tallaght Hospital having been run down from a promised bed capacity of 800 beds to 513 beds and the crisis of under-feeding that existed in 1989.

I wish to make three brief points. We need paediatric hospitals on both the north side and the south side of Dublin. We also need a maternity hospital to be built on the site of the Adelaide Hospital. In addition, we need 200 new public beds in the Adelaide Hospital, as originally promised. Above all, we need academic development so that, as promised, Tallaght Hospital can have new chairs in radiology, anaesthetics and clinical genetics.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): I will be taking the Adjournment matter on behalf of my colleague, the Tánaiste and Minister for Health and Children, Deputy Harney.

The Adelaide and Meath Hospital, Dublin, incorporating the National Children's Hospital, AMNCH, was opened in June 1998. The hospital was built at a cost of approximately €180 million and has 588 beds available. It replaced outmoded and inadequate facilities in the base hospital with a modern, state-of-the-art hospital, of which we should all feel proud.

The hospital was funded by the Eastern Regional Health Authority until 2004 and since then it has been funded by the Health Service Executive. The revenue allocation to AMNCH has increased from €63 million in 1997, before the hospital moved to Tallaght, to €192 million in 2006. That is a considerable increase in nine years. This increase compares favourably with the increased revenue allocations to the other Dublin academic teaching hospitals over the same period.

Even in the relatively short period since the hospital opened, a number of capital projects have been completed at the hospital. These include, a new magnetic resonance imaging system, MRI, a picture archiving computer system, PACS, and ICT upgrades. A new symptomatic breast unit has been set up and a specialised breast surgeon is in place since 2002. A total of 28 additional consultant posts have been approved at the hospital since it opened in 1998. These posts include consultancy services in geriatric medicine, palliative care, neurology, and medical oncology.

Additional funding has been allocated to develop cancer services at the hospital. The Tánaiste officially launched the oncology day unit and a new pancreatic unit at the hospital on Friday, 23 June 2006. Given that new units have opened as recently as that, it would give the lie to the assertion that the hospital is being run down. A sum of €1.5 million in capital and €2.2 million in revenue was included in the Tánaiste's ten-point accident and emergency plan to support the development of an acute medical unit at the hospital. Almost €1 million was allocated in 2004 to 2005 for the development of renal services at the hospital.

The service developments I have outlined for the House represent tangible evidence of the Government's commitment to the continued provision of high quality, inclusive, multi-denominational hospital services at the Adelaide and Meath Hospitals, including the children's hospital, in keeping with the ethos of the hospital as outlined in the Adelaide charter.

I apologise as many of the Senator's comments related to the children's unit and this does not appear to have been covered in the reply. It is my understanding that all of the medical experts felt that what was required was one state-of-the-art children's hospital in Dublin. I am not an authority in this area but I presume accident and emergency services or short-term facilities for children would be provided on the south side, given that the north side has been chosen as the

site of the proposed national children's hospital. I doubt that the provision of a full children's hospital on the south side would be envisaged.

All the medical experts appear to be of the view that what we require is one state-of-the-art hospital and that the very best facilities would be located there. I accept that the losing side is unhappy with the decision but I hope the medical experts will be of a united view. That was the approach they took prior to the decision being taken. They appeared to believe that only one hospital was required and I hope they will not begin to fight over patches at this stage. I accept what the Senator said and I will report it back to the Tánaiste. I apologise that the reply did not take on board more specific aspects of the question. The Tánaiste was recently in the hospital announcing new facilities and while services for children may not be as good in the future when the new hospital is up and running — which will take a few years — it would appear that the development of the hospital is considered a major part of the health service in the future and will be fully resourced.

Mr. Ross: I wish to ask a supplementary question as I believe I am entitled to do. I thank the Minister of State for departing from that particularly irrelevant brief, for which I do not blame him. I appreciate that he took the trouble to answer some of the questions and undertook to report my inquiry on the children's hospital and the dangers attached to taking that to the Mater Hospital alone, to the Tánaiste. Will the Minister of State also confirm that the assurances given in the 1996 charter regarding the ethos of the Adelaide Hospital will be transferred in all cases in respect of the facilities going to the Mater Hospital?

Mr. N. Ahern: If the Senator's questions were on housing or drugs I might be better equipped to answer them. The reply included a guarantee to that effect in respect of the existing hospital. I believe a meeting was held last week——

Mr. Ross: With the Minister of State's brother?

Mr. N. Ahern: Yes. I think I saw some reference to that effect in the media. I am under the impression that assurances were given to that effect, and that any concerns people may have had about the ethos of the Mater Hospital being fully enforced were allayed. I believe the Government intends that the new children's hospital will be multidenominational or secular, whichever term the Senator may prefer. I do not speak as an authority on the matter but I did read that members of the board of the AMNCH sought assurances to that effect in regard to the new children's hospital and, as far as I am aware, they were given. However, I do not wish to be too categoric in that regard. If a meeting was held with the Taoiseach, the matter was obviously brought to a high level and it is my understanding that assurances were given in regard to these concerns.

Communications Masts.

Mr. Bradford: I welcome the Minister of State, Deputy Noel Ahern. I urge him to give consideration to amending the appropriate Planning and Development Act to ensure that we would have in place clear and understandable guidelines to govern the erection of mobile telephone masts.

As a user of a mobile telephone, I would be the first to concede that with all other mobile telephone users I require a good mobile phone service and I demand good quality reception. As part of that equation it is necessary that mobile telephone masts be erected. We have now reached the stage where there are approximately 4,000 masts of various types around the country. I am concerned about the location of some masts. For example, I am concerned about masts being placed close to or adjoining schools, large housing estates and other community facilities. My concerns stems from the fact that notwithstanding all the international studies that are under way, we still have no clear proof regarding the health implications of mobile telephone masts. While those concerns are being examined and the jury is still out, we must be careful to ensure masts are only erected in areas where we can be confidently assured that they pose no threat to the health of citizens.

One of the issues that concerns me is that the various local authorities seem to have their own rules for the erection of mobile telephone masts. What is considered appropriate in one area, therefore, might be considered inappropriate in another. In a country as small as this, we need a national standard for adjudications on the proposed installations of masts. Our colleagues on the Oireachtas Joint Committee on Communications, Marine and Natural Resources have made certain recommendations in this regard. In particular, they demand that rules and regulations be established in regard to the erection of masts and the monitoring of emissions.

Arising from the joint committee's report, the Government set up an interdepartmental advisory committee to examine this issue. I understand this committee has been in place since September 2005. We need results from the committee and, subsequently, action from the Government. In the meantime, while the advisory committee is making further investigations and arriving at some conclusion, no further permissions should be granted for the erection of masts in any location.

In many communities, applications have already been lodged for the erection of telephone masts. Many parents have expressed serious concerns about the health implications of such installations. We do not yet have all the answers and we must proceed with care and caution. The

[Mr. Bradford.]

Minister of State is aware of the precautionary principle that operates at European level. This provides that where there is any doubt, one should proceed with great caution. While the Government awaits the report of its interdepartmental advisory committee, we should put a halt to any further planning decisions.

I recognise the need for telecommunications standards and infrastructure of the highest quality. We must, however, be cautious in regard to where these telephone masts are placed. In the case of applications for the erection of masts close to or adjoining schools, community centres, sports fields and large housing estates, the amber light at least must start flashing. I ask the Minister of State to take this issue on board. Given that the interdepartmental committee has been examining this issue since last September, he must ensure it produces a report and that action is taken. We must be able to provide satisfactory answers to the many communities throughout the country who are concerned about this situation.

Mr. N. Ahern: I am pleased to address the House on this important issue. I begin by emphasising that planning permission is generally required for communications masts. There is great confusion in this area, with many people mistakenly believing masts are exempt from the need to obtain planning permission. Like most security related developments, masts used for the purposes of or in connection with the operations of the Garda Síochána are not required to obtain planning permission. However, an alternative public consultation procedure is provided for in such cases under section 181 of the Planning and Development Act 2000.

My Department published guidelines for planning authorities on telecommunications antennae and support structures in 1996. These guidelines set out a locational hierarchy in regard to the siting of radio masts and advise the planning authorities that planning permission for free-standing masts within or in the immediate surrounds of smaller towns or villages should only be given as a last resort. In the vicinity of larger towns and in city suburbs, the guidelines state that operators should endeavour to locate them in industrial estates or in industrially zoned land. The guidelines further advise that only as a last resort and if all the alternatives are unavailable or unsuitable should free-standing masts be located in a residential area or beside schools.

There are also certain exemptions from the requirement to obtain planning permission for antennae. These exemptions are all clearly set out in the planning and development regulations 2001. These exemptions were the subject of extensive discussion in the House when those regulations were debated. The exemptions were endorsed by the Oireachtas in the context of the demand for additional antennae, which arises from the expectation of the public that it be possible to use mobile telephones at any time and anywhere.

One of these exemptions is the attachment of additional antennae to an existing antenna support structure or mast. This exemption is subject to several limitations. An important condition is that the attachment of the antennae must not result in the field strength of the non-ionising radiation emissions from the site exceeding limits specified by the Commission for Communications Regulation, ComReg. The commission will monitor emissions, particularly where requested to do so by any concerned member of the public.

Another exemption is the attachment of antennae to certain existing structures, including public or commercial buildings, telegraph poles and electricity pylons. Again, this exemption is subject to certain limitations. Educational facilities, child care facilities and hospitals are excluded. The limitation as to the field strength of the emissions again applies.

As regards health concerns, it is the policy of my Department and the Government, as stated in the guidelines, to keep abreast of the best available information and to follow best practice in ensuring that Irish telecommunications companies operate within internationally recognised safe limits in regard to exposure to non-ionising radiation. The Oireachtas Joint Committee on Communications, Marine and Natural Resources, in its report on non-ionising radiation from mobile telephone handsets and masts of June 2005, recommended, among other points, that planning guidelines and exemptions be examined with a view to ensuring that no equipment for emitting electromagnetic emissions or radio frequency emissions be permitted to be sited near health centres, schools or other sensitive sites such as playgrounds, sports pitches and so on.

My Department is represented on an interdepartmental advisory committee which is working on the appropriate response to the findings of the joint committee. I understand the advisory committee expects to report to the Government before the end of 2006. When we have its report and recommendations, we will consider appropriate further action. I understand the concerns of which Senator Bradford has spoken. There seem to be different views from various experts and medical people on the risks that may exist. There are several contentious installations in my constituency, where the Fine Gael candidate is a doctor. There seem to be many doctors in Fine Gael these days for some reason.

Mr. J. Phelan: Fine Gael is a popular party of which to be a member.

Mr. N. Ahern: We will not consider why so many doctors seem to be lining up to join the party. Perhaps they believe there is better protection for them in the party in terms of their contracts.

I have heard some medical experts express the view that we are at greater risk from a television than a mobile telephone mast, while others claim the latter are extremely dangerous. I accept there is concern in this regard and that it is desirable to be able to allay that concern. We must await the outcome of the investigations of the inter-departmental advisory committee.

Mr. Bradford: I thank the Minister of State for his reply. He said that the interdepartmental committee hopes to report by the end of this year. We should insist that it does so because it will have been investigating this issue for almost 15 months at that stage. Would the Minister of State not agree that until that report is in and the Government's interdepartmental committee has reported on the joint Oireachtas report we should instruct local authorities not to make further decisions on planning applications?

Mr. N. Ahern: The planning process is a formal legal process containing a great deal of legislation. I do not think Government could, even if it so wished, direct that should be set aside. The Senator alluded to inconsistencies in how different local authorities reach decisions. This may be due to different development plans but the Government does not tend to issue instructions in this regard. Interfering with the planning process would require primary legislation, though I understand the Senator's point and will relay it to the Minister for the Environment, Heritage and Local Government, Deputy Roche, who is responsible for planning issues.

Pension Provisions.

Mr. J. Phelan: I wish to raise the issue of pensions or, at least, enhanced gratuity payments for retired members of local authorities. I think the Minister of State may have been a member of a local authority. I was as were Senator Bradford and the Acting Chairman, Senator Moylan. I do not think I am eligible for a gratuity or a pension, however.

We are all familiar with people who have given years of service to local authorities around the country yet at the end of their time in politics leave without acknowledgement of the years of effort they have put in. I am reminded of a former colleague of mine on Kilkenny County Council who lost his seat in the last local election. He had been a councillor for 25 years. His wife told me that her husband had worked as a member of a local authority for 22 years without payment. He received payment for the last three years under the allowance system that was introduced. However, that man is in his 60s and will receive no financial acknowledgement in future for the effort he put in. There are many like him around the country and this is unfair.

Under the current system of payment, local authority members receive around €15,000 or €16,000 per year. This does not allow for the payment of the correct category of stamp that would entitle them to full pension rights upon retirement and this is the difficulty. Having spoken to a number of local authority members recently there seems to a general opinion that the Government is to make an announcement on this issue in the next couple of weeks, which is, primarily, why I put down this motion.

I would like to know how the Government sees this issue. There are many who believe there should be an enhanced gratuity payment for local authority members when they retire or lose their seats. That might be a better mechanism. I am not sure which method is best but I believe it is firmly wrong that one can give so much of a life to such an all-consuming job and not be entitled to some sort of pension. Being a local councillor is a full-time job nowadays. I hope the Government will look favourably on extending pension rights to retired local authority members.

Mr. N. Ahern: I appreciate that this is a topic of interest and concern across the House. The Local Government (Superannuation) Act 1980 enables the Minister for the Environment, Heritage and Local Government, with the consent of the Minister for Finance, to make superannuation schemes for employees of local authorities. However, councillors are not local authority employees and could not, therefore, be covered by any such scheme.

Under public service pension arrangements, it is only periods when employees are in receipt of salary or paid leave that count as pensionable service. Even if coverage under the local government superannuation scheme, LGSS, were possible for elected members, periods in receipt of the representational payment, which was introduced for councillors in 2002, would not count towards pension benefit since it is not a salary. It was made clear, right from its introduction, that the representational payment is meant to be a recognition of the work that councillors volunteer to undertake when they stand for election and subsequently serve their community. It is not meant to be a salary.

Membership of the local government superannuation scheme entails certain restrictions which do not apply to a councillor's retirement gratuity. Benefits under the scheme may not be paid until age 60, or age 65 in the case of new entrants since 1 April 2004. However, a councillor's retirement gratuity may be paid from age 50. In addition, the councillor has flexibility in terms of how to use the gratuity, for example, he or she may decide to invest it in a personal pension or a personal retirement savings account or supplement any additional pension entitlement by means of additional voluntary contributions.

[Mr. N. Ahern.]

In pure benefit terms, the councillors' retirement gratuity compares very favourably with retirement pension and lump sum payments. Using standard public service pension capitalisation rates, the gratuity payable to a councillor after 20 years' service, that is three times the representational payment, is equivalent to the retirement pension and lump sum payable to an employee under the local government superannuation scheme after 20 years' service.

In addition, councillors do not have to make any contribution towards the gratuity, whereas there is a contribution of 6.5% under the local government superannuation scheme and, where an employee is fully insured, the pension benefit is further reduced to take account of social welfare pension entitlement.

The tax exemption rules applicable to severance payments mean that very few, if any, councillors will be liable to pay income tax on the gratuity. While the retirement lump sum under the superannuation scheme is tax free, the pension is subject to tax, which may be deductible, depending on individual circumstances.

I wish to draw to the attention of the House that, at the current rate of representational payment, which is €15,949 per annum for a city or county councillor, the councillor is in effect clocking up a tax-free gratuity lump sum of €2,392 for every complete year of service since May 2000, with *pro rata* amounts for borough and town councillors.

It is important to note also that there is universal coverage for the gratuity. All councillors are covered, subject to minimum service requirements. This contrasts with the position in other European countries, where only a minority of councillors have pension coverage.

I consider that the gratuity stands up to scrutiny. It is free, in that councillors do not have to contribute. It is fair, in that it applies to all councillors and compares well with standard pension terms. It is flexible, in that it can be drawn down at an earlier age than pensions and can be used in the manner most suited to the circumstances of individual councillors.

That said, however, I can advise the House that my Department is looking at certain aspects of the councillors' retirement gratuity arrangements with a view to seeing if some improvements can be made. There are a number of legal issues which must first be examined and clarified, and my Department is currently seeking legal advice on the matter. I believe, in the circumstances, that this is the best way forward and my Department will be in touch with the associations representing councillors as soon as all the issues involved have been fully examined and clarified.

This is not under my area of responsibility in the Department. I was a councillor for 17 years. I might be entitled to feel that councillors nowadays are well looked after with their representational allowance and expenses. I lived quite close to the council chamber when I was a member and was not getting £20 per meeting. I accept that the world has changed and that councillors would like changes but I have no real information in that regard, other than the matter is being examined.

8 o'clock

Mr. J. Phelan: The final part of the Minister of State's speech seems to indicate there will be some movement on this issue in the near future and I welcome that.

It is important to note that the gratuity payment is only back-dated to May 2000. Perhaps it can be back-dated further.

Mr. N. Ahern: I would second that.

Mr. J. Phelan: There are many former and current local authority members who would have served for many years before May 2000, who would not be covered by such a gratuity. Having said that, I am happy with the last part of the Minister of State's response. I am not hung up on the issue of whether it would be a pension or gratuity and most councillors would not be either. It would allow councillors to have a fair degree of flexibility and I am glad the Minister of State has made such a positive announcement.

The Seanad adjourned at 8.05 p.m. until 2.30 p.m. on Wednesday, 27 September 2006.