

SEANAD ÉIREANN

—
Dé Céadaoin, 6 Nollaig 2006.
Wednesday, 6 December 2006.
 —

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for the Environment, Heritage and Local Government to indicate when he will approve funding for the Gort regional water supply so that work can commence immediately to improve the quality and quantity of the supply of water to the town.

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

The need for the Minister for Transport to clarify if the policy of printing numbers of motor insurance companies on insurance discs is necessary or if the policy numbers could be printed on the reverse of the insurance discs to prevent fraud.

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

The need for the Minister for Justice, Equality and Law Reform to give the reasons for the delay in appointing the working group to look at the issue of pre-nuptial agreements as agreed by Seanad Éireann unanimously on 18 October last and to indicate the composition of the proposed working group and the terms of reference of same.

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

Order of Business.

Ms O'Rourke: The Order of Business is No.1, Defamation Bill 2006 — Order for Second Stage and Second Stage, to be taken at the conclusion of the Order of Business until 1.30 p.m., with contributions of spokespersons not to exceed 15 minutes, those of other Senators not to exceed ten minutes and the Minister to be called on to reply not later than ten minutes before the con-

clusion of Second Stage, if it concludes — we will have to wait to see how the debate transpires; No. 2, a motion that Seanad Éireann notes the Budget Statement of the Minister for Finance, to be taken at 5 p.m. until 7 p.m., with contributions of spokespersons not to exceed ten minutes and those of other Senators not to exceed seven minutes; and No. 3, the Industrial Development Bill 2006 — Second Stage, to be taken at 7 p.m. and to conclude not later than 9 p.m., with contributions of spokespersons not to exceed ten minutes, those of other Senators not to exceed six minutes and the Minister to be called on to reply not later than ten minutes before the conclusion of Second Stage. There will be an extended sos from 1.30 p.m. until 5 p.m. to allow Senators to listen to the Budget Statement and to shout “Hurrah”.

Mr. Coghlan: That is not until 3.45 p.m.

Ms O'Rourke: The Senator can have his lunch beforehand.

Mr. B. Hayes: One group who will not be shouting “Hurrah” today are the 21 people jailed each day for non-payment of fines. Last Monday seven people were incarcerated because of their failure to pay fines. Over the past four years, according to figures released to a spokesperson colleague of mine, 7,500 were committed to prison for the non-payment of fines, an average of 21 people per day.

Will the Leader provide Government time for No. 13 on the Order Paper, the Enforcement of Court Orders (No. 2) Bill 2004, which is in my name? The Bill seeks to address the problem and provide for attachments to earnings. These are poor people who do not pay fines in most cases and are left in a situation where they end up in prison. This is a waste of Garda time and a waste of prison resources. The issue must be addressed. Will the Leader consult the Tánaiste and Minister for Justice, Equality and Law Reform with a view to providing time for this so that we may find a way forward rather than incarcerate people for the non-payment of small fines when we could set up an attachment to their social welfare or pension earnings to collect payment? It is ridiculous that 21 people a day are imprisoned for the non-payment of fines. The issue must be addressed.

Mr. O'Toole: During a discussion on a related matter here a few weeks ago Senator Brian Hayes raised the question of mandatory sentencing. I agree it would be helpful to have a debate on the area of sentences from the courts. People have all sorts of views on the matter. Some suggest locking people up and throwing away the key and others ask whether there is rehabilitation in prison. We need significant discussion on the issue. We have not had that discussion in my time in the House and it would be worth while to look at the issue from the perspective of the legis-

[Mr. O'Toole.]

lature. Obviously, the separation of powers remains.

I suggest it would be novel and creative for us to have our budget debate before the budget. We could have it at 1.30 p.m. and conclude at 3.45 p.m.

Ms O'Rourke: I did not hear what the Senator said.

Mr. O'Toole: I suggest we should be more creative and relaxed about our budget debate.

Ms O'Rourke: No, we could not have the debate before the budget.

Mr. O'Toole: Would the Leader accept an amendment to the Order of Business to have our budget debate at 1 p.m. with a proposal from the Government side congratulating it on reducing tax and on mortgage relief—

Mr. Norris: Let me make another suggestion, that we have an excellent budget since Senator O'Toole advocates prophecy.

An Cathaoirleach: Order please. Senator O'Toole, without interruption.

Mr. O'Toole: I am trying to be helpful. I recall a Minister of State once having to resign because somebody knew something about the budget in advance.

Mr. B. Hayes: That does not happen with the current Government.

Mr. O'Toole: We could have the debate, the congratulations on the one side and an amendment from the other side with regard to the profligacy of the Government and the waste of money. Will the Cathaoirleach consider it?

Ms O'Rourke: We cannot do it.

An Cathaoirleach: The Leader will reply on the Order of Business.

Mr. O'Toole: We dealt with an issue yesterday and the comments on it by the Minister of State at the Department of Health and Children, Deputy Tim O'Malley. Let us see what the budget does in that regard. We could still have a debate and focus on that issue after hearing what the Minister has to say about how he will spend his money. Other groups also have an interest as their budgets have been hit severely in recent times. I have been in contact with the Department on a number of occasions about the Irish Osteoporosis Society. Various other groups look forward to improvements also. If we cannot have the debate before the budget, we can discuss these issues afterwards. Does the Leader think

there will be something new in the budget of which we have not yet heard?

Ms O'Rourke: I have some ideas all right.

Mr. Ryan: This morning's reports on the study of recidivism, etc., confirms a view I have held since I came to the House, that apart from protecting us from dangerous people, prisons serve no purpose. They do not rehabilitate or deter people, but turn them into criminals. It is an interesting statistic that 85% of people who end up in prison for defaulting on a fine end up in prison again within four years.

Who are we kidding? Building more prisons and employing more prison officers is one of the growth industries here. In 50 or 100 years' time people will look back and wonder how society became so hysterical that it believed locking up more and more people would achieve anything more than locking up ever increasing numbers of people. There is not a scrap of evidence that prisons work or that they deter criminals—

Mr. Daly: Does the Senator suggest we release all the prisoners and lock them out?

Mr. Ryan: Senator Daly is having fun and making silly remarks about locking prisoners out.

Mr. Daly: Senator Ryan is making stupid statements.

Mr. Ryan: There are people who should be in prison, some of them close associates of Senator Daly and who never went to prison, and society would be a lot better off if they spent the rest of their lives there.

Mr. Daly: People in glass houses should not throw stones.

Mr. Ryan: If the Senator wants to talk about who should be in prison, let him go and talk about it.

An Cathaoirleach: We will not go that far.

Mr. Ryan: With regard to at least half, if not two thirds, of those in prison, we are not being protected from them because they are no threat to us. We are not rehabilitating them either, but only teaching them how to be professional criminals. We should be prepared to examine this report, which was produced by UCD with the co-operation of the Department of Justice, Equality and Law Reform and the Prison Service. We should discuss the issue. Let us get away from sloganeering and have a serious discussion on whether prisons work. We all believe they do, but they never do.

I was not here yesterday, but I wish to record my views on the issue of psychiatric services. Someone close to me is a psychiatrist. What was said about psychiatrists on "Prime Time" by the

Minister of State, Deputy Tim O'Malley, was grossly offensive to the people I know in that profession. His comments were thoughtless, irresponsible and grossly offensive and served no purpose other than to distract attention from appalling failure. I wish the minor party in Government would devote as much attention to lobbying for child psychiatry services as it has done to get a reduction in the top rate of income tax. That would have shown a greater level of social commitment rather than chasing after the illusory belief that the party can rescue itself from oblivion by cutting the top rate of income tax.

The Labour Party considers that ten and seven minute allocations for spokespersons on major legislation like the Defamation Bill is too short.

Ms O'Rourke: The allocation is for 15 minutes.

Mr. Ryan: I apologise, I must have misread it. Unlike Fianna Fáil, when I am wrong, I am prepared to admit I am wrong.

(Interruptions).

Mr. Leyden: I agree with Senator Brian Hayes and others on the need for a debate on the Prison Service, in particular with regard to imprisoning people for non-payment of fines. I have discussed this issue with solicitors and lawyers and attachment to earnings or social welfare payments is the route to take. We are not living in Charles Dickens' time or dealing with Mr. Micawber. In 2006, we should not send people to debtors' prisons for a fine that could be attached to earnings or social welfare payments. All this requires is a simple policy decision. I ask that the Tánaiste and Minister for Justice, Equality and Law Reform come to the House to discuss the report. We should have the debate in January when we return after the Christmas recess.

Will the Leader ask the Minister for the Environment, Heritage and Local Government to come to the House to outline his policy on water charges, particularly as they affect farmers? Our 29 different councils act like 29 independent republics with semi-junior ministers, called county managers, running the show. There are different charges in each county. In Sligo farmers pay €5.14 per 1,000 gallons, in Roscommon they pay €3.54 per 1,000 gallons and in Leitrim they pay €3.36 per 1,000 gallons. This is a small country so why can the Minister not talk to the county managers and apply a single charge throughout the country? The charges are the delegated responsibility of the executives of the councils, but they are trying to blame the councillors in each area for them. That is the direction we are going at present. There is no point in people trying to walk away from this area. Meters are for businesses, such as hairdressers and publicans. Farmers are prepared to accept that, provided it is fair and equitable, and provided the private house on the farm can be detached. I understand

from discussions today with Roscommon County Council——

Mr. B. Hayes: Is the Senator not talking to the Minister?

Mr. Leyden: I am talking to him.

An Cathaoirleach: The Senator has made his point.

Mr. Leyden: This is the forum to raise issues.

Mr. J. Phelan: That is good to hear.

Mr. B. Hayes: Who is in charge?

Mr. Leyden: We, on this side of the House, are not restricted. We are prepared to bell the cat. My party is not afraid to stand up on these issues.

An Cathaoirleach: Order, please. The Senator has made his point. I call Senator Finucane.

Mr. Finucane: Given the day that is in it, much attention will naturally focus on the budget but I would like the House to also think of a group of more than 300 workers who recently lost their jobs at Castlemahon Food Products near Newcastle West. They received just two weeks' statutory redundancy payments from the company, which is based in the North of Ireland, and the State. One year ago, 150 workers with that employer were made redundant and received five weeks' redundancy. The current group of workers have been crusading for an improvement in the number of weeks but the company has been totally intransigent and has hidden behind the liquidator.

It is usual when there are closures that there would be an announcement that the Minister for Enterprise, Trade and Employment, Deputy Martin, would do everything possible to assist. All I want him to do in this case is to talk to the Labour Relations Commission on an *ad hoc* basis, given that only the liquidator, the employees and the company are involved, to find whether he could achieve a meeting of minds to improve the redundancy package for these workers, who face a bleak Christmas. They are forgotten and must resort to peaceful protest outside a leading company in this country to prove their point — they will possibly finish their protest outside the Dáil today.

This is what I ask from the Minister, Deputy Martin. We realise the jobs are gone and will not be replaced. Unfortunately, the food processing industry as we know it in west Limerick, particularly with regard to poultry processing, has gone in the past two years.

Dr. Mansergh: I wonder whether it would be possible to turn down the heating in the Chamber.

An Cathaoirleach: I do not find it too hot.

A Senator: It is all the hot air coming out.

Dr. Mansergh: This is the time of year when one tends to review the performance of the tourism industry in the past year and the prospects for the year to come. I would like a debate on the industry, if not immediately, then when we resume. It is one of those sectors where many doomsayers claimed we were in danger of losing competitiveness and market share. In fact, we are forging ahead and the Government is getting real value for the money it has invested — there is a 17% increase in the marketing fund for next year.

There is also an all-Ireland dimension to the issue. Tourism Ireland is an all-Ireland body and the Northern Ireland Tourism Board is also benefiting. Northern Ireland has had as many visitors this year as the Twenty-Six Counties had in 1986.

Given the day that is in it, I compliment “Morning Ireland” for re-running a substantial excerpt from Mr. Ray McSharry’s budget speech, which showed how difficult things were 20 years ago, but which also set us on the path to where we are today, with the help of his successors.

Mr. B. Hayes: And Alan Dukes. He is conveniently forgotten. It is selective amnesia. What of the Tallaght strategy?

Dr. Henry: I add my voice to those who called for a debate on the report from UCD on our prison population. Perhaps we could combine that with a debate on the lack of access so many children have to psychologists at school, as Senator O’Toole mentioned, and the issue of access to child and adolescent psychiatrists. It is clear that poor educational attainment is a very important factor on the road to ending up in prison. The address of behavioural problems in children by such professionals might frequently have helped to keep people out of prison. I would like to have the two issues discussed in combination.

I support Senator Brian Hayes’s call for the House to bring forward No. 13, the Enforcement of Court Orders (No. 2) Bill on the attachment of orders with regard to fines. The worst aspect of imprisoning people for fines offences is not that they go to prison but that they never serve the sentences. There is such pressure on places that they are in for perhaps three to five days — the most expensive days possible for taxpayers — and are then released, but they have no money to pay the next fine. It is utterly ridiculous. I do not know why this has continued for so long.

Will the Leader organise a debate when the House resumes on the coexistence of genetically modified crops with conventional and organic crops? It is an important issue for this country to address, particularly in view of our island status.

Dr. M. Hayes: The points I intended to make have been anticipated by other Senators and I will not waste the time of the House with them, but I support the request for a debate on prisons arising from the UCD report which is being published today. It is to be welcomed that the country is developing criminological research at this level.

We need to consider the whole question of prisons. There are too many people in prison. Some people need to be kept in prisons but we only blur the issue by imprisoning many other people who should not be there.

Mr. Ryan: Hear, hear.

Dr. M. Hayes: It costs €95,000 a year to keep a prisoner in prison. We could send three of them to Eton for that amount, which would at least give us a better class of criminal by the time they came out. We should consider the balance between prison, probation, the number of prison officers and what they do, and rehabilitation. I am against the attachment of social welfare earnings because it would not help families.

Interesting things are being done in other countries with regard to restorative justice and making people face up to responsibility for their crimes and work in the community. There is much to be done. We could have a very useful debate in this regard.

Mr. McCarthy: Much has been said in recent times with regard to house prices and the ever-widening gap for young, hard-working people who cannot afford to buy their own homes. Much debate is centred around stamp duty, which was the issue floated recently by the Progressive Democrats. Today marks the fourth anniversary of the abolition of the first-time buyer’s grant by the then Minister for the Environment, Heritage and Local Government, Deputy Cullen. Will the Government re-introduce that grant? It would be one small step on the road to allowing younger people back into the housing market.

It is seldom we on this side of the House agree with Senator Mansergh but I agree it is quite hot in the Chamber today. I suggest the Senator joins backbench Fianna Fáil Members on the plinth for the rest of the day, where I am sure there will be plenty of hot air.

An Cathaoirleach: That is not relevant to the Order of Business.

Ms O’Rourke: The Senator is so funny.

Mr. Scanlon: I support Senator Leyden’s call to invite the Minister for the Environment, Heritage and Local Government, Deputy Roche, to the House for a discussion on the issue of water charges. I attended a meeting in Roscommon on Monday last at which 1,200 farmers were present. There is no doubt this is a serious issue. As Senator Leyden stated, County Sligo is one of the

dearest counties at €5.14 per 1,000 gallons of water and €80 per metre. A fragmented holding could be assessed for four or five metres, which could cost €400 without the farmer using a drop of water. This compares to other counties which have one charge per metre and a cost of €2 less per 1,000 gallons.

The other issue in this regard is that county managers state that funding is 100% recoupable from the customer. However, if there is a leak in the mains, somebody must pay for the water. It is farmers and small businesses throughout the country who must pay. This is wrong. The issue needs to be addressed.

I have previously raised the issue of care organisers. Patients are held in hospitals because care organisers who allocate hours to people who need home help are not doing so because
11 o'clock of a dispute that has continued for the past six months. As a result, people in hospitals are unable to get home care when they go home. Similarly, people who live at home who need extra home help hours to keep them out of hospital are unable to avail of such services. It is time for this dispute, which has been going on for six months, to be dealt with.

An Cathaoirleach: As many Senators are offering, I ask them to be brief in order that everyone can be accommodated.

Ms Terry: Many organisations are waiting patiently to see if the Minister for Finance will give them additional funding in today's budget. It is unfair to raise the profile of any single organisation. I would like to discuss the needs of people with cystic fibrosis, however, as they have not been mentioned in the House for a long time and have been neglected over the years. A review that was published last year highlighted some dangerous practices in respect of the treatment of cystic fibrosis sufferers. Approximately €5 million was allocated in last year's budget for improvements in the treatment centres which deal with such people, but that was a very small amount of money. Much more needs to be done to provide adequate staffing levels and better isolation facilities in the treatment units. If people with cystic fibrosis, who are really sick, cannot avail of the isolation units they need, they can easily pick up other illnesses such as MRSA, about which we have been hearing a great deal. I hope a significant budget will be allocated to the Minister for Health and Children to allow her to give cystic fibrosis sufferers the treatment and staffing levels they deserve.

Mr. B. Hayes: Hear, hear.

Mr. Kitt: I support the points which have been made about water charges. The proposal to install water meters is a good one because they can be used to measure the amount of water that is used and to deal with water leakage, which is a signifi-

cant problem in many water schemes. I hope the Minister can examine the inconsistency that exists in this regard, which needs to be dealt with. I refer to the charge per 1,000 gallons, which seems to vary in every county.

The serious flooding that started in many parts of the country last weekend has continued in recent days. The media highlighted the problems in Crossmolina, County Mayo, over the weekend. Television reports yesterday from Kilconly, which is in north Galway, informed us that the local IFA saved five cattle there which had been stranded for a few days before being brought to safety. I do not accept the excuse that flooding is simply caused by rivers bursting their banks, which has happened in a number of counties. I would like the Minister of State, Deputy Parlon, to come to the House to discuss this issue. Perhaps moneys will be made available in today's budget for flood relief, as has been done in previous budgets. It is important for the House to have a debate on the need to deal with this country's flooding blackspots.

Mr. Norris: I find myself in the embarrassing situation of agreeing with Senator Mansergh's comments about the rebroadcasting this morning of a budget speech given some years ago by the former Minister, Mr. Ray MacSharry. The speech, in which Mr. MacSharry referred to the difficult days we were experiencing at the time, was stark in the extreme. He said that while there had been decreases in production, productivity, exports, Exchequer income and employment, we should not lose courage because the foundations for future prosperity could be laid if we took some difficult steps. We have to give credit to people on all sides of the House who faced the realities of the time. Mr. MacSharry, among others, helped to lay the foundations for what we have today.

Senators: Hear, hear.

Mr. Norris: I hope the Minister for Finance decides to pay off some more of the national debt in today's budget. It would be wonderful if we could become debt-free in these times of prosperity.

I would like to speak about the extraordinary figures relating to the sentencing of prisoners which have been mentioned by other Senators. I gather the figures can be compared to the equivalent international figures. There is nothing unusual about our figures in that context. The rate of recidivism in Ireland is not greater than that in other countries — in fact, it is slightly less. It is interesting that just 25% of sexual offenders reoffend, as I would have thought the figure would be far higher. It appears the behaviour of such people in certain circumstances is less compulsive than the community believes. I do not agree with the idea of imprisoning people for not paying fines in respect of their television sets.

[Mr. Norris.]

Some of my colleagues have suggested taking some of the meagre social welfare income that such people receive. That is the most revolting suggestion I have heard in this House. I simply cannot believe it. I am sure it was just a slip of the tongue or a mistake.

Ms O'Rourke: No.

Mr. Norris: It would just catapult them back in again. It would be a complete waste of time.

I have just learned to my sorrow that there is no such thing as an original idea. I had written down what I planned to say about the annual cost of €90,000 for the detention of people in ordinary prisons and of €250,000 for the fancy accommodation for the Shinnars. One could certainly send people to good schools for that amount of money. I am really being serious when I ask why we should not provide for that. Given that we have provided for affordable housing, should we not require snotty boarding schools to take in a prisoner each?

Mr. Dardis: Some of them are already full of prisoners.

Mr. Norris: It would do them good. It would certainly save the Exchequer money.

I am a little concerned about the question of fluoridation. I have been contacted by people who have far more information on the matter than I have. We have certain medical personnel of various kinds in this House. I have received a press release from the *Irish Medical News*, stating that parents in Ireland who make up formula with tap water give their children seven times the safe level of fluoride, as agreed by the British Medical Association. The Minister for Health and Children has told the Dáil that if fluoride is to have any ill-effects, a newborn baby weighing 3kg would have to ingest 15mg of fluoride, which would be 176 times more than the safe fluoride level agreed by the British Medical Association. I would like to know who is wrong. Are infants in this country in danger of being poisoned, or is the British Medical Association wrong? It would be useful for Senators to get advice on this matter from the Minister for Health and Children and some of our medical colleagues in this House.

Ms Ormonde: I would also like to call for a debate on sentencing. I have listened to the points which have been made this morning. I agree with Senator Maurice Hayes that this is a societal matter. The issues which are at stake are more fundamental than the non-payment of small fines. Rehabilitation should focus on individuals and their families. We need to reflect on the future of the family in this country. Discipline is also important. We should examine how children are reared and how young people are brought up. This is a societal issue. It would be useful to have

a debate on the wider issues in this regard. We called yesterday for a debate on the mental health of young adolescents. This is a similar problem. Many young people do not want to be in mainstream education. They do not want to obey any rules and regulations. We have a golden opportunity to examine the best way to rehabilitate such people. I welcome today's publication of the report on sentencing. It is a pity it was not published before the House debated and passed the Prisons Bill 2006 yesterday. Perhaps we would have had more to say about the Bill if we had seen the report in question. I support the call for a debate on sentencing.

Mr. U. Burke: We heard this morning the opinions of Government Senators about the effects on farmers of the proposed water charges in local authority areas throughout the country. Previous speakers failed to recognise that the Department of the Environment, Heritage and Local Government has imposed cutbacks on local authorities, as can be clearly seen from the recent Estimates. As a result of those cutbacks, the only option open to county managers is to increase revenue locally. That can be done only by increasing rates or water charges. It is hypocritical of those who have spoken this morning to say county managers are responsible.

Mr. Finucane: Hear, hear.

Mr. U. Burke: The Senators in question are behaving as if they were in opposition. In local authorities in which the Government parties are in the minority, their councillors are blaming the councillors who are in power. In local authorities in which the Government parties are in charge, their councillors are blaming the county managers. They cannot have it both ways.

Mr. B. Hayes: Exactly.

Mr. U. Burke: The local authorities should ask the Minister, Deputy Roche, to compensate them for the shortfall in the Estimates——

Mr. B. Hayes: Hear, hear.

Mr. U. Burke: —— and to provide for equality in respect of water charges. The probability is that water charges will increase further during the coming year if the Minister does not provide adequate resources to county councils.

Senator Leyden, Senator Scanlon and others cried crocodile tears for the people who met in Roscommon the other day——

(Interruptions).

Mr. U. Burke: —— and pretended they were on their side when in fact they sit behind the Minister who imposes these charges indirectly.

Ms O'Rourke: No, it was disparity.

An Cathaoirleach: Does Senator Ulick Burke wish to raise another issue?

Mr. U. Burke: On another issue, if we analyse the number of prisoners, especially those in the younger age groups, and we know the difficulties they face, it is clear that dropping out of school is the origin of many of their problems. They are then out of the school equation and nothing can be done for them. It is unbelievable that not just in County Galway but throughout the country the Minister for Education and Science is withdrawing home-school-community liaison co-ordinators from schools. They are the very people who help retain children in the school system and bring them to the point where they can get a job. The official line from the Minister is clear. She said when those children reach a certain retention, they will be allowed to go their own way and we will move on to the next area. She is withdrawing the service and punishing those who have done well.

Mr. Brennan: I refer to a matter raised by Senator Finucane and wish to support my west Limerick colleague regarding the payment of redundancy payments to the Castlemahon workers and the request of the Minister, Deputy Martin. I acknowledge that the Minister, the Minister of State, Deputy Killeen, and the Minister of State, Deputy Brendan Smith, met the workers. That was one of the items discussed some weeks ago. Now that we are facing Christmas, I ask for an early agreement and solution to that problem.

Mr. Mooney: It is right and proper at this time of year that issues which impact on disadvantage in our society should be highlighted because most people are focused on those issues which, sadly, we should be focused on throughout the year. While I do not suggest it is in the same category as what was discussed earlier, I want to make an appeal to parents, mainly because it happens at this time every year, to ensure that when their children ask them to purchase pets for Christmas, they would take a more responsible attitude than what appears to be happening.

On my way to the House today there was yet another poignant example of what is happening to what is seen as man and woman's best friend. Dogs are being let loose throughout the streets of Dublin. The number of strays picked up in the past week to ten days at the various pounds has dramatically increased and, in many cases, those dogs will be either put down or simply left in the pounds. Perhaps this issue is not the flavour of the month, but my understanding is that under statutory regulations, any stray dog picked up on the streets can be kept for only five days, after which it is put down. In fairness to one of the dog pounds, its representatives said they do not operate that inflexible law. There is no law to

prevent people from purchasing animals, whether they are responsible or irresponsible.

The Leader might feel it prudent that at some point the relevant Minister would introduce regulations. We might even have a debate on the way people could be more responsible. The plea is that parents would be more responsible when children ask them to purchase animals for Christmas.

Mr. Daly: I support the points raised by Senators Finucane and Brennan on the job losses in the manufacturing industry in particular. A total of 27 job losses were announced yesterday in a company in Kiltrush. I would like to extend the discussion and invite the Minister to the House to indicate to Members the way he proposes to deal with the recent very large number of job losses in the manufacturing industry in particular.

I do not have a difficulty about a debate on prisons but we should not lose sight of the fact that many victims are concerned that the responsibility aspect appears to be more in favour of the prisoners than the victims. Victims have a very real grievance in many cases at the way in which they are dealt with and we should not lose sight of that in any debate on the issue.

Mr. MacSharry: While I appreciate that Senator Ryan tabled a Private Members' motion some time ago on the issue I raise, an additional debate on homelessness in our major cities and towns is required. As we heard from many speakers earlier who highlighted the 1987 budget speech, we appear to have come a great distance in terms of our economy, but if we can rightly offer refuge and housing to many foreign nationals from throughout the world in various locations, surely we can do that for the many homeless in Dublin. We will see many of them this evening in Molesworth Street. We must do more in this area given how far this country has come. Notwithstanding that Christmas is fast approaching, will the Leader arrange a debate on this issue soon?

I support Senator Scanlon on the issue of care organisers and the dispute taking place currently, especially in Sligo and Leitrim. This is a case of bureaucratic and administrative arrogance.

Mr. Ryan: Ministerial——

Mr. MacSharry: It is disgraceful that a small group of individuals are being allowed to affect the lives of the elderly, who are the most vulnerable in society. Will the Leader raise the issue with the Minister for Health and Children as a matter of urgency? This dispute has been going on for months and people will die as a result of it.

Ms O'Rourke: Senator Brian Hayes, the Leader of the Opposition, made the point that prisons are filled with people who will not or

[Ms O'Rourke.]

cannot pay their fines. Senator Hayes's Enforcement of Court Orders (No. 2) Bill is on page 1331 of the Order Paper and provides for the making of attachment of earnings and attachment of welfare orders, something very much talked about by Senator Norris. I understand the fines Bill, which is sponsored by the Department of Justice, Equality and Law Reform, is on the A list for publication. It provides for the updating and indexation of fines and related matters. Perhaps Senator Brian Hayes's Bill could be appended to that Bill because it relates to the same issue.

Senator O'Toole raised the matter we discussed at length yesterday, namely, the statement by the Minister of State, Deputy Tim O'Malley. If the mistaken way in which he pronounced himself and the debate we had yesterday in this House and in the Dáil results in a renewed focus on youth disorders, I say, "Well done". I do not mean in terms of what happened but if the ensuing uproar leads to that renewed focus, it would be welcome. We must wait and see what will come out of the budget on the disability area.

Senator Ryan raised the issue of prisons. I listened to the debate this morning on the UCD report and we are within the international norms in terms of the numbers of people who re-offend — 24% in one year and 40% in four years. We cannot do away with prisons. I gathered from much of the debate that there are to be no prisons but the Senators opposite——

Mr. Ryan: Nobody said that.

Ms O'Rourke: —— would be the very people who would be howling if that were the case. I do not know about other Senators but I believe prisons are needed. I was nonplussed as the debate went on. I could not understand what we would do if there were no prisons. What would we do with murderers and all the people who commit dreadful crimes?

Dr. M. Hayes: I think that is a misrepresentation of the debate.

Mr. Ryan: Who said we should have no prisons?

Ms O'Rourke: There was a general debate——

Mr. Ryan: Will the Leader name somebody who said we should have no prisons?

Ms O'Rourke: The Senator should let me continue.

Mr. Ryan: The Leader said some people said there should be no prisons.

An Cathaoirleach: The Leader to continue without interruption.

Mr. Ryan: Do us the honour of naming people.

Ms O'Rourke: I want to be clear about what I said, namely, that the idea has gradually developed that prisons are bad and that we should do away with them.

Mr. Ryan: Who said that?

Ms O'Rourke: Nobody wants them but we must have them. That is my interpretation of what was said.

Mr. Ryan: That is a distortion of what was said.

Ms O'Rourke: No.

An Cathaoirleach: Order, please.

Ms O'Rourke: As Senator Daly said, victims deserve as much succour and debate as do those who commit crimes against society. I am not talking about young people whom, through no fault of their own, may be thrown into prison because no intervention was made earlier in their lives when they needed professional care, nor am I talking about people who do not pay fines. I agree the latter are clogging up prisons and there should be another way of dealing with them.

Lest the Christmas spirit overcomes us all——

Mr. Ryan: There is no sign of that.

Ms O'Rourke: —— we should take hold of ourselves. Senator Ryan said, inadvertently or otherwise, and perhaps he was driven to do so by Senator Daly's comment directed at him, that associates of the Senator should be in those places.

Mr. Ryan: Yes.

Ms O'Rourke: I condemn that comment.

Mr. Ryan: Okay, please do.

Ms O'Rourke: Senator Leyden raised the issue of water charges and he was vocal at our parliamentary party meeting on the issue. He has not been hiding his light under a bushel. He said that there should be one uniform water charge for the country, which is a fair point. He said he was prepared to bell the cat, which he did.

Senator Finucane raised the case of the Castle-mahon workers who will receive only two weeks' redundancy, which is a minimal amount. He asked if the Minister, Deputy Martin, would talk informally to the Labour Relations Commission to try to ensure that the workers receive a decent redundancy package. That should be done.

Senator Mansergh praised the tourism industry and visitor numbers. He pointed to the role played by former Ministers for Finances in that achievement. I agree with Senator Brian Hayes's inclusion of Mr. Alan Dukes in that respect. I never cease to marvel at Mr. Dukes's Tallaght Strategy and its impact at a pivotal time in Irish

political life to enable stability to be restored to the fiscal scene.

Senator Henry raised the matter of the co-existence of genetically modified crops and organic crops and called for a debate on it. Senator Maurice Hayes called for a debate on the prisons system. It was revealed this morning that it costs €95,000 a year to keep a prisoner in a prison in Ireland, which is much higher than the cost internationally, although I do not know on what information that figure is based.

Senator McCarthy raised the matter of house prices and said today marked the fourth anniversary of the abolition of the first-time buyers' grant by the then Minister for the Environment, Heritage and Local Government, Deputy Cullen. I do not believe he was ever in charge of the first-time buyer's grant.

Mr. McCarthy: He was when he was Minister for the Environment, Heritage and Local Government.

An Cathaoirleach: Order, please.

Ms O'Rourke: Okay. I should not look at the Member who spoke.

Mr. McCarthy: No, the Leader should look at me.

Ms O'Rourke: My experience of first-time buyers' grants is that the builder benefits from them. If we were to continue to increase the value of such grants, such increases would fall straight into the laps of the builders. What we may hear from the Minister for Finance, Deputy Cowen, today is a more imaginative way of helping new first-time house purchasers.

Mr. McCarthy: Is that a statement of intent?

Ms O'Rourke: Senator Scanlon raised the issue of water charges. The issue is of acute concern and anyone who stood alongside the Senators Scanlon, Leyden and Feighan last Monday night would know well the ire of people concerning this issue. The Senator raised the issue of the disparity in water charges, unlike Senator Ulick Burke who has called for their abolition. Senator Scanlon raised the disparity in charges throughout counties.

Mr. U. Burke: I hope that does not turn out to be the case in the budget.

Ms O'Rourke: Senator Scanlon also raised the issue of care organisers and the difficulty concerning the delivery of service. Senator Terry raised the issue of the needs of people with cystic fibrosis and the need for the provision of special care for them in treatment units. Senator Kitt raised the issue of the inconsistency in water charges. He also raised the issue of the flooding that occurred in Kilconly in north Galway.

Senator Norris said that the Minister for Finance should continue to pay off the national debt in the budget, as was done by the former Minister, Ray MacSharry, in his day and many other Ministers for Finance. The Senator described as revolting the idea of deducting money from welfare payments in the case of individuals who do not pay a fine. People must pay fines.

Mr. B. Hayes: They must.

Mr. Norris: If a person can hardly afford to live, what is the point? It is outrageous.

Mr. B. Hayes: A person should pay it gradually.

Ms O'Rourke: Senator Norris also raised the question of water fluoridation and the way it is managed here.

Senator Ormonde said that the issue of the prison system is a societal matter and that the issue of having prisons should be examined. Senator Ulick Burke raised the issue of water charges and said that insufficient funds are allocated to local authorities, yet an increase in funding is given to local authorities every year. The Senator castigated Senators Leyden and Scanlon by name. However, the point is that they referred to the disparity in charges, they did not dispute the imposition of them — I listened carefully to what they said.

I agree with Senator Ulick Burke when he said that young prisoners tend to have dropped out of school. The Senator raised the issue of the home-school liaison co-ordinators and I would be sorry if they were withdrawn, as they fulfil a terrific function in the home-school life of young people.

Mr. U. Burke: We will test that commitment.

Ms O'Rourke: Senator Brennan raised the issue of the payment of redundancy to the Castle-mahon workers and joined Senator Finucane is the need to address this matter. Senator Mooney made a plea for parents not to purchase pets for children except in cases where children are prepared to mind and care for them, which is a fair point.

Senator Daly raised the issue of job losses in Kilrush and the need to ensure that the workers involved receive decent redundancy payments. The Senator also said that prisoners are not the victims, who are the people on the other side of the equation. Senator MacSharry raised the issue of homelessness and the care organisers in the north west.

Order of Business agreed to.

Defamation Bill 2006: Order for Second Stage.

Bill entitled an Act to revise in part the Law of Defamation; to repeal the Defamation Act 1961; and to provide for matters connected therewith.

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

Question put and agreed to.

Defamation Bill 2006: Second Stage.

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

Tánaiste and Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I am pleased to have the opportunity to introduce the Defamation Bill 2006 and to outline its main provisions. We have had a number of very good debates in this House, most recently on 9 February 2005, on the reform of our current defamation legislation which dates from 1961. I took note of the contributions that day and promised Senators not only to take them into account when drafting the legislation, but also that I would launch the new defamation Bill in this House. I am glad to be able to keep that promise today.

The purpose of the Bill is to provide for a modern statutory framework for defamation law by replacement of the current legislation which dates back to 1961, and the common law which goes back even further in some cases. The Bill provides for a comprehensive reform and gives statutory expression to developments in the jurisprudence of our courts and elsewhere, including the European Court of Human Rights. The agreed programme for Government in 2002 contained a commitment that the Government would, in the context of a statutory press council and improved privacy laws, move to implement reforms of libel laws designed to bring them into line with those of other states. This Bill delivers on the commitments in that programme.

There is no doubt that the reform of our defamation legislation is long overdue. A review of the legislation on defamation was conducted as far back as the early 1990s, which culminated in the publication of a final report by the Law Reform Commission in December 1991. The report contained over 50 detailed proposals for reform in this area of the law. Subsequent to the publication of the LRC report, a draft defamation Bill was commissioned by the national newspapers of Ireland in 1994 and I published a Private Members' Bill in Dáil Éireann the following year. Both of these proposed Bills were influenced by the recommendations made in the LRC report. In 1996, the report of the Commission on the Newspaper Industry also made recommendations for some changes to the law. In responding to the need for reform of the defamation legislation, the Government approved a Bill for drafting in December 2001 which was proposed by my predecessor, the then Minister for Justice, Equality and Law Reform.

Following on from the commitment in the programme for Government, I established a legal advisory group on defamation in September 2002

to report on the implications of fulfilling this commitment. The group also reviewed any other relevant developments which might need to be taken into consideration since the Government decision of December 2001. There has been extensive consultation in preparing this Bill. Subsequent to the publication of the advisory group's report in June 2003, I initiated a public consultation process on the report and also held a major conference in December 2003 to facilitate an exchange of views from a wide cross-section of interested parties. The Bill takes into account that extensive consultation process.

The extensive consultations included those with the Irish press industry steering committee. That committee yesterday published its proposals for an independent press council, a press ombudsman and a code of practice or standards. At the launch, I welcomed this important development. From my initial perusal of the code of practice, I believe that it contains valuable and sensible provisions to govern the conduct of journalists and editors in their work. I am sure that these proposals will be studied carefully not only by Members of this House, but by all persons with an interest in the matter.

The current legislation on defamation is deficient in a number of areas. An apology, which might often be all that is required, cannot be made to an aggrieved person without having that taken as an admission of liability. Unlike in other civil actions, no lodgement can be made in court against a defamation action without admission of liability. There is an insufficient range of remedies other than damages available, such as clarification and rectification.

There is an absence of clarity about the role of the court in giving directions about the level of awards. Plaintiffs do not have to swear affidavits to corroborate their complaint. Plaintiffs are not compelled to take the stand for cross-examination. Defamation actions can be taken up to six years after the publication of the alleged libel. A defence of reasonable publication on a matter of public importance is undefined in statute law. There is a particular silence on the question of encouraging alternatives to the court proceedings such as a complaints system and code of standards operated by the press. The existing legislation lags behind the requirements of the European Convention on Human Rights and developments in jurisprudence in other jurisdictions as regards the appropriate balance between freedom of expression and protection of one's good name.

The new provisions introduced in the Bill will give plaintiffs a better sense of their rights under the law. For those interested in obtaining speedy redress when they have been defamed, new forms of remedy will be available to them in future. The new legislation will also provide greater clarity for publishers and will facilitate responsible publishers in avoiding defamatory statements as well

as providing guidance as to the limits of the various defences which are open to them.

It is useful to consider the other elements in the commitment set out in the programme for Government. Foremost in content and discussion has been the issue of a press council. The legal advisory group in its 2003 report recommended the creation of a statutory Government appointed press council. I clearly indicated that while this was one possible approach, it was not my favoured approach. My proposals for reform, as agreed by the Government, differ from the group's recommendation.

The Bill supports the concept of an independent press council — such as that launched yesterday — which can be afforded statutory recognition by both Houses of the Oireachtas on foot of a motion by the Minister for Justice, Equality and Law Reform subject to the motion meeting certain basic and obvious criteria set out in Schedule 2 to the Bill. This is the most acceptable outcome in this regard and should gain the support of the House. This approach will allow the print media to put into practice its self-proclaimed determination to bring forward an independent, effective and industry-funded press council operating a proper code of practice. The code must provide an added protection to citizens' privacy and dignity from media intrusion and violation. Nothing less will be expected by the public. The proposed press ombudsman service must be properly empowered to deal with complaints from those affected by breaches of standards as set out in such a code.

A code of practice to which the print media organisations can subscribe and adhere is a critical element of independent regulation of the press. We now have that code, which will bear careful consideration. It should not fall to the Minister or the Government to dictate the exact detail in such a code of practice or standards.

Mr. Norris: Why not?

Mr. M. McDowell: I have many attributes, but infallibility is not yet one of them.

Mr. Norris: I am surprised.

Mr. Cummins: The Minister could have fooled us.

Mr. M. McDowell: However, the Bill in Schedule 2 provides, in the public interest—

Mr. Norris: The Minister is accepting that the industry will regulate itself.

Mr. M. McDowell: — some guidance as the basic standard expected in such a code. I am not against self-regulation, either by the universities or by the professions.

Mr. Norris: The universities do not regulate themselves. I thought the Minister knew that.

Mr. Dardis: I look forward to the Senator's contribution on this issue.

An Leas-Chathaoirleach: The Minister, without interruption.

Mr. M. McDowell: One of the primary benefits of a statutorily recognised press council, as provided for in the Bill, is that qualified privilege would attach to its reports and decisions or to those of a subsidiary body, such as the press ombudsman service it would operate. Subscription to the press council and adherence to its code of practice by a current affairs publication would strengthen its entitlement to avail equally of the defence of reasonable publication in any court action, which is a new defence in the Bill. Non-members of the press council will be required to have in place an equivalent fairness regime, or to operate an equivalent and publicised code of standards to avail of that defence.

Self-regulation in many areas functions very well and the State does not have to control everything in society.

Mr. Norris: Is it a surprise that the newspapers call for it in every other profession?

Mr. M. McDowell: However, self-regulation must carry with it the notion that there are some rules to which injured parties can point in seeking redress from abuse of press power. There is no point in having an independent press council which can do nothing and is ignored by its members with complete impunity. I am conscious of the danger in arguing that all press activity should be capable of regulation in the interests of good taste or conventional mores. That is not and never will be my approach. It is not the business of a press council to start telling columnists what they should or should not say. The public is the best judge of these matters and it does not need a press council to speak on its behalf.

In the context of libel reform, the Bill puts on a statutory basis a new defence of fair and reasonable publication on a matter of public importance. This defence is subject to certain conditions and is designed to facilitate public discussion where there is both a benefit and an interest in such discussion taking place. This new defence takes cognisance of jurisprudence from the European Court of Human Rights and from certain decisions in the UK courts. The genesis of this defence first arose in these islands in the decision by the UK Court of Appeal in 2001 in the case of *Reynolds v. The Sunday Times*. In September 2006, the Court of Appeal in the UK refined and clarified its nature and purpose in the case of *Jameel and others v. The Wall Street Journal Europe*. The court overturned an award against that paper and allowed its defence of reasonable publication on a matter of public importance. The UK Court of Appeal ruled that the defence of reasonable publication was in a new jurispruden-

[Mr. M. McDowell.]

tial category. It is not the same as a defence of privilege. It has to have a number of conditions to be fulfilled before a responsible publication could plead it. Interestingly, the court in the introduction to its judgment noted the balancing factor between the development of this new defence by the English judiciary and a strengthening of the law on privacy.

However, it should be clear that this new defence is designed to facilitate responsible journalism. It is not a charter to engage in casual defamation or character assassination. It is not a licence for sloppy or vindictive practice by journalists or editors. It will be for the courts to decide what credence to give to an editor or a journalist who tries to cloak himself or herself in such a defence without proper regard for its purpose.

The matter of the process of awarding damages in defamation actions has been much in the news of late, especially in the case of *O'Brien v. Mirror Group Newspapers* and others. Since the legal representatives of the *Daily Mirror* have indicated an intention to consider some form of appeal of the High Court award of €750,000 to the Supreme Court, it would not be appropriate for me to comment on that case in particular. However, the Bill as it stands makes it clear that a judge in a High Court defamation action shall give directions to the jury in relation to the matter of damages; it sets out a wide range of factors to which the court shall have regard to in awarding damages, and provides that the Supreme Court, on appeal, may substitute its own level of damages for that awarded by the High Court.

I wish to highlight certain of the main provisions of the Bill at this stage. The present torts of libel and slander will cease to be so described and will instead be collectively described as the tort of defamation. Plaintiffs and defendants in a defamation action will be required to submit a sworn affidavit verifying assertions and allegations and to make themselves available for cross examination. That is not necessarily so at the moment. One could know one had done something infamous and simply tell a newspaper in effect, “Your article suggests I have done something infamous — prove it”. One might not even get into the witness box at any point of the trial, yet force the newspaper to prove something was defamatory. That is a strange aspect of our law at the moment. However, without reversing the onus of proof, which was suggested in the Law Reform Commission paper, what is provided here is that somebody must swear that he or she has been defamed and then make himself or herself available for cross-examination as a condition for bringing an action. I believe that is a reasonable position.

It is an offence for a person to make a false statement in an affidavit in support of an action and this mirrors the approach taken in the Civil

Liability and Courts Act of 2004. An offer of apology shall not be construed as an admission of liability. The current legal situation effectively precludes this and impedes the giving of a speedy apology which, in some cases might result in a decision not to proceed with court action. The defendant in defamation proceedings may in future lodge in court a sum of money without admission of liability. This mirrors the present position with regard to nearly every other civil action where damages are sought.

Provision is made for new remedies which a court may grant in lieu of, or in addition to, damages. These remedies will, in the ordinary course, be predicated upon a plaintiff having requested a timely and conspicuous retraction of the defamatory matter in circumstances where the defendant has failed to accede to that request. A declaratory order, for which a plaintiff may apply in lieu of damages is intended to offer a speedy means of redress where the only issue is the wish of a plaintiff to have an acknowledgement that the matter in question was defamatory of him or her.

A correction order is envisaged as an additional remedy to declaratory judgments, as it allows the possibility of damages, that may direct the terms of any correction in which a court order is to be made in favour of a plaintiff. A range of factors intended to guide the court in making an award of general damages is specified in section 29. Juries are being retained for High Court proceedings but the trial judge shall give directions as regards the matter of damages. Aggravated and punitive damages are maintained but are limited to specific instances by section 30. The defences available in defamation proceedings are rationalised and clarified in sections 14 to 25, inclusive. A list of occasions where absolute privilege arises is provided in section 15. The defence of qualified privilege is given a statutory basis for the first time and it will attach to the reports and decisions of the Press Council, recognised under section 43.

The defence of fair and reasonable publication on a matter of public importance is created in statute form for the first time in Ireland. It is designed to facilitate public debate where there is both a benefit and an interest in such discussion taking place. The availability of the defence for publishers of relevant periodicals is subject to conditions, notably membership of the recognised Press Council and adherence to its decisions and code of standards. Non-members must have in place an equivalent “fairness” regime so as to avail of the defence. The exact provisions in relation to the recognition of an independent Press Council are set out in section 43 and in Schedule 2. The conditions with regard to the making of an offer of amends are updated, along with the consequences for acceptance or non-acceptance of the offer are provided for in sections 20 and 21.

The common law position with regard to the liability of distributors for defamatory material is

being given a statutory basis as “the defence of innocent publication”. The defence develops in a more comprehensive way the common law defence of innocent publication which has traditionally been available to distributors, in particular for such as Internet service providers in recognition of the speed with which modern technology works.

Bodies corporate are to be allowed to sue for defamation irrespective of whether they have incurred special damage. A limitation period of one year will apply to the bringing of defamation proceedings unless the interests of justice so require, in which case a court directs otherwise and may allow a period of two years. A special jurisdiction limit for defamation actions in the Circuit Court of €50,000 is provided. The current Circuit Court limit for damages claims is €38,092.

Provision is made for the abolition of the common law offences of criminal, seditious and obscene libel. The issue of blasphemy is under consideration by the Oireachtas All-Party Committee on the Constitution. I am inclined to the view that the committee is well placed to reflect the range and depth of opinion on that complex subject and it would be better for us to get on with this legislation rather than dealing with that particular area.

A new offence of publication of gravely harmful statements has been created. This applies where a false statement is published causing grave injury to the reputation of a person and intended to cause that grave injury. Where a person is convicted of such an offence, the court may issue a warrant authorising a member of An Garda Síochána to enter and search a premises and seize copies of the statement in accordance with the terms set out in the warrant.

The Bill does not provide for the defamation of the dead, an issue which arose during the consultation period. It does, however, provide that on the death of a person, a cause of action for defamation vested in him or her immediately before death should survive for the benefit of the estate. Similarly, it also provides that a cause of action in defamation subsisting against a person should survive his or her death and lie against the estate.

Schedule 1 is divided into two parts and provides for statements having qualified privilege. Part 1 provides for statements privileged without explanation or contradiction. The list includes determinations or statements by the Press Council or Ombudsman. Part 2 of the Schedule provides for statements privileged subject to explanation or contradiction.

Schedule 2 provides for the minimum requirements in relation to a body seeking recognition as the Press Council for the purpose of the Act. The Minister will have to satisfy himself or herself that these criteria are being met prior to making an order declaring the applicant organisation to be the Press Council for the purposes of the Act. Once recognition is granted, there could be only

one such body. An order of recognition granted to the Press Council may be amended or revoked, should the Minister form the opinion that the council no longer meets the minimum requirements set out in Schedule 2.

However, in that event, before the moving of any order to this effect the Press Council must be afforded the opportunity to address the issues of concern. The Schedule also provides for the appointment of a Press Ombudsman who will investigate, hear and determine complaints made to the Press Council concerning the conduct of its members and the complaints procedure. The Schedule also outlines the potential scope of the code of standards to specify the standards to be adhered to, as well as the rules and practices to be complied with by the members of the Press Council.

The Defamation Bill 2006 will bring about a very significant and long awaited reform and modernisation of the law regarding defamation. I believe it is a reform that can be welcomed by all persons, be they journalists, editors, publishers or ordinary citizens. It will respect the necessary balance between the equally important but sometimes competing rights of freedom and expression and of respect for the good name and reputation of citizens. The Bill will replace the now outdated Act of 1961 with modern updated provisions while also promoting better regulation and fairness.

In addressing this House during its debates on defamation in 2003 and 2005, I said that I came with a personal prejudice in favour of free speech and against unnecessary regulation, and as a constitutional republican with liberal values I still hold that point of view. I wish to ensure that we have a vigorous and inquiring media functioning in our society. The legislative proposals I am presenting today will, on enactment, bring forward a reform which is sufficiently balanced to gain the necessary acceptance both politically and in the community.

I commend the Bill to the House and I look forward to the contributions by Senators to the debate on its provisions.

Mr. Cummins: I welcome the Minister to the House and commend him on this good, albeit long overdue Bill, which has been in the offing for a considerable time. For example, it has been effectively ready for almost two years. I regret the Minister's Fianna Fáil colleagues have seen fit to hold it up in such a selfish fashion, in order to force into existence the Privacy Bill. Even if one considers this delay to have been lengthy, it is shocking to note the issue of reform of the law of defamation was mooted as long ago as 1992, or almost 14 years ago, a point to which the Minister has alluded.

The Privacy Bill 2006, which is often mentioned in conjunction with this Bill, is dangerous and unnecessary legislation that must be shelved. While the Minister has stated it has not been

[Mr. Cummins.]

shelved, he is aware it will not reach *Áras* an *Uachtaráin* in the lifetime of the present Government. I can assure the House that if Fine Gael is elected after the general election, it will not place the Privacy Bill on the legislative programme.

While finalising this Bill, the Minister established a committee, under the chairmanship of Mr. Brian Murray SC, to prepare a report on the appropriate legislative basis for the protection of privacy that would be consistent with freedom of expression. The Defamation Bill is based largely on the report from a committee chaired by the former chairman of the Bar Council, Mr. Hugh Mohan SC. However, one of its key recommendations, to which the Minister has alluded, is notable by its absence. While the committee's report recommended a statutory press council that would have been appointed by the Government, obviously the Minister has decided it was not a runner after strong lobbying on the issue. However, I am pleased to note the press industry has taken upon itself the establishment of a press council. I welcome the establishment of a non-statutory press council and an ombudsman, which will allow members of the public a new avenue with which to pursue grievances without having resort to libel proceedings.

Fine Gael has called for the creation of a press council for many years. My colleague in the *Dáil*, Deputy Jim O'Keeffe, has commended the press industry and the National Union of Journalists on setting up this council and has expressed his confidence that it will provide an adequate and cost-free avenue of redress for individuals or organisations who feel aggrieved by the media. However, it is essential that the council, which will be funded by the industry, will be properly resourced and that its recommendations regarding individual grievances will be adhered to by all media outlets. I hope it will provide independent analysis of genuine problems between the interests of newspapers and those who appear in them from time to time. It is incumbent on the industry to establish a truly independent body and not a group that will always see eye to eye with the editors' point of view. The new press council should have the power to bring to bear heavy sanctions when required and the media should co-operate fully with its rulings. The question as to whether the press can regulate itself remains to be answered.

I will turn to the Bill's contents, rather than its omissions. It is long overdue and I broadly welcome it. However, the legislation could have been better had it stayed closer to the report of the legal advisory group on defamation, which was drawn up by the media law experts who considered this issue in March 2003. For example, the advisory group's 129 page report recommended a new defence of reasonable publication, which made its way into the Bill in section 24. However, in its transition, such a defence appears to have been substantially watered down and defendants

must now fulfil far more criteria before being able to rely on it. Similarly, my examination of the Bill suggests that the demonstration of any level of malice, however small or insignificant, will debar a publication from availing of the defence of reasonable publication.

Section 24(4)(b) states the defence of fair and reasonable publication shall fail unless "he or she did not act in bad faith or out of spite, ill will or improper motive". Hence, if a complainant can prove any bad faith or ill will, the newspaper in question has no defence under section 24. This section should include some level of assessment of malice.

One of Fine Gael's greatest criticisms of the Privacy Bill is that effectively, it will stifle investigative journalism. I believe the Defamation Bill will also stymie some efforts to air clandestine problems. This is particularly evident in section 24(2)(g), which allows the court to consider "the extent to which the plaintiff's version of events was represented ... [or] to which a reasonable attempt was made ... to obtain and publish a response from that person". Will it now be necessary for a reporter to put every allegation to the subject of a story before it can be published? The Bill is unclear as to how hard the reporter should try. While Members agree the right of reply should be maintained, the Bill should be more specific if they intend to legislate for it. What constitutes an effort to get another person's side of the story? I am interested to hear the Minister's viewpoints in this respect.

Nevertheless, the Bill allows the media a number of defences against being sued, apart from the defence of fair and reasonable publication on a matter of public importance, that were not previously available, which is to be welcomed. I also welcome the provision in section 6 that will require litigants to swear affidavits verifying their claims and assertions on which they can be cross-examined. This is an entirely reasonable requirement that could be introduced usefully in other areas of the law of torts.

Those who campaign for plain English will be also pleased to note the removal of the distinction between defamation in permanent and impermanent forms, that is, libel and slander. It is time to merge both terms into a single tort of defamation as this would simplify matters for the ordinary citizen.

Lodgments are also a welcome part of the Bill and under section 27, a sum of money can be lodged in court by a defendant without admitting liability. Instead of damages, a plaintiff who successfully sues will be able to seek a declaratory order or a correction order that would force the publication to publish a correction or statement that the information published was untrue and was defamatory. I believe this will be a useful mechanism for the avoidance of protracted legal actions.

One of the most shocking legal matters to have appeared in the news recently has concerned the

discrepancy between the level of awards for different torts. It is entirely unjust that a private businessman should receive a larger payment for a defamation award than a young man whose life has been destroyed by the negligent removal of his stomach. Although I am aware it was not a factor, the businessman is a multimillionaire and the reward he received is barely noticeable to him. However, the young man of whom I speak cannot work a full day, can never enjoy his food in the future and must survive on the comparatively meagre settlement awarded to him. Hence, I welcome the reform of the libel remedies outlined in Part 4 of the Bill, particularly those included in section 29, which can only improve justice for civil plaintiffs. The apparently arbitrary nature of libel awards may become somewhat more consistent in their application by allowing the parties, including the court, to address the jury on damages and for an apology to be published without any admission of liability.

Broadly, I welcome the Bill and Fine Gael will support it. I look forward to Committee Stage and the Minister can be assured I will table several amendments in an effort to improve the Bill.

Mr. J. Walsh: I join in welcoming the Minister to the House. He is probably the most frequent ministerial visitor to the House with much legislation which keeps all justice spokespersons in the House fairly busy. I also welcome the publication of the Bill before the House and the Second Stage debate on it. As the Minister stated, we have had debates on this matter previously.

In examining the content of the Bill, I tried to establish the principles by which we should assess and evaluate a defamation Bill. First, it need not be overemphasised that we need a free press. Objective comment and reporting and the contribution good investigative journalism makes to society is indispensable, and freedom of speech and a free press are a fundamental aspects of our democratic system. The second criterion I would apply would be that such a Bill should try to encourage responsible reporting, and I will allude to that. We have evidence from others that there are question marks over journalistic standards. The third criterion that I would apply would be the right of an individual to his or her good name. That is essential. It is enshrined in the Constitution and, indeed, elsewhere. The fourth criterion would be the right to privacy, with which Senator Cummins does not seem to find any great favour but which to me is an important principle by which we should judge and evaluate the Bill.

When this matter was debated in the House previously, somebody — it might have been the Minister — quoted Abraham Lincoln, who stated: “Let the people know the facts, and the country will be safe.” That quote, dating back a couple of centuries, illustrates quite clearly why one needs a free press in a democratic society. Article 40 of Bunreacht na hÉireann also clearly

underpins the right to express views and opinions in society.

Senator Cummins mentioned the 1961 Defamation Act and it is extraordinary that it has lasted 45 years without amendment. The Minister needs to be complimented in this regard. Senator Cummins expressed surprise that legislation containing various amendments was not brought forward previously. I recall the Minister, in his role in Opposition, bringing forward a Private Members’ Bill and being told by the then Taoiseach, John Bruton, that it was not a priority of his, and the Bill floundered as a consequence. That might explain to Senator Cummins why there has not been any amendment to the 1961 Act in the interim.

Mr. Cummins: We will table amendments to this Bill.

Mr. J. Walsh: The Minister embarked on wide consultation on this entire area. He mentioned the conference which he arranged in UCD in 2003. In fact, I did not realise it took place that long ago. It was an interesting conference. I stated previously in the House that it was illustrative for Members, if only there had been more present, on the views of the press about politicians, prejudicial and all as such views were. It also emphasised clearly the need to take a balanced approach to this. If one comes down totally on the side of protecting the individual, obviously one impinges on freedom of expression and the freedom of the press, but if, as Senator Cummins has suggested, one goes the other way and allows no checks and balances on what the media publish and one takes a publish and be damned approach, one will definitely cause serious consequences for individuals.

Mr. Cummins: Senator Walsh is misrepresenting what I stated.

Mr. J. Walsh: I welcome the significant component for the media which is the new defence of fair and reasonable publication on a matter of public importance. The important criterion there is that it be fair and reasonable, and that is the yardstick by which it will be measured if somebody subsequently takes offence and brings the issue to court.

It is interesting that the Minister stated that both the plaintiff and the defendant must bring forward an affidavit and be subjected to cross-examination. I will not object to that but I see a certain incompatibility with the rest of our legislation where there is no onus on a criminal, for example, to put himself or herself in that position. I acknowledge it is a feature of some of our terrorism offences and I have argued previously that perhaps it should be extended to all legislation. I will not object to it in this Bill, therefore, but it is a little ironic that it is in it. If it is worthy of being included in this Bill, we should review other legis-

[Mr. J. Walsh.]

lation when it comes before the House to ensure a similar stipulation is put in place.

No doubt the Bill is a major step in the right direction and will be welcomed by most reasonable and fair-minded people. Good investigative journalism needs to be encouraged. There are many fine examples of such journalism. Indeed, there have been some fine examples of public service journalism, not just those which gave rise some of the tribunals but also in other areas, both in broadcasting and in the print media. Even the media seem to acknowledge that the Bill meets the criteria in respect of freedom of expression.

Whether the Bill will encourage responsible reporting and journalism is probably a more pertinent question. Freedom brings responsibility and not everybody always exercises that responsibility. In general, society needs regulation to maintain a good balance and that is why the various laws concerned are on the Statue Book. There are a few reasons for this need, one of which is human fallibility whereby freedom of any sort will invariably be abused unless there are effective checks and balances in place. There is also increased competition within the media. The increased emphasis on the bottom line and on getting a return on capital has to some extent given rise to a lowering of standards.

It was interesting that at the conference the Minister held in Belfield a few years ago, to which I referred earlier, a Queen's counsel in his paper clearly acknowledged that standards within the media in Britain certainly had reached quite a low level. I was interested and impressed to hear the then secretary of the National Union of Journalists in similar terms acknowledge that journalistic standards in Ireland had declined as well, and we need to be cognisant of that. One would hope that with the new mechanism in place, especially the press council, there will be a thrust towards improving standards within the media.

Many years ago I, as president of a national organisation, became conscious quickly that if we wanted to get coverage for our point of view, we had to be critical of the Government or of the Minister. That was a sure way of hitting the headlines because the media wanted controversy and criticism. If, however, something was done that we wanted to praise or acknowledge, one could rest assured that we could certainly make the comment but we would not read about it in the newspapers.

The third criterion, which to me is important, is the right of an individual to his or her good name. The present position in that regard is unsatisfactory for the following reason, examples of which we have seen, that it is only people with considerable financial wealth who can afford to take the issue to the High Court or the Supreme Court or, for that matter, to the Circuit Court, and the legal costs are a significant barrier to people being able to re-establish their good name where it has been taken from them.

Many people would concede that going to court is something of a lottery. Even lawyers will say, "If you want justice, don't go to court". What one gets in court is the clinical interpretation of the law. In that regard, I welcome the proposal for a press council which will provide an avenue for redress without having to incur big costs. As the Minister has rightly said, in many cases people are just seeking a correction and an apology.

It is proposed that the press council will comprise 13 members, including seven public interest directors who will be appointed by an independent selection process. The Minister has been quite innovative in coming up with this idea because there was much debate and criticism in the media that the Government would be appointing the press council. There will also be one journalist and five council members representing newspaper owners.

I do not fully share the Minister's confidence in self-regulation. We have too many examples, including the legal profession, of where self-regulation does not work as effectively as it should. The Minister is, however, laying down a challenge. For a long time, the media have been seeking a press council as a means of self-regulation. Why is this only coming to pass now, however, given that the media could have introduced such a process voluntarily at any stage? It is only now when they are faced by a statutory press council that this is happening. Having said that, I wish the press council well. It will be interesting to see how it works in practice.

Yesterday, I heard some national newspaper editors on the radio. In one instance, they prevaricated as to whether or not findings of the press council would be published. It was only under pressure that they acknowledged this would happen. It would be a travesty—

Ms O'Meara: Hear, hear.

Mr. J. Walsh: — if some of the decisions of the press council did not find their way into print because they were considered embarrassing for newspapers. That would be wrong.

I often see newspaper apologies printed in some corner of an inside page, whereas they may refer to articles which were splashed across the front pages with offensive and defamatory headlines. Common sense should prevail in this regard and apologies should reflect that. They may even have to be published over a number of days so that a correction of the defamatory remarks can be achieved.

I have reservations about the proposal for a court lodgement, although I can see that it will encourage people to settle cases which, in itself, is not a bad thing. What will happen if the court lodgement is offered to an individual who feels that he or she has been genuinely defamed, but the offer is not accompanied by an apology or an acknowledgement that an apology will be pub-

lished? If the individual subsequently continues to pursue a case and then finds that the award of damages is less than the court lodgement, where will they stand? My view is that if the court lodgement does not include a published apology it should be disregarded by the court. In some cases, court lodgements can be a lottery because one does not know what the level of damages will be. We have seen examples where damages have been way ahead of what anyone might have guessed. In other situations, however, people who have been the subject of clearly defamatory remarks have received insignificant damages as a consequence.

I will not labour the point, but the Circuit Court's award limit of €50,000 is too low. It should be €100,000. We should encourage people to use the Circuit Court rather than going to the High Court to pursue such issues. That would give greater scope to the Circuit Court regarding the level of damages to be awarded. If an amendment is tabled to that effect on Committee Stage, the Minister might consider it.

I have great difficulty with the fact that deceased people cannot be defamed. I note the Minister's comments regarding people who may have been defamed prior to their demise. We have seen such examples and it should be open to the bereaved family to pursue a case. There is another issue concerning the subsequent writing of history, but we should find a middle way. It is neither fair nor reasonable that lies should be published about somebody simply on the basis that they are dead and, therefore, cannot pursue a case for defamation.

With regard to the right to privacy, I remind Senator Cummins that the European Court of Human Rights has ruled that all persons are entitled to a personal sphere of privacy and non-intrusion. I agree that it should not be an obstacle to good investigative journalism but I hope the Privacy Bill, which will be fought tooth and nail by the media, will see the light of day and be enacted. It should be amended to ensure that on the one hand it does not interfere with investigative journalism, while on the other hand it should underpin people's rights to privacy.

Mr. Norris: I welcome the Minister to the House but I do not really welcome the Bill, although I will probably be a lone voice in the latter respect. As long as I have been a Member of this House, there has been pressure from newspaper proprietors and editors to make life easier for them. I can understand that because they are human beings and have their own interests, but it would be a great pity if we gave in to them. I know it is the Christmas season but this looks very much to me like turkeys queuing up to vote for Christmas.

I am not impressed either by the Bill or the proposal for a press council. The Minister has a reputation in the Lower House of being a rottweiler, and has been described as such. This

is not the work of a rottweiler, however; it is much more like the work of a chihuahua. I know the intention is to rebalance towards newspapers so that they can do more investigative journalism. That is the pious aspiration that comes along with it. I am all in favour of investigative journalism and the exposure of hypocrisy and evil, but let us look across the water and see what has happened there since Rupert Murdoch acquired the *Sun* newspaper. It has been driven by profits and that is what we will get here.

The press council and press ombudsman will be toothless. The proposed press ombudsman does not deserve that title. The Minister knows well that the post will be quite unlike that of any other ombudsman. For example, it will lack all significant powers to compel, produce witnesses or impose financial penalties. In addition, the ombudsman will be appointed by this wonderful new press council, which is not independent. Is that not an irony?

The Minister may take a principled position with regard to whether or not a council of this kind should be independent and whether various groups should be self-regulating. He is entitled to do that and he is a man of intellectual honesty and consistency, but the newspapers are not like that. There is not a newspaper in this country that has not called for independent regulation of every other profession, except themselves. What is sauce for the goose is sauce for the gander, so I would like the newspaper editors to tell me what is so precious about their little profession. I am a fully paid up member of the National Union of Journalists, although I may not survive its next annual general meeting. As a journalist, I have seen both sides of the libel issue. I will put some of my experiences in this regard on the record in due course.

Under the terms of the Bill, we will have a press council established by the industry. There will be a figleaf comprising five industry representatives and six representing the public interest. The five will include a representative of newspaper owners and editors, while journalists will also be represented, in addition to six people representing the public interest. There will be a majority of one on the amorphous side but, as anybody familiar with juries will know, it is easy to sway the others if one has a block. Therefore, the situation is not as balanced as it seems to be.

We are told that publications which sign up to the code of practice will be governed by it, but what about the ones who do not sign up? How useful is a practice that governs only those who sign up to it? Murdoch-style newspapers are filthy little rags and some of them are printed in this country. They are not subject to the code of ethics of the National Union of Journalists because their proprietors make damned sure their journalists are not allowed to join the NUJ and their houses are non-union in the manner of Mr. Rupert Murdoch. How will we control the newspaper proprietors with weak and fluffy legislation?

[Mr. Norris.]

The general secretary of the NUJ is a decent and honourable man who has done Members some service by producing a document which, while it puts the best possible face on the proposed press ombudsman and press council, is none the less weak. It states, for example, that when a significant inaccuracy, misleading statement or distorted report or picture has been published, it shall be corrected promptly with due promise. That is fine. It also states that while comment, conjecture, rumour and unconfirmed reports shall not be reported as if they were fact, newspapers and periodicals are entitled to advocate strongly their own views on topics. This is also fine. It continues: "In reporting news and information, newspapers and periodicals shall strive at all times for truth and accuracy". There is a great deal of this.

The Press Complaints Commission in Britain is useless. After it was established, *The Sun* newspaper deliberately and grossly libelled Elton John. It was fined £1 million but did not give a damn because its circulation increased. British newspapers do not give a damn because the Press Complaints Commission is toothless. They invade people's privacy, lay siege to their houses and name and shame them. Perhaps the Minister will remember an example of naming and shaming when a man who shared the same name with a convicted paedophile had his address published and was subsequently killed. This is the kind of extremely dangerous behaviour in which a certain type of newspaper engages.

In 1993, Sir David Calcutt in Britain stated:

The Press Complaints Commission is not ... an effective regulator of the press. It has not been set up in a way, and is not operating a code of conduct, which enables it to command not only press but also public confidence.... It is not the truly independent body that it should be.

This is the type of organisation we will get. The British body even has much stronger elements than the proposed body.

The code of conduct of the National Union of Journalists states:

A journalist has a duty to maintain the highest professional and ethical standards. A journalist must at all times defend the principle of the freedom of the press and other media in relation to the collection of information and the expression of comment and criticism. He/she shall strive to eliminate distortion, news suppression and censorship.

Distortion occurs throughout the press. Last week, *Independent Newspapers*, on foot of a serious political report from Europe, deliberately distorted and lied about the entire document. It was perfectly clear that rendition aeroplanes had regularly landed at Shannon Airport. The question was not whether they were full of torture vic-

tims, yet the headline in one of the *Independent Newspapers* titles was: "Torture planes did not land at Irish airports". How close is that to the truth?

Let us examine the way the company dealt with the Shell to Sea campaign. It falsified statistics from a commissioned report and personally vilified a Member of the Other House, Deputy Cowley, who was singled out and details of his income printed on the front page. It would have been remarkable had the Deputy been the highest earner in the health system but his earnings were ranked down the table. What relevance is this information? It was published to discredit the Deputy.

Does the Minister remember the way Eamon Dunphy was treated when he left the *Irish Independent*? One could not pick up a newspaper without reading details of the colour of his hair, how much hair he had and the kind of shoes he wore. Former President, Mary Robinson, appeared in every part of the *Irish Independent*, from the weather forecast to the social column and fashion reviews. In other words, powerful interests target people they do not like. This behaviour may not be coverable by the legislation but it is the ethos with which we are dealing. I am not saying that these newspapers are not good at times in other respects — the quality is very mixed — but the motivation involved in them is disgusting and contemptible. People are afraid to say this because they know they may well be the next target.

I remember when a colleague of the Government Members, an MEP, won a libel action against a newspaper, which then waited for 18 months before it got him.

Ms O'Meara: The electorate got him if I recall correctly.

Mr. Norris: The electorate is perfectly entitled to get him but one must consider the degree of malice sometimes shown by newspapers.

I am worried that the proposed press council will not be independent. A group that calls for independence for everybody else does not like independence for itself and is governed by weak guidelines. Let us operate a code similar to that applied by the British NUJ whose code of conduct states: "A journalist shall mention a person's age, race, sex, colour, creed, illegitimacy, disability, marital status, or sexual orientation only if this information is strictly relevant." I do not see such a stipulation in the Bill. Some newspapers continually refer to the sexual orientation of individuals.

I am not impressed by the proposed press council or press ombudsman, as they will not be fully independent. I accept, however, that the Minister has appointed good people to both bodies, starting with the former Provost of Trinity College Dublin, Tom Mitchell. Who knows who will be appointed chairman under the next

Administration? To answer the Minister's question, Tom Mitchell could tell him that Trinity College has a fully independent regulator, the appeal to the visitor. I am always happy to supply information to address deficiencies in the Minister's knowledge. As I do not often get the opportunity, it is a particular pleasure for me to do so when the occasion arises.

The defence of reasonable publication worries me. Reference was made to a celebrated case in which a jury of the people awarded a significant amount of money. This is not what happened. The newspaper in question returned to the courts for a second cut and continued to defend all the lies being told. We are supposed to be in sackcloth and ashes because the jurors, in their wisdom, tripled the original award. I will not second guess the people.

Qualified privilege will be given a statutory basis in the Bill. An English court held that Albert Reynolds was libelled on this basis and he was awarded a farthing or shilling.

Mr. Dardis: It was a penny.

Mr. Norris: The figure was repeatedly adjusted. Everything was done to humiliate him, after which he was not awarded his costs. I would be very careful in this regard.

It is fair that one cannot libel the dead. We all use this when we tell stories. In one particular story I refer to the late Sir Laurence Olivier. The only reason I name him is that I know he is dead and cannot take a libel case. It is a funny story and as he has been dead for a long time, no one at a dinner party will be overly concerned. We should examine the possibility of introducing a limited period under which a dead person can be libelled. Libel is particularly painful for people in the immediate aftermath of death. Why not provide that the right not to be libelled will not be extinguished for a year after death in the interests of the family of the deceased? Liam Lawlor, who was not, God knows, a saint, comes to mind. He did not deserve the kind of lies which were told about him to the grief of his family. What about the case of a well-known murderer — I will not mention his name — whose son was photographed while cycling through Trinity College where he was studying for a degree? His name and association with the murderer were then published in a newspaper. Was that in the public interest? Will this type of practice be addressed in the legislation?

Let us look at the ethos of newspapers. They do not give a damn about the damage they do. I have consistently raised the point that every single newspaper, including the most reputable in the land, routinely publish the name, address, occupation and photograph of accused persons who may or may not be found guilty. If they are found innocent they have already been very severely punished but no editor has taken up this issue. That is the prevailing ethos in the press.

I am pleased to have an opportunity to address some of the provisions of the Bill in more detail. The Bill provides a curious protection of a judge. It states: "Without prejudice to the generality of subsection (1), it shall be a defence to a defamation action for the defendant to prove that the statement in respect of which the action was brought was made by a judge, or other person, performing a judicial function". The Minister should remove this from the Bill. For what reason should a judge be allowed to defame a citizen in giving a judgment? I refer the Minister to Nell McCafferty's reports from the District Court and the outrageous and disgraceful things the judges got away with saying. Are judges to be allowed under this provision to humiliate with no substance distressed persons appearing in court before them and to be granted an immunity? Why should judges be granted an immunity?

I suggest the Minister consider carefully circumstances in which judges can take libel actions. I have been involved in such circumstances — although not personally — for saying that the licensing situation in Dublin had gone out of control and that every second-hand newsagent's shop was being licensed. I said I did not know who were the judges responsible and whatever kind of lunatics were handing out the licences. The station was sued because of my use of the word "lunatic", which is in common usage in England. Substantial sums of money were gained by that judge, not once, but twice. I am not sure that judges should be protected in this way.

I regard one section of the Bill as appalling and I want the Minister to remove it. I refer to section 18, the defence of honest opinion. Section 18(1) states:

It shall be a defence (to be known, and in this Act referred to, as the "defence of honest opinion") to a defamation action for the defendant to prove that, in the case of a statement consisting of an opinion, the opinion was honestly held.

It seems one can say whatever one likes about a person so long as one can say in court that one thought that was the case and that it was one's opinion. This is ridiculous.

Section 18(2)(a) states:

[A]t the time of the publication of the statement, the defendant believed in the truth of the opinion or, where the defendant is not the author of the opinion, believed that the author believed it to be true,

This is kowtowing to editors.

This Bill is a dreadful day's work. There are a few good points in it. I support a balanced approach and I support investigative journalism but I do not for one minute accept that people in public life should be subject to a lower standard of proof. They should be held to their views if they say one thing while passing laws and their private behaviour goes in another direction. I

[Mr. Norris.]

agree this should be exposed. However, to go after their children by photographing them and listening to their telephone conversations is abhorrent. There is nothing in this Bill that will prevent it because we have given up on privacy. This was supposed to be the balancing act. The newspaper editors would be given this free charter but the private citizens were to be protected by privacy laws and they have now been dropped because we have given in. That is the measure of the fear, not only of the ordinary citizen in this country, but even of the legislators. They are afraid to squeak.

Mr. Dardis: I welcome the Minister of State, Deputy Tim O'Malley, to the House. I welcome the legislation and disagree with much of what Senator Norris has said.

One of the satisfactory aspects of the Bill is that it is being introduced into this House which has quite a good record with regard to speaking on these matters. I recall several debates about the question of defamation, privacy and the rights of a free press. The work of the Law Reform Commission has been very valuable in informing this debate.

It is obvious that the legislation needs to be updated to deal with the pace at which media and society has developed and to have regard to publication on the Internet and by electronic means outside of what the newspapers might publish. Those of us of a particular generation are inclined to focus exclusively on the newspapers and on radio and television but the area has expanded so dramatically that some form of regulation is required.

I am a member of the All-Party Oireachtas Committee on the Constitution which has been examining freedom of assembly, freedom of speech and the matter of privacy. Within the past week a group of us visited Berlin and Vienna. We had quite detailed discussions with newspaper editors and leading constitutional lawyers and parliamentarians about these issues. We also visited Norway, Denmark and Sweden. There are some instructive lessons to be learned from these countries. In Norway, Denmark and Sweden, the matters of freedom of the press, freedom of assembly and freedom of speech are part of their culture and of which they are very protective.

A free press is a basic characteristic of any democracy and any civilised society. That press should be unfettered to a degree which would almost lead to the balance in terms of protections for groups, whatever about individuals, being regarded as being somewhat infringed.

Senator Norris referred to the matter of opinion and fact. It was the editor of *The Manchester Guardian* who said that facts are sacred and opinions are free. I do not think the legislation treats opinions in the way that Senator Norris has treated them. It is quite legitimate for any newspaper to say, for instance, that the Government

should go, that it is incompetent or that it should be re-elected. Such types of opinions are perfectly legitimate in a democratic society. The newspaper in that instance is not saying that in its opinion, citizen X is an idiot and citizen X has behaved illegally and has done X, Y, and Z which is wrong. The Bill makes this distinction between fact and opinion and it makes it well.

There is a different standard for public persons and for private persons. The section in the Bill dealing with matters of reasonable opinion or with matters of public importance is correct, in my view. During our discussions in Austria, we considered the scenario of a government Minister who is homosexual. There is nothing wrong with that and that person's privacy should be protected. However, if that person, as a result of that sexual orientation, starts to make utterances which then are reflected in legislation or in how they vote within the parliament, that is a matter of legitimate public concern and is something newspapers should be able to report.

The matter of control of the Internet is very problematic. It is obvious that some countries have not dealt with this problem and some countries have encountered difficulties in trying to deal with it. Section 2 of the Bill refers to electronic communication and defines "statement" as including visual images and decides that a statement can be published on the Internet. This is desirable but the degree to which this can be enforced is problematic. I am not so sure whether the provisions in the Bill are sufficient and I suggest this should be examined between now and Report Stage or before the Bill is sent to the Dáil.

I have dealt with the important aspect of opinion as provided for in the Bill. The offer to make amends is dealt with differently in other jurisdictions. It should not be the case that an offer to make amends or to make a correction should be prejudicial. An offer to make amends or put an explanatory note in the newspaper should not prejudice the position and this is dealt with in a reasonable fashion in the Bill. The matter of consent is important.

I refer to the matter of technology and images. I have been critical of circumstances in the past concerning private individuals. I have been extremely critical of circumstances where a child is murdered — there was one very notable case — a funeral is held and because of the technology available, a cameraman standing 200 yards away can shoot close-up images of people at their most vulnerable. That is out of order. It is one thing to seek and receive consent but, increasingly, there is no regard to consent. These are not matters of public importance. It is entirely wrong that people should be subjected to that intrusion at a time when they are at their most vulnerable. That matter needs to be controlled.

That brings us to the press council, whether it can control matters of that nature and, if there is a breach, the degree to which it can intervene to ensure other breaches do not occur. What is pro-

posed in regard to the press council is reasonable. I agree with the Minister that this should not be a statutory press council in the sense that it should not be independent and self-regulating. What is in the Bill is reasonable.

Schedule 2 refers to protecting the public interest by ensuring ethical, accurate and truthful reporting by the press. Now one is into a really difficult area. What is ethical? Is it ethical to show images of people at a funeral? It is unethical but I can think of people in the newspaper industry who would say it is ethical. That is an extremely difficult area. It is a different from what the Minister spoke about. He spoke about an issue which is important, namely, taste. That something is very distasteful does not mean it is unethical. We have enough experience from our domestic history as to what people, including those in this House, did when it came to matters of taste and how they attempted to control matters they thought distasteful. What I am trying to say, although not particularly well, is that taste is even more arbitrary than an ethical standard. That something is in bad taste should not mean it should not be published.

One then comes to the point reached in Denmark with the Islamic images. Does one say there is an absolute right to publish matters of that nature even though they offend very large numbers of people with a particular sensitivity? That is when one gets into a difficult area. Freedom is very important and it is essential to defend it, and in those circumstances, however distasteful, offensive and even blasphemous something is, the newspaper still has the right to publish. It led to deaths in that case so one is getting into a difficult area.

Senator Norris spoke about what the press council would do. It is up to the law to regulate how the press operates. It is up to the council to apply standards which are different from what is in the law. I do not see having an independent press council separate from what is in the legal provisions, although it is part of what is before us, as a problem. There was a press council in Austria which the proprietors decided not to fund anymore, and it fell. It has still not been restored and they do not believe there is anything particularly difficult about that.

There is also the question of advertising. The Advertising Standards Authority for Ireland can regulate what is in advertising. Again, the issue of taste comes into that. Does one leave that separate from the press council or does one include advertising in the work of the press council? That issue needs to be addressed.

The chairperson of the press council and the independent public directors shall be persons who are of standing in the community, persons who are independent of the interests of owners and publishers of periodicals, etc. I am not sure about that provision. Senator Maurice Hayes would make an excellent chairman of the press council.

Dr. M. Hayes: No.

Mr. Dardis: I did not say the Senator should, I said he would. The point I make is that somebody should not necessarily be excluded because he or she has a connection. Again, it comes back to the public. If the public knows about it and is comfortable with it, so what? It is similar to the notion that county councillors are not fit to be members of boards. Will somebody please tell me where there are people who are so independent that they have no attitude to, or view on, how the press should be regulated or on other matters in public life? It is absolute nonsense. We can probably come back to that issue on Committee Stage.

I refer to privilege, to which there are two aspects. One aspect is dealt with very comprehensively in the Bill, namely, statements and the privilege attaching to them. It is reasonable they are covered and they are catalogued here. There is a different privilege, which is much more difficult, where the journalist protects the source. As happened in the recent past, an editor and a journalist were summoned to the tribunal to identify a source. Under the ethics of their profession, they said "No" and they are open to prosecution or to being held in contempt. There have been cases in the past where people went to jail and there was one very prominent case some time ago.

I refer to the experience of other countries. In general, although it is not universal, there is an acknowledgement of the need to protect sources and that journalists should have that type of privilege. If one pushes that to the limit, one could ask if that applies to a person told about a murder. One is getting into a problematic area here. In general, we must ensure journalists are secure in regard to their sources and that their sources are not exposed. There have been cases where journalists have had to go back to their sources perhaps on two, three or four occasions and eventually the sources agreed to the journalists publishing their names. That is not a very desirable way to proceed.

I refer to the dead, to which there has been some reference. Again, there are differences in how this matter is dealt with. The family of the dead should have certain rights. The Lawlor case was referred to. The family of the late Liam Lawlor should have had recourse. It does not seem sensible that the lady in the car had recourse to the courts but the family did not. It can be very defamatory to the connections of the deceased, although I do not want to use that particular case. The family is entitled to redress in such circumstances. From what I can see from the continental experience, there is scope for redress for families. The provision in the Bill deals only with the estate of the defamed person. In other words, the deceased would have had to have initiated the proceedings before he or she died for them to continue. I am not sure about that.

[Mr. Dardis.]

I refer to bodies corporate. Class actions are allowed in quite a few jurisdictions which would go beyond bodies corporate. I do not know whether one could consider the Irish Farmers' Association a body corporate, although perhaps one could. They are entitled to redress but there are probably some problems of definition or other problems which need to be dealt with.

The issue of privacy opens another debate which is probably appropriate for another time. In regard to what should be private, there is a different standard for public persons as compared to private individuals. A person's home is his or her castle and once he or she closes his or her door, it is reasonable that he or she should be free from intrusion or prying. There is, however, a different standard for public and private individuals.

I refer to the rulings of the European Court of Justice. In Austria, the rulings of the court are superior to the rulings of the domestic court. In a recent high profile case, Princess Caroline took a case to the European Court of Justice and a bizarre judgment was handed down. It was felt that if she was photographed in an unbecoming situation, that would be an intrusion into her privacy. We must have some regard to the rulings of the European Court of Justice *vis-à-vis* our domestic situation.

Ms O'Meara: I welcome the opportunity to speak on this important legislation. I welcome the Bill and congratulate the Minister on its publication. It is the product of a long gestation, as set out clearly in the Minister's remarks to the House, which involved the Law Reform Commission, draft Bills, a conference, a legal advisory group and extensive consultation. This is reflected in the high quality of the legislation.

Like Senator Norris, I welcome the fact that we have got first bite on this legislation. The Minister has always taken our views into account and is always willing to listen to views from both sides. The introduction of the Bill is a defining occasion for the media in this country. If the Bill is successful, especially with regard to the establishment of a press council and the appointment of a press ombudsman, it will mark a defining moment in the generation of an improved set of media standards and in the relationship between the media and the public. This is balanced legislation and clearly the Minister has listened to inputs from many sources in drawing it up. I particularly welcome the establishment of a press council and the appointment of a press ombudsman.

The Bill was published alongside the Privacy Bill and much was made of this fact. We know the two Bills initially were put together and that some members of the Cabinet and Government Deputies believe the trade-off for the Defamation Bill is a Privacy Bill. However, there is no question that the Privacy Bill as published is fundamentally flawed. It has been exposed as

dangerous legislation in its current format. The reason for this is that it has not been the subject of extensive consultation or the subject of a Law Reform Commission report. It has not had input from the industry nor from those with knowledge and experience of the area. It seems the Privacy Bill has gone onto the back burner, but despite that I congratulate the Minister on bringing forward the Defamation Bill which is timely, welcome and undoubtedly necessary.

The privacy legislation was initially welcomed in principle by the Labour Party and we have not given up on the notion of privacy legislation. The contents and framework of the legislation will be very important. We could not support the current privacy legislation as it is framed, but that is not the subject of today's discussion.

The Defamation Bill is welcome and we will not call a vote on Second Stage. The legislation contains an important provision for the establishment of a press council and the appointment of a press ombudsman. I apologise for not stating before I commenced my contribution that I am a member of the National Union of Journalists, a former practising journalist and take a considerable interest in the area.

In 1998 I published a proposal for a voluntary press council in the context of a changed media landscape and of a situation where the media continued to become an even bigger player in society, especially against a background of the weakening influence of former powerful forces such as the church, the Oireachtas and political parties. To some extent a vacuum has been created. What is normally referred to as the Fourth Estate has become a very important player in our democracy. In that context, as a member of the NUJ and a former practising journalist, I believed it was important for the media to take the initiative and establish a press council. This would be important in recognising the role and power of the media and that with that power would come duties and obligations.

The establishment of that council would also create a situation where members of the public — the majority of the public does not consider itself as having access to the courts system — who felt they had been wronged by the print media, whether individually or as a group, would have somewhere to bring their complaint and have it heard and know the industry would respond if the complaint was upheld. That proposal, while supported at some level by the NUJ, was never advanced by the industry, despite many opportunities to do so.

The same industry squealed at the notion of the Minister bringing forward the idea of a statutory press council and his initial proposal was not acceptable. It was certainly not acceptable to us in the Labour Party. I acknowledge, however, that the Minister listened and took on board the views expressed and has now come forward with an acceptable and potentially successful model for a press council. In general, it follows the

model I suggested. Therefore, it would be hypocritical on my part not to support it.

When I published my proposal for a voluntary press council, I stated I did not support the idea of a statutory press council in the context of the need to guarantee press freedom and to ensure the Government would not have control over the media. However, considering what the Minister has brought forward, placing the press council in a statutory context will generate a greater level of public confidence in it. The statutory base will also give it greater standing and power in the community.

I read carefully the Schedule to the Bill which sets out the minimum requirements of a press council. It states the principal object shall be to ensure the protection of freedom of expression of the press. This is a significant guarantee. It also states as an object to protect the public interest by ensuring ethical, accurate and truthful reporting by the press. Nobody could disagree with that. I wish the future press council well in this vision. A further object is to maintain certain minimum ethical and professional standards among the press to ensure the privacy and dignity of the individual is protected.

I support all those objectives, particularly as a member of the National Union of Journalists. However, I wish to point out two facts. First, the National Union of Journalists already has a code of ethics and standards, but it is not upheld. The second point is that unless this press council is seen to live up to the legislation, it will not generate the trust and confidence of the public and will have been a failure. This is up to the press council itself.

I welcome the appointment of the appointments committee for the press council. I acknowledge the industry for agreeing to the establishment of the press council and press ombudsman. Coming from the industry, I know what a large step forward this is. It is necessary, long overdue and must happen. I call on the industry to live up to the standards expected of it by the public because those standards are undoubtedly falling. The impact of this is that public trust and confidence in the media is on the wane.

Members referred to the reportage on the Liam Lawlor incident, which was undoubtedly a watershed. A line was crossed and public outrage rightly followed. We in this country — it is great to be able to say this — expect a standard from our media. We expect the media to live up to a standard of ethics and professionalism on our behalf. One could say the independent media is private industry, and that it is not like RTE or State-funded media. However, the fact is the crucial role played by the media in our democracy is such that it must live up to standards.

We see the effect when public service broadcasters or newspapers take on an issue. The “Prime Time Investigates” programme on Monday last has transformed public discourse on the

issue of mental health. Every day the reportage on issues by newspapers calls to account legislators and public institutions, which is their role. However, there is a balance to be maintained. Unless there is trust and confidence in the media, it has no standing in calling to account legislators or public institutions.

Most journalists know this and most live up to it. Increasingly, however, the demands of commercialisation, dumbing down or populism — call it what you will — apply. We see this every day of the week and people are sickened by it. The public knows there is no need to invade a person’s privacy. There are many examples of slipshod journalism. When I worked in RTE I had occasion to point out that we were using a certain term on radio about a victim of crime. A woman had been murdered in the Dublin mountains, and journalists constantly referred to “the naked body of a blonde victim”. I said that was not acceptable and asked why it was necessary to use such terms. That is just one example.

The families of victims of crime will tell of how they go to a newsagents in the morning and see their grief and personal history plastered all over a newspaper for purely voyeuristic purposes. Salacious details of murders are revealed, which in many cases the public lap up. Standards are falling constantly. It is up to individual journalists and it will be up to the press council to ensure minimum standards. I wish them well because they are up against it and have a high standard to meet.

This will be a defining moment in that it will define the future relationship of the media and the public in this country, which depends on the success of the press council and the media ombudsman. I do not take the same view as Senator Norris in this regard. My default mode is optimism. I foresee the success of the ombudsman generally. Although this ombudsman is being funded and put in place by the industry, I believe enough people in the media industry know we have reached a crossroads in this regard. Making the press council and press ombudsman work is a very serious matter because so much is at stake.

The press council cannot be seen as a regulator of the press but it is the place where standards must be seen to be upheld. We do not know how this will work in practice. What happens if it does not work? While there are appeals mechanisms, if the press council is not living up to the standards set down in the legislation, to whom would a member of the public complain? I realise it is a big question and perhaps the Bill is not the means to deal with it.

If the press council does not work, it is clear there would be no alternative but for the Oireachtas to act, particularly in the area of privacy, which is the key issue that has emerged. I agree with Senator Dardis that there is a different standard for those in public life, such as Members of the House, and private citizens. Politicians

[Ms O'Meara.]

must be held to account, and the media is obviously one of the organs which holds us to account. However, there must be boundaries around that. When one goes in one's front door, that should be it.

I welcome Senator Dardis's remarks with regard to the experience in other countries, of which we need to hear. If useful points could be sent to Members via e-mail, I would welcome that as I do not have time to fully research the issue. We need to consider the context in this regard and get the balance right between, on the one hand, the media's right to ask hard questions, hold us to account and expose matters, and, on the other hand, the need to maintain privacy. I note the point with regard to the Internet, which is a difficult issue that could be teased out further on Committee Stage.

I warmly welcome the Bill. I commend the Minister on bringing it forward. I was remiss in not welcoming the Minister of State, Deputy Tim O'Malley, to the House, for which I apologise. This is a defining moment in the relationship between the Irish media and the public. We are charged with a major responsibility with regard to the Bill.

Dr. M. Hayes: I welcome the Minister of State, Deputy Tim O'Malley, to the House. I have three interests to declare. First, I am a director of Independent Newspapers, second, I am a writing contributor and commentator and, third, I was involved as a facilitator with the steering group which produced the model of the ombudsman. Given my experience in setting up ombudsman offices, I may have been helpful to the group.

I assure Senator Norris this model does fulfil the criteria for the use of the term "ombudsman". There used to be a snobby notion among statutory ombudsmen, of whom I was one, that other people should not be allowed to use the title. New Zealand is the only country that has protected it. The essence of an office of ombudsman is that, first, it should have independence, second, it should have resources, third, it should have access and, fourth, it should have the ability to secure redress for the complainant. Time will show whether this office fulfils those criteria.

I will not rise to the other baits which Senator Norris cast in front of me, partly because it would take too long and because I have no great taste for shadow-boxing. However, as he has bared his breast, I will let my wounds bleed for a moment too. I believe I was libelled, or at least misrepresented, on two occasions, once by an Irish newspaper that is sadly no longer in publication, and again by a British broadsheet that is. I was not looking for money. There was no malice in either case but in both cases what was published exposed me to a severe danger to my life, given the jobs I was doing. All I wanted was a correction and an apology that would set things right. However, given the law of libel in Britain and

Ireland, the newspapers were afraid to give that apology to me because of where it would lead.

I welcome the Bill because it enables people like me to have that sort of matter cleared up. This is a charter to help the poor person and the less wealthy in their relationship with the press. The libel laws as they stand can be used by rich people as a pastime, whereas poor people get very little from them. This measure balances that again somewhat.

I join Senator O'Meara in congratulating the Minister. Like her, I appreciate the manner in which he has dealt with this legislation. It could form a model for dealing with legislation of this type. The Minister came to this House for a preliminary debate on the matter, attended a conference, engaged in extensive consultation and listened to people before introducing this proposal. I agree with him that this legislation balances the conflicting rights of the public to be informed, of the press to ensure that the public is informed, and of individuals to enjoy privacy and respect. It is difficult to deal with such issues in any society, but the Minister has made a fair and reasonable stab at it in this Bill.

I would like to mention some aspects of the Bill that I welcome. I am pleased that it ensures that the issuing of an apology will not be seen as an acceptance of liability, provides for the ability to make lodgments, allows courts to direct juries, limits the period in which a case can be taken and imposes a requirement for verified affidavits. While the legislation has some negative aspects, they are minor and can be dealt with on Committee Stage. I will give some consideration to whether we should extend so much protection to corporations in the absence of a financial loss. Having listened to Senator Norris, I am sure some of my colleagues in another place will have different views on the matter.

We need to concentrate on the important aspects of this legislation. I am glad that Senator O'Meara dealt with one such matter at length. I refer to the proposal to establish a press council and to provide for a press ombudsman. We may be quite late in coming to this point. It may have taken the push of another Bill, which we are not discussing today, to arrive at this juncture. This legislation represents something of an accomplishment for those involved in the industry's steering committee. They brought together the various strands of this disparate industry to face their responsibility to deal with their clear shortcomings, which can hurt people. It is important to have brought the industry to this point.

I have no doubt about the industry's desire for the proposed ombudsman to be independent, which is exemplified by the nature of the people who have been chosen and have agreed to select the first group of people to take on this role. Having said that, the new arrangements will be tested by the manner in which these people will operate, the quality of the person who is selected as the

ombudsman, the access that the ombudsman is given and, in particular, the extent to which the ombudsman will be able to require redress to be given to a person, by means of publication or otherwise. While some of the sanctions which are provided for are like the H-bomb in nature, most of them are reasonable.

The Minister will be able to withdraw certification or recognition from the proposed press council if it is not performing in accordance with to the requirements set out for it. It is important that peer pressure be exerted within the industry to ensure that all interests respect the decisions of the proposed ombudsman and press council. I hope the industry will go further in that regard by making it part of the terms of employment of editors, for example, to respect the press council and its findings. That is part of the testing ground.

Senator Norris expressed concern about the proposal to provide for the defence of reasonable belief. It is a pity that people do not read beyond the side title or first subsection of sections of legislation. If Senator Norris had read further down, he would have learned that the rest of the relevant section surrounds the defence of reasonable belief with a series of conditions which have to be satisfied before the courts will allow it to be used.

As Senator O'Meara said, we are giving the industry the potential to show its mettle. It should be allowed to do that. When the press council has been established, it should be allowed to develop a code of conduct. The code of conduct is the most important part of the proposals relating to the press council, which have been circulated by the steering group. The principles which are set out in the code of conduct are central to the entire system. They should be regarded not as definitive but as work in progress. Part of the role of the proposed press council will be to work with journalists and other people in the industry to flesh out the code of conduct. The manner in which that is done will, along with the work of the courts, protect privacy as much as anything else. I do not want to sound like a member of the DUP talking about what Sinn Féin needs to do in respect of policing when I say that the work of the proposed press council is entitled to be tested over a credible period. The council should be allowed to show its ability to operate.

I welcome this Bill, which I will support, because it offers the opportunities I have mentioned. I look forward to the Committee Stage debate on some of the issues which are of concern to Members. Such matters can be sorted out at that time.

Mr. Coghlan: I welcome the Minister of State, Deputy Fahey, to the House and I welcome the Defamation Bill 2006. A great deal of preparatory work has been done on this legislation, for which we have been waiting for a long time. It has been introduced on foot of the due considerations of the Law Reform Commission. I under-

stand that all of the LRC's recommendations, with the exception of a recommendation relating to the proposed ombudsman and press council, have been incorporated in the Bill. Extensive consultation has been undertaken.

I welcome yesterday's announcement of the proposed establishment of an independent press council and ombudsman, to be provided for under this Bill when it becomes law. While the code of practice that has been agreed is not cast in stone, it represents a good starting point for this law. As we know, it removes many of the defects of previous laws. I agree with the proposal to allow for the defence of reasonable publication in matters of public importance.

I also agree with the measure in this law, to which the Minister for Justice, Equality and Law Reform referred in his opening statement, which will allow judges to assist juries, as opposed to giving direction to them, when they are deciding on amounts of damages. We are aware of a recent prominent example of a judge deciding not to give such assistance, although he may have felt he was not allowed to do so. When a guiding principle is laid down by a superior court — particularly by the Supreme Court, as was the case in this instance — it is important to give juries some assistance. I think juries should look for such assistance, which they may not have done in the past. If the Supreme Court has made a decision as a benchmark, the judge should be able to assist the jury by saying that the amount of damages should be within certain limits. That would be an important step. If I understood the Minister correctly when he was speaking about this matter — I heard him fleetingly while I was passing a monitor — I agree with his approach. This is a good measure that is long overdue. That might have been a cause about which Senator Leyden and his colleagues know something. For a long time it was hand-cuffed, so to speak, to the privacy Bill. The Minister, understandably, feels unable to give any assurance that that Bill will come before us shortly. It may never see the light of day; we will certainly not see it in this Parliament.

I referred briefly to the press council. The ombudsman and the complaints system being a new avenue to take without going to court, and which is free to the citizen, is important. It is natural for people to get upset if they believe they have been defamed but the cost of taking action is prohibitive. Many people believe it is a law for the rich and that only the rich can afford to take the gamble of going to court. I welcome that measure.

In an ideal world we should have a statutory press council but I accept this measure is an initial step. All the press have signed up to it, or so they told us yesterday, but if something were proved to be amiss in the future I am sure the matter could and would be revisited. Members of this House, and no doubt those in the other House, would be the first to shout about it. It is important that citizens have an avenue open to them that is

[Mr. Coghlan.]

free and that the question of costs will not come into their considerations should they decide to go that route.

I welcome section 26, which provides for a declaratory order. It concerns citizens who believe they can prove they were defamed but who are not seeking damages. As we are all aware, the media can be lax at times. To give a recent example, an apology was not offered over a period of six years. There were wealthy people involved in that case but some citizens may not be able to afford to take that route even though they would be able to prove they were defamed. They might not want to seek damages but if they have not been offered an apology this declaratory order, which is a new provision, is very important. I refer mainly to the print media, but it could apply to radio and television as well, in cases where an apology is not forthcoming and they are being truculent against the small man, so to speak. That is the reason section 26 is so important.

I welcome section 14 regarding defence of truth, although it is only a change of title in terms of justification. It is a *sine qua non* that someone would come to a case with clean hands. I am aware of an instance where a letter received prominent circulation. It was not published but one or two parties felt aggrieved because they were the parties referred to without actually being named. The hint was dropped that they would take an action, probably with the intention to frighten the small man, so to speak. Where people who may have been party to something irregular if not illegal, they cannot take an action without clean hands. If I read it correctly that is provided for in the section, which I welcome.

I give the Bill a general welcome, particularly the provision dealing with a press ombudsman and a press council. The question of their independence will arise but before concluding I should say that no one can doubt the credentials of those on the appointments committee, namely, Professor Mitchell, Dr. Manning, Dr. Miriam Hederman O'Brien and Kevin Murphy. They all have excellent track records and no one would doubt their ability to do the best. For that reason I welcome the Bill.

Mr. Leyden: I welcome the Minister of State, Deputy Fahey, to the House and the officials from the Department of Justice, Equality and Law Reform. The Tánaiste was in the House earlier.

One's reputation lives forever. When people die, their next of kin either carry on their good names or must live with possible shame. That is the reason this Bill is particularly important. I commend the fact that the Minister has had widespread consultation in that regard. He has presented us with a Bill of the highest quality. I say that having read the Bill and an article, Defamation Law in Ireland, by Kieron Wood, a barris-

ter, from which I intend to quote for the record. That article outlines the background to defamation law in Ireland. It states, "... because of the importance of educating public opinion, the State will try to ensure that the organs of public opinion such as the radio and the press [it doesn't mention television] keep their right to liberty of expression, but they shall not be used to undermine public order, morality or an authority of the State". It is a very good document and anyone interested in this legislation should examine that area.

I will deal specifically with one area, namely, defamation of the dead. The Minister stated:

The Bill does not provide for the defamation of the dead, an issue which arose during the consultation period. It does, however, provide that on the death of a person, a cause of action for defamation vested in him or her immediately before death should survive for the benefit of the estate. Similarly, it also provides that a cause of action in defamation subsisting against a person should survive his or her death and lie against the estate.

I was in the course of preparing a defamation of the dead Bill. I suggest the Minister should consider including a section in this Bill before Committee and Report Stages to the effect that families would have a right to sue newspapers for defaming the dead. I refer specifically to the case involving the late Deputy, Liam Lawlor. Liam Lawlor died in a tragic accident in Moscow. He was seriously defamed in an article in the *Sunday Independent*, which was published on the day of the Fianna Fáil Ard-Fheis in Killarney. It came as a shock to all of us to learn that Liam died in such tragic circumstances but then we learned that his wife and family had to deal with the fact that her beloved husband and their beloved father was defamed in such an uncaring way. Nobody in the *Sunday Independent*, including the editor, has taken direct responsibility for that. It is important to ensure newspapers are aware that if they defame the dead, they will be liable. I am particularly keen to see this legislation passed.

State law in Quebec, Canada and in Rhode Island in the United States allow civil actions in such cases. I have studied that area and am aware that a similar law exists in Germany and was used recently to convict historian, David Irving, who made derogatory comments about members of the Jewish community killed by the Nazis during World War II. That case was successfully fought at the time. I am delighted to have an opportunity to go into the legislation in more detail in that respect.

A book was published in the United States in which President Lyndon B. Johnson was accused of the assassination of President John F. Kennedy. It sold 75,000 copies. The content of the book was totally untrue yet efforts were made to denigrate President Johnson by association with that tragic assassination in 1963.

When the debate on the Bill resumes, I will appeal to the Minister to make provision to allow the next of kin take action in case of serious defamation and libel of a deceased individual. One has nothing but one's good name and under this Bill, one can now defend one's reputation in the courts. In the case of one who has died, however, nobody can defend his or her good name.

Debate adjourned.

Sitting suspended at 1.30 p.m. and resumed at 5 p.m.

Budget Statement 2006: Motion.

Ms O'Rourke: I move:

That Seanad Éireann notes the Budget Statement of the Minister for Finance.

Minister of State at the Department of Finance (Mr. Parlon): I am pleased to be here in the Seanad today outlining the provisions of the 2007 budget and to listen to the debate this evening. Ireland continues to make strong economic and social progress and the key indicators for the future remain positive. It is in this context that the 2007 budget has been cast and with a view to ensuring the benefits of success are shared by all. The Government has set out four key objectives: sustaining a strong economy; supporting employment; promoting improved competitiveness; and building a fairer, more caring society.

The Government's budgetary strategy is based on the objective of continued budgetary sustainability both in the medium and longer term.

The public finance position is sound.

5 o'clock

The debt-GDP ratio is projected to be 23% in 2007, one of the lowest in

Europe. The outlook is for a general Government budget surplus of 1.2% of GDP in 2007. This includes the cost of infrastructural investment which, at around 5% of GNP, is running well ahead of the EU average.

The strategy for achieving the Government's key objectives with regard to budgetary and economic policy includes improving equity and opportunity, fostering employment and economic growth, helping families and those on low incomes, enhancing public services and value for money, maintaining high levels of infrastructural investment to secure future economic growth, and pursuing prudent fiscal policies to ensure the flexibility required to respond effectively to any budgetary pressures that may arise in the future. The continuing strong performance of the economy together with appropriate and prudent management of the public finances have made today's budget possible. The tax, social welfare and public investment measures will ensure this success will be sustained and widely shared.

I will set out the context in which this budget has been framed. As one of the most open economies in the world, Ireland's performance

depends on its economy being able to respond quickly and appropriately to international developments. Global growth has been robust in 2006, despite volatile oil prices and the latest forecasts from the EU Commission are for an increase of 5% in world GDP for this year. GDP growth in the US is expected to be 3.4% for 2006 but the economy is slowing. Growth in other regions and, in particular emerging Asia, is set to remain strong. The euro area has experienced considerable economic expansion in the first half of 2006 and output growth is expected to average 2.6% in 2006, driven mainly by domestic demand.

The performance of the Irish economy continues to be impressive and GDP growth is expected to rise by 5.4% for this year and by 5.25% in 2007. A key component of our economic strategy was job creation and our success in this area is exceeding all expectations. The number of people employed is now more than 2 million for the first time in the history of the State and for 2006 as a whole employment is projected to grow by 4.4%. This represents an increase of 87,000 jobs, or more people than would fill Croke Park on an All-Ireland Sunday. The outlook for unemployment remains equally favourable and we have one of the lowest unemployment rates in the euro area.

Business policies have helped to nurture new and existing enterprises from the sole trader to the large multinational corporation. We recognise that creating the environment that encourages business is critical if we are to maintain job creation and economic growth, which are essential to maintain social progress. While I acknowledge that inflation has been a concern this year, it is now expected to moderate during 2007, with HICP inflation forecast to be 2.6% in 2007.

We must not, however, be complacent. A number of potential risks remain on the horizon. Further interest rate increases, oil price volatility and the weakening dollar allied to a possible disorderly unwinding of global imbalances, continue to be the main areas of concern. The Irish economy must be resilient if these risks become a reality and improving its competitiveness will play an important role in this regard.

We have achieved economic progress by choosing prudent and appropriate policies and this has created a favourable economic environment for growth. The Government is committed to ensuring that the public finances remain in a healthy position. Prudent fiscal policy means this year we are operating off a budget surplus — one of only six countries in the EU 25 forecasted to achieve a surplus this year. Despite this, we are continuing to provide generously for health, education and social welfare and continuing to introduce measures to reward work and promote enterprise.

The Minister today outlined that a longer-term and sectoral approach will be adopted to ensure public spending is efficient and effective. A total of €48.5 billion is being provided for gross current

[Mr. Parlon.]

expenditure in 2007 and this represents an increase of 11.5% over 2006. More than 77% of gross current expenditure is for social welfare, health and education and this demonstrates the priority the Government accords to these areas.

The Government wants to ensure everyone in our country benefits from our economic success, particularly those who are less well off. The total cost of the social welfare improvements announced today amounts to €1.4 billion in a full year and will bring total social welfare expenditure for 2007 to €15.3 billion. From the first week in January, all maximum State and related social insurance pensions will be increased by €16 to €209.30 per week while the maximum personal weekly rate of the non-contributory State pension will increase by €18 bringing it to €200 per week. There has been a €20 increase in the lowest rates of social welfare payments bringing the lowest adult rate to €185.80 per week. The Minister has also provided a further €189 million for other social welfare measures which will include increasing the respite care grant, providing a disability allowance for the 2,700 people in residential institutions, doubling the back to school allowance, and increasing the fuel allowance by €4 per week.

Almost €15 billion will be provided in the health and children area in 2007. Included in this figure is €321 million in 2007 to enhance our capacity to care for a number of important groups in our society. More than €205 million will be provided for additional care packages for our elderly, including an expanded home help service, additional residential beds, improvements to palliative care and day-respite service and enhancement of the support available under the nursing home subvention scheme.

Today, the Minister for Finance has allocated an additional €100 million for health related disability services. As well as providing for additional residential, respite and day places, this funding will enable the introduction of Part 2 of the Disability Act 2005 which involves assessments of need and service statements for people with disabilities, and which will commence for children under 5 years from 1 June 2007. It will also enable the continuing transfer of persons with an intellectual disability from settings inappropriate to their needs.

Of the additional €100 million announced, €25 million is being assigned to support the continued implementation of the mental health services plan, A Vision for Change, as well as funding for the national strategy on suicide prevention. This funding will support the provision of additional community-based mental health facilities, including mental health day centres, day hospitals and community residential facilities, as well as the appointment of extra frontline staff to support adults and children with mental illness. An additional €16 million is also being provided for primary care.

Ireland has led the world by successfully banning smoking in the workplace. To discourage smoking further, which is having such a negative effect on our health, an excise duty of 50 cent is being added per packet of 20 cigarettes and corresponding amounts on other tobacco products.

The budget recognises the essential role education plays as a catalyst in delivering economic success and €7.89 billion has been provided for education in 2007. Over the past four years we have added 6,800 teachers at first and second level and increased special needs assistants by 3,100. A further 800 teachers will be provided at primary level in 2007. A 24% increase in graduates between 2002 and 2004 shows that investment at third level is also paying off.

In recent years, the Government has provided significant resources for child income support and child care. In today's budget, the Minister announced that the three rates of child dependant allowance will be merged and a new standard rate of €22 per week is being introduced in 2007. Child benefit is being increased by €10 per month for all children. The total cost of these child related increases will be almost €244 million in a full year. A national child care strategy was introduced in last year's budget. This is a five-year strategy to address the supply and the cost of child care, costing a cumulative €2.65 billion over that period. A provision of €381 million was included in the 2007 Estimates for the early child care supplement. There will be a further four-week increase in both paid and unpaid maternity leave in 2007, bringing the duration of paid maternity leave to 26 weeks and the duration of unpaid maternity leave up to 16 weeks. Together, these measures should help to ease some of the pressures on young families.

The stock and quality of public physical infrastructure is one of the critical elements in the long-term growth strategy for the economy. While there have been significant developments in infrastructure delivery under the current national development plan, especially in the area of roads, public transport, housing and health care, ongoing investment in these areas is still required. The Minister for Finance stated today that he will publish a new national development plan in January which will commit to a major seven-year programme of investment above current levels, especially in the area of transport. The 2007 capital allocation provides for a total public capital investment of €7.8 billion. Around €7.6 billion of this is Exchequer capital and €264 million is public private partnership capital, to be funded by annual payments from the Exchequer.

We are constantly striving to achieve the objective of a fairer, more progressive and rewarding income tax system. The entry point at which people will start paying tax is being increased to €17,600, or the equivalent of €8.65 per hour, while the PRSI entry point is also being raised to this level, keeping those on the minimum wage out of the tax net, as the Government promised.

These measures will cost €501 million in 2007 and €657 million in a full year. The 20% standard tax band is being widened by €2,000 per year. The changes to the credits and tax bands mean that 80% of income earners will continue to pay an effective rate of tax of 20% or less.

The threshold for payments of the health levy has been increased by €40 while the tax exemptions for senior citizens aged 65 are being raised by €2,000 for a single person and by €4,000 for a couple. Tax credits are being increased for widowed persons while widowed parents will receive a special tax credit for five years. The special tax credit for persons who care for an incapacitated children is being doubled to €3,000. The Revenue Commissioners will be putting measures in place to make it easier for taxpayers to claim and receive their entitlements.

Purchasing a first home is always a financial challenge, and to support people in this respect, the ceiling on mortgage interest relief is being doubled for first-time buyers in the first seven years of their mortgage, up to a limit of €8,000 for single purchasers and €16,000 for those who are married or widowed. The increased relief will be available to all first-time buyers in the first seven years of their mortgage. The ceiling for other buyers is also being increased to €3,000 for single purchasers and to €6,000 for married couples. The cost of these measures is estimated to be €50 million in 2007 and €70 million in a full year.

Earlier I mentioned the importance of small businesses to the economy, particularly in terms of job creation and maintaining our competitiveness. Following a consultation process with groups such as the Small Business Forum, it has been announced that the business expansion scheme, or BES, and the seed capital schemes, which were due to expire at the end of this year, have now been extended for a further seven years, subject to the approval of the European Commission. The ceiling per company is being raised from €1 million to €2 million for the BES and the annual limit per investor is being increased from €31,750 to €150,000. The annual investor limit in the seed capital scheme is being increased to €100,000.

Tax administration will now be simpler for 97% of Irish companies. Companies with a corporation tax liability of less than €50,000 can now pay preliminary tax based on their last year's final liability, thereby avoiding forecasting the current year's performance in advance of the accounting year. The small company liability threshold has been increased from €50,000 to €150,000. New companies will no longer have to pay preliminary tax in their first accounting period. The VAT accounting threshold is being raised, VAT registration turnovers thresholds are being doubled, while the number of VAT payments for small firms is being reduced from six to three or two per year depending on the case. The full annual cost of these measures, which are designed to

reduce the regulatory burden on firms, will be €53 million with an additional once-off cash flow of €84 million.

Protecting the environment must be an integral part of public policy and we must work toward realistic targets in areas such as renewable energy, pollution reduction and waste management. A total of €328 million has been allocated in 2007 for the rural environment protection scheme, including provision for REPS 4, part of the Ireland's rural development programme for the period 2007 to 2013, which will shortly be sent to Brussels for approval. The Department of Finance will shortly carry out a public consultation process to determine how the vehicle registration tax system can be tailored to encourage drivers to choose lower emission vehicles, and will report on the outcome to the Government. Decisions taken in this area will have a target date of 1 January 2008. The Minister for the Environment, Heritage and Local Government will also consult on proposals for rebalancing annual motor tax to encourage drivers to choose cleaner cars, and this would apply to vehicles registered after 1 January 2008.

Farming continues to be an important part of the economy and central to maintaining and developing vibrant and economically viable rural communities. To prosper, farming must be able to respond to a range of emerging challenges, which include developments in the EU and world trade agriculture policy, changes in food markets, increasing trade liberalisation and technological developments. To help meet those challenges, the Government will continue to provide the necessary support to enable farmers to invest in and be innovative on their farms. The Exchequer capital provision for agriculture in 2007 is €279.1 million, inclusive of budget day add-ons of €3.6 million. In line with changes announced in previous budgets and arising from the conclusion of the latest social partnership agreement, the Minister announced a package of measures to assist farmers maintain and develop farming as a viable family business.

The threshold for capital gains tax retirement relief is being increased from €500,000 to €750,000, also from 1 January 2007. The CGT retirement relief is being extended to disposal of leased land subject to certain conditions.

Farm consolidation relief is being extended to 30 June 2009. The existing general 25% stock relief for farmers and the special incentive stock relief of 100% for certain young trained farmers are being extended from 1 January 2007 for a further two years subject to clearance with the European Union under state aid rules. Also, from the 1 January tax exemptions will apply for income derived from certain leases of farm land and a new exemption of €20,000 per annum will be introduced for leases of ten years or more. The overall cost of these measures will amount to €14 million in a full year. In addition to these farm tax reliefs, the farmers flat rate of VAT is being

[Mr. Parlon.]

increased from 4.8% to 5.2% from the 1 January 2007 at a full year cost of €16 million.

A welcome development is the introduction, subject to EU approval, of three measures to encourage farmers to grow energy crops. The bioenergy establishment scheme will provide grants to farmers interested in planting willow and miscanthus that can be used for heat and electricity purposes. Grant aid is being provided to offset the high establishment costs of these crops. The estimated cost in 2007 will be €2 million, rising to €3.5 million in 2009. The national aid for energy crops will provide a top-up grant of €80 per hectare to the existing EU premium of €45 per hectare. The purpose of the measure is to stimulate production to meet demand arising from the excise relief scheme and to avoid this being met by imported feedstock. The biomass harvesting machinery measure will provide funding for specialised equipment. It is expected that the cost of the national aid for the energy crops and biomass harvesting machinery measures will amount to €3 million in 2009.

The decentralisation programme is progressing and over the next 18 months—

Mr. J. Phelan: I was wondering when the Minister of State would mention it.

Mr. Parlon: I always finish with a very good story.

Mr. J. Phelan: This one is a good story, all right.

Mr. Dardis: The beginning, middle and end is a good story.

Mr. Parlon: The decentralisation programme is progressing and over the next 18 months Departments and offices will have a presence in a total of 29 new locations around the country. Over the next six months alone, it is planned that the number of decentralised staff in their new locations will have grown to over 1,000 in approximately 20 towns around the country. The success of my own Department is a good example of the significant progress that has been made. Over 110 staff have relocated to Tullamore since July of this year. To put this in perspective, nearly one in six workers in the Department of Finance is now based outside Dublin. The fact the relocation was managed so efficiently and effectively is testament to the efforts of the staff involved, and points to the ultimate success for the programme. As further progress is achieved it will become clear that Departments can function just as efficiently and effectively outside of the capital.

Today's budget will assist us to meet our economic and social objectives through the range of prudent and innovative measures which have been announced. The significant changes to

income tax, which I mentioned earlier, are in line with our policy to reward work. The modifications to VAT and corporation tax acknowledge the contribution which enterprises and, in particular small enterprises, make to the economy. The additional provision for public investment, will improve a broad range of key day-to-day public services.

The major improvements in the payments for those in receipt of social welfare payments and pensions and the additional services announced for the elderly and those in need is the Government's way of showing that it is listening and addressing the concerns of the less well-off and the vulnerable. The budget has been prepared to ensure balance, not just in fiscal or financial terms, but in terms of how it will benefit all of the people living, working and doing business in this country.

Mr. J. Phelan: I welcome the Minister of State, Deputy Parlon, and his officials to the Seanad to discuss the Budget Statement by the Minister for Finance. We are growing accustomed to these debates over the last couple of years. I have made a list of notable omissions from the contribution of the Minister for Finance, Deputy Cowen, in the other House. One of these was decentralisation and I am glad the Minister of State at least had the decency to mention it.

Mr. Parlon: It covers several pages in the Book of Estimates.

Mr. J. Phelan: I realise that, but I am referring to what the Minister spoke about. With due respect, we are commenting here on the Budget Statement. It is difficult to fully grasp everything in the accompanying document distributed in the other House, although I have seen most of it.

This budget will probably be most noteworthy for what it does not contain. Last year's budget was referred to by many as the "child care budget". The one three years ago was called the "decentralisation budget". This year's budget does not contain many surprises. I am not particularly perturbed at the fact that there is nothing surprising but it comes about after much media speculation over the last couple of weeks. We can only speculate as to whether this was prodded by Government sources but much of the media reporting appears to have been pretty accurate as regards what the budget would contain.

There were a number of things the Minister did not talk about. He mentioned the word "education" at the end of his comments in the other House, but did not go into detail, despite continuous arguments in both Houses of the Oireachtas as regards the need for increased expenditure on education. The Minister of State has pointed out that we will see an increase in the number of teachers over the next 12 months, which I welcome. However, I was disappointed the Minister

did not go into detail on this in his Budget Statement.

The Minister never mentioned transport. It is ironic that it is now 5.30 p.m. on a Wednesday when the vast majority of workers in this city and throughout the country are stuck in traffic at some point or other. They might be on the M50, beside the toll bridge, about which it was speculated there might be an announcement today in the budget, but there was not, or they might be stuck in traffic in regional towns throughout the country.

There was no mention either of increased funding for justice and crime, despite significant increased activity in these areas over the last couple of years.

Mr. Dardis: It is in the Estimates.

Ms O'Rourke: It is in the Estimates.

Mr. J. Phelan: I am referring to the Minister's comments. We have ten minutes to speak, so I am disappointed that he——

Ms O'Rourke: I am disappointed the Senator is whining.

An Cathaoirleach: Senator Phelan, without interruption.

Mr. J. Phelan: I am not. In fairness, I shall be pointing to a couple of areas in the budget that are quite positive.

Ms O'Rourke: That is good.

Mr. J. Phelan: I am disappointed, however, that the Minister for Finance did not mention the spiralling in serious crime over the last year. I am particularly disappointed that he did not touch on mental health, as I thought he would, after the dogs' dinner made in the media by the Minister for State with responsibility for that area, Deputy Tim O'Malley. There is the fine print but the Minister could have referred to this area in his remarks.

The old age pension increases are to be welcomed. It is fair to say that the costs pensioners face are significantly higher than they were ten years ago and the vast majority of increases that have come about in the interim have been swallowed by them. There have been 25% increases in the cost of electricity and gas in the last couple of years and pensioners have had pay out for enormous increases. Nonetheless, the provisions today are to be welcomed. The Minister has doubled the fuel allowance in the last two budgets. That is a welcome initiative, but €18 of a fuel allowance is nothing to crow about at a time when fuel costs have increased dramatically. It does not go anywhere near meeting the full costs for pensioners when it comes to providing heat and other energy requirements.

I welcome the changes that were announced on maternity leave. The Minister has made a number of such pronouncements over the last couple of budgets and today's improved provision is to be welcomed. I have raised before the issue of paternity leave, but the Minister did not choose to address this today.

A number of announcements were made regarding small business, referred to by the Minister of State. I broadly welcome them, especially those pertaining to seed funding and business expansion schemes. Nonetheless, it can take a couple of years for such initiatives to impact directly on a particular business. The schemes have been extended for a further seven years, subject to EU approval.

The Minister of State also mentioned bio-fuels and while today's announcements were somewhat tentative, I regard them as a small step in the right direction. Similarly, a significant change was announced today regarding mortgage interest relief. It was interesting that the Minister outlined the possible benefits. His remarks in the Dáil used the example of a couple who could benefit by up to €1,600 from the announced changes. There was great hoopla from the Government benches, despite that a few years ago, the Government removed the first-time buyer's grant in a budget which was of much greater benefit than €1,600 per annum. Obviously, mortgage interest relief accrues over a longer period to first-time buyers.

As I stated, this budget is somewhat like Mother Machree's dog in that it goes a bit of the road with everyone.

Dr. Mansergh: That is a cliché.

Mr. J. Phelan: I will use another cliché. The budget almost has one for everyone in the audience. However, no sector in particular will be jumping for joy as a result of the budget's contents. I was disappointed the Minister did not use the opportunity either to abolish completely the means test for the carer's allowance or to increase its threshold greatly. While he made changes in this regard, they are insufficient and an opportunity existed for significant reform in this regard.

If this budget is considered from the perspective of reform, there is very little of a reforming nature. It includes much tinkering around the edges of schemes and extensions of schemes, such as those for small business to which I referred earlier. However, very few departmental initiatives were announced by the Minister today. His mention of reform of vehicle registration tax was remarkable, although it was put on the never-never in that it would be carried out in a few years' time. It was also noteworthy that he inserted a particular paragraph on the entire area of stamp duty, which was a clear kick in the pants directed at the Progressive Democrats Party and its economic policy. He stated that any reform of stamp duty would end up in developers' pockets,

[Mr. J. Phelan.]

rather than benefitting first-time buyers. I disagree with him. It was well within his grasp today to abolish stamp duty completely for first-time buyers, which would have cost €44 million according to the figures I received from the Department of Finance last week.

Mr. Dardis: They received more than €70 per month.

Mr. J. Phelan: It would have only cost €44 million to abolish stamp duty for first-time buyers and the Minister could have done so. It would not have gone directly to the pockets of builders and developers because first-time buyers are not the most significant component among those buying houses. I am disappointed the Minister did not do so.

The Government promised it would ensure that all children under the age of nine would be in a class with a ratio of less than 20:1 by the time it left office. Despite the commitments mentioned in this House by the Minister of State, it will not come close to reaching that target by the time of the next general election.

Although I had thought that I had been allocated 15 minutes, apparently I only have ten minutes. Unfortunately, I will not be able to say much more. I wish to make a final point concerning the elderly. I mentioned the improved pensions provision, which I welcome. However, the Minister has a nerve to speak about improving the hours granted for home help, having cut 2 million hours from the system a few years ago. He has a brass neck to tell this to people now. The provision of home help was a key method to keep elderly people in their homes for longer and to maintain their independence. Many people in that position will be galled by the Minister's comments today.

Overall, there are provisions in the budget that are to be welcomed. However it constitutes a missed opportunity—

(Interruptions).

Mr. Dardis: Someone is trying to send a message to the Senator.

Acting Chairman (Mr. J. Walsh): I ask any Members with mobile telephones to switch them off, please.

Ms O'Rourke: Yes.

Mr. J. Phelan: It was a missed opportunity across the board.

Acting Chairman: I ask the Senator to conclude, as he has already exceeded his time.

Mr. J. Phelan: I thank the Acting Chairman for his leniency.

Dr. Mansergh: I welcome the Minister of State, his officials and, above all, the budget. I listened to the budget with some emotion. Perhaps emotion is not something one normally associates with—

Ms O'Rourke: With the Senator.

Dr. Mansergh: — budgets. However, I did so with pride that we have reached this position, while remembering times past. How many European Ministers for Finance are able to simultaneously run a budget surplus, increase expenditure by 11.5%, including a record social welfare package of €1.4 billion? Perhaps in Norway or Luxembourg, but I cannot think of anywhere else. Ireland has the immense blessings of full employment, low inflation, debt and direct taxes, growth of more than 5%, and a supportive — and I hope increasingly supportive — social welfare system.

Senator John Paul Phelan mentioned various matters that were not included. However, in the broad definition of the term, the budget includes expenditure in the Book of Estimates, as well as in the Budget Statement. Hence, there is no significance to be read into the strong commitment to education, transport or justice from the fact they do not figure largely in the Budget Statement.

The real opposition to this budget does not come from the Opposition benches or indeed from any party in the Houses. I am somewhat shocked by a certain section of what one might call the commentariat. I will mention three or four examples. Hobbs, who was a consumer champion much beloved by Fine Gael approximately 12 months ago, claimed the Taoiseach is past his—

Mr. U. Burke: Is the Senator referring to Mr. Eddie Hobbs?

Dr. Mansergh: I refer to Eddie Hobbs. He claimed he is past his sell-by date. He stated that: “[T]he public sector seems to be overpaid and inefficient and that needs to be faced down like Thatcher faced down the coal miners.” An editorial in *Business and Finance*, apart from seeking a reduction in the top rate to 36%, states:

The Government should be freezing all public sector hiring and wages until after a comprehensive value for money review of all public sector functions. Anything short of this will be a shamefully apparent bet on the Opposition's incompetence.

I do not criticise the Opposition for not demanding such measures. A columnist for the *Sunday Independent* stated that reform inevitably requires confrontation and that the Government does not do confrontation, rather it placates and seeks consensus. A former editor of the *Irish Farmers' Journal* wrote in a similar vein. All they

have in common is that they are anti-trade union and anti-social partnership and believe that, somehow, we could not and should not be enjoying our present prosperity without some sort of Thatcherite Nirvana.

One of the great merits of the Government and its predecessors in the past 20 years is that we have found an alternative approach. Even for the better-off in society, the approach adopted by the Government is far better than any type of Thatcherite confrontation.

Mr. U. Burke: That is some comparison.

Dr. Mansergh: Social cohesion and harmony are required and Members do not want Rossport five situations nationwide.

I will come to the budget itself. All Members will welcome the announcement that contributory old age pensioners will be in receipt of €209.30, while non-contributory pensioners will receive €200. There is also a very substantial increase in the income tax exemption, which has been a policy of successive Ministers for Finance for the past ten years at least. Child benefit will increase by €10, along with a special boost to child dependants. This allowance was held down for a long time following a survey conducted under the rainbow coalition, in order not to aggravate a tax wedge. However, it is right that it is being done now and that more money is being put into child care. The issues of disability and mental health were raised a moment ago and an additional €100 million was announced in the budget in this respect. Not only has the fuel allowance for pensions been increased, but the eligible income over and above one's pension has doubled to €100.

We all, and many young people, will welcome the improvement in family mortgage interest relief worth €133 per month. No doubt that is the right approach at this point in time. We had the debate on stamp duty last week. It is a question of making a real difference to people. I am not denying that stamp duty may need some reform but there are appropriate times in which to do that. The danger — this came out at our debate last week — is that any changes in stamp duty at this point would most likely go straight into the hands of developers.

We all welcome the income tax changes, which mean that not only are those on the minimum wage kept out of the tax net but that also those on the industrial wage will not pay tax on any of their income at the higher tax rate. Of course there is a substantial increase in the tax band as well as in the personal credits and notwithstanding the cut in the top rate of tax, one will see in the tables that the progressiveness that has been the hallmark, particularly of this Minister for Finance, has been maintained. In broad terms, the proportional benefit is greater at the lower and middle income part of the cohort than at the higher level.

There is a commitment that if we continue to make progress there will be a further 1% reduction in the top rate. I see merit in that in terms of competitiveness. There is merit in having the same top rate of tax in this country as across the water, although in many respects our tax system is becoming more favourable than theirs. The tax credits have somewhat altered the parameters, but we have achieved a position where 80% of income earners are on the standard rate of tax and one third of the population or more does not pay income tax at all.

I also welcome the business provisions, the increase in the BES investment as well as how much individuals contribute, the raising of the VAT threshold, and the improvements in tax administration. I welcome the measures to encourage conferencing in tourism — I raised tourism on the Order of Business this morning.

I welcome the support for farming and of course the fact that the Government is increasingly supporting farming. Not all, or at this stage even most, of it is coming from the EU.

I am glad that the Minister of State, Deputy Parlon, mentioned decentralisation. Of course he, not the Minister for Finance, except in an overall sense, is the Minister of State responsible for decentralisation and it is therefore appropriate that he should mention it.

Mr. U. Burke: A far cry from a few years ago. The Minister of State is the man who was putting up hoarding this day three years ago.

Dr. Mansergh: It is going well in Tipperary, I assure Senator Burke.

Mr. J. Phelan: It was supposed to be completed by now.

Mr. Dardis: They have not much to hold on to.

Acting Chairman: Senator Mansergh without interruption.

Dr. Mansergh: I welcome the environmental measures and, in particular, the encouragement of energy crops. Overall, it is an excellent budget which will help sustain prosperity, not just to the next election but for years ahead minus any external shocks. I congratulate the Government on a first-class budget.

Mr. Quinn: May I share my time with Senator O'Toole?

Acting Chairman: Is that agreed? Agreed.

Mr. Dardis: Reluctantly.

Mr. Quinn: I welcome the Minister of State and the opportunity to speak on the budget. It is a tradition that has developed in recent times. I welcome it because the budget needs to be debated at this early stage.

[Mr. Quinn.]

Over the past few months the Government spin has been focussed on the need to convince the public that this would not be an election budget. Therefore, I sat listening to the budget to see whether or not it would be an election budget. I took out a piece of paper afterwards and wrote down two columns. In order to decide whether or not this is an election budget, in one column I put the short-term steps the Government would take and in the other I put the long-term steps. One can guess what was the outcome. The column of short-term steps was filled and the column of long-term steps was practically empty.

My concern is that this is an election budget, that the Minister focussed on the short term. I agree entirely with Senator Mansergh. What a wonderful job the Minister had — to have this surplus, to have this great economy and to be able to spend this money. However, I then looked to see why was one column so long and other column so short. It was then that I had regrets.

My first conclusion was that I was not too surprised that a Government would look to the short-term with an election only six or eight months away. The only aspect that surprised me was the comparison with the previous occasion. The Government has tried to make it less obvious that this was a short-term budget and an election budget. On the last occasion it did not take this approach and it rebounded within weeks or months of the election.

My first regret, which follows from a debate that I initiated only a couple of weeks ago, is that I do not see any tackling of inflation, which is a serious problem here. If anything, the steps the Minister has taken will encourage spending.

My second regret is that while there has been considerable investment in some of the important elements in infrastructure, and particularly in roads, there was not a word on broadband. If only a tiny amount of the money spent on roads had been allocated to broadband it would give us the opportunity to compete in the marketplace in the years ahead, yet I did not hear that mentioned. Similarly, I heard no mention of educational disadvantage. A significant sum of money has been allocated to it, but it needs a great deal more if we are looking toward the long term rather than the short term.

I am sure somewhere in the budget there is an allocation of money to combat crime, which is another serious element that was prevalent in the past and is now high on our agenda. I did not hear it mentioned. Perhaps it was mentioned and the Minister of State will draw our attention to it when he replies.

The other conclusion I made was there is a danger this is an election budget because it does not concentrate on competitiveness. Senator Mansergh and the Minister of State, Deputy Parlon, spoke of the great economy of recent years and I give full thanks to the efforts to which this and previous Governments have gone to

make it such. If we are to maintain the economy as strongly as it has been, we must ensure that we maintain our competitiveness in the years ahead, yet I did not hear any indications of intent in the budget. On that matter, I am concerned.

It is true to say that the next election will not be won or lost on issues such as educational disadvantage or even on competitiveness. That will not be where the problem lies as far as the public is concerned. The more money we have available to spend, the more we should focus attention on the fundamental long-term issues, and, unfortunately, the opportunity to do so has been ignored on this occasion. While I, and I am sure we all, welcome all the various generous steps that have been taken, the Minister had the opportunity to do more. He had the opportunity to take a long-term approach rather than a short-term approach. I regret he has not done so.

I welcome all the short-term measures the Minister announced. It would be a difficult enough budget to challenge. I do not envy the Opposition stating what is wrong with the budget but the Minister has missed an opportunity to take the long-term rather than the short-term approach to strengthen our economy in the years ahead and to ensure we conquer inflation, strengthen our broadband, tackle educational disadvantage and, most importantly, maintain our competitiveness in the marketplace so that our economy remains strong.

Mr. O'Toole: I am pleased to have the opportunity to say a few words and I thank my colleague, Senator Quinn, for sharing time with me. I do not fully agree with his opening comments on inflation. I was pleased it was the first matter the Minister mentioned. I thought it was important that he explained to us that it would be reduced, even by 0.1%. Senator Quinn and I would look to see such a trend.

There is another welcome development with regard to macroeconomic factors. I never thought I would see the day when our debt to GNP ratio would be down to 25%. According to the Budget Statement it is almost the lowest in Europe but, effectively, it is the lowest because one does not count Luxembourg.

Mr. J. Phelan: Tell that to the Luxemburgers.

Mr. O'Toole: Luxembourg is probably the only one below us at the moment. That aspect is a huge element. I agree with Senator Quinn that this is an election budget. The Minister is like a mobile ATM machine spitting out billions here and there.

Mr. J. Phelan: Another one.

Mr. O'Toole: Another one. Some years ago, an American politician was doing an interview on RTE and said, "You put a billion here and a billion there and shortly you're talking about

serious money". We all fell around laughing because we did not understand what a billion was. Nobody was laughing today, however, even though billions were going in all directions.

This is a good budget and I welcome its overall provisions. In particular, I welcome the continuing commitment to the minimum wage. I argued long and hard to negotiate that wage some four or five years ago. It was difficult to achieve so I am glad the increase has been delivered, which I welcome.

Looking down through the Budget Statement, one sees something old, something new, something borrowed and something blue.

Ms O'Rourke: The Senator is no bride.

Mr. O'Toole: It was obvious that the old age pension would feature in the budget but, nonetheless, it is welcome to see the increase hitting the €200 mark. While the non-contributory pension has been kept on the bare €200, I thought the Minister could have raised it a bit more. I do not know why the contributory old age pension contains an odd figure of 79 cent, but that is the way they work in the Department.

As regards new home buyers, I am glad the Minister held out against the surge from the Progressive Democrats.

Mr. Dardis: Not all of them.

Mr. O'Toole: The Government seems to have held together despite the fact that there is €3 billion to come back to us. The cap on mortgage relief for first-time buyers does not need to be that low. The amount of money involved is tiny and while I do not think it should be unlimited, it should be more or less based on the average house price. It would have been a welcome step if the Minister had taken the average price of a house and allowed first-time buyers to claim 100% interest relief on that.

Mr. Dardis: Would the Senator like to spend €1 billion of his own money?

Mr. O'Toole: Talking of spending a billion of one's own, that leads me almost to my next point. The "something borrowed" element is probably the worst aspect of the budget. I wish to remind the House of what I said here three weeks ago. I said that "something borrowed" is the money we are spending to buy carbon credits and allowances. It is disgraceful.

Whereas I welcome the grants for solar panels and wood-pellet stoves, I still do not understand why there is nothing in the budget for wind-powered generators. That was the worst aspect of the budget. At least the Minister of State conceded the points which the Government side of the House would not concede three weeks ago, shortly before the Stern report, on how badly Ireland was doing in fulfilling its obligations

under the Kyoto Protocol. I welcome the Minister of State's acknowledgement in this regard but we need to take urgent action on it.

As regards spending other people's money, that is the whole point. Two weeks ago, Deputy Bruton asked a question, and though I did not hear him pose it again today, I did not hear his entire speech. We were overtaxed, whether by income or other taxes, so there should not be that element of surplus. Somebody is regularly calling it wrong. For the past three or four years in a row, the budget surplus has been way ahead of ministerial predictions. I know the answer to this point is that Ireland has a thriving economy, but I would like the Minister of State to answer this point. Our economic growth has been closely in line with the Department of Finance's predictions. The Department is always brilliant and its officials are the best commentators in giving a prognosis on economic growth for the following year. They got the fundamental things right and were not far off on inflation. They were completely wrong in terms of the surplus, but I think that is deliberate. There was a well-known shopkeeper in Dingle, who was related to me, I have to say.

Mr. Dardis: What place is the Senator talking about?

Mr. O'Toole: He had a habit of giving people a great bargain.

Mr. Dardis: Is it Daingean Uí Chúis?

Mr. O'Toole: He always had the prices written down, like Flynn's in Banagher, in code. Customers did not know how much items cost but he knew. He would always say, "Look at that. It's £100 but sure I'll give it to you for £80". The budget was a bit like that — the Minister was pumping it up to give it back. He collected too much in the course of the year, so he could give some of it back next year. I do not know how long that trick will work.

From the overall perspective, however, I like the way in which the Minister has spent the money. I will hold my fire on education until we see the details. The Minister for Education and Science had total control and did not allow the Minister for Finance to say one word on education. She is going to outline that later today or tomorrow morning. I look forward to that.

Mr. Dardis: I join with other speakers in welcoming the Minister of State to the House. I also welcome the budget. Senator O'Toole may have spent too much time in the bookmakers or with the three-card-trick merchants when he was growing up in Dingle.

Mr. J. Phelan: Daingean Uí Chúis.

Mr. O'Toole: It was "hard rearing" down there.

Mr. Dardis: It has led him to some flights of fancy.

Mr. O'Toole: The Senator should just get straight into the slugging.

Mr. Dardis: No.

Mr. O'Toole: Where is the €3 billion?

Mr. Dardis: I will not indulge the Senator so that he can leave now. He will have to wait and hear what I have to say.

Mr. U. Burke: Does the Senator have something to say?

Mr. Dardis: Much detail has been discussed and we have gone through many of the individual figures which have been dealt with both by Senator Mansergh and the Minister of State. I would like to take the wider view, which is a simple one into which the budget fits entirely. If investment and work are rewarded, resources are produced which provide the capacity to look after those who are most in need in society. That is what the budget does. It has done so very well for several years past.

Criticisms have been raised in the past, and Senator John Paul Phelan has voiced them, about going back and talking about the way things were. The cliché is that if one ignores the mistakes of history one is condemned to repeat them. Senator Mansergh mentioned what Mr. MacSharry said when he was Minister for Finance. We were in a situation then when all our PAYE revenue was going to service debt.

Mr. O'Toole: That is true.

Mr. Dardis: It is important to remember how far we have come — we are now talking about spending billions of euro. If the Estimates include a growth rate of 5%, we are looking at inflation in the order of 3%, and one brings in a budget figure of 11.5% in current spending that will contribute very much to inflation. The budget is pretty neutral. It is fair to claim, as the Minister of State has done, that it is prudent. I have always believed that one can spend money on the capital side where there is a provision of 13%. If that figure is hiked too high, it will contribute to inflation. However, I cannot understand the argument that the budget is somehow inflationary because I think it is quite the reverse. It is neutral in terms of what it will do to domestic inflation.

Mr. O'Toole: Stamp duty excepted.

Mr. Dardis: As I said, I do not want to judge it just yet. I will get there in a moment. The budget is quite prudent. Compliance is a major issue for businesses that must fill in the books and deal with red tape. I am not talking about not paying their taxes, which is a different matter. If one

read *The Wall Street Journal* yesterday, it was very noticeable what was said there about this country.

Mr. Ryan: The Senator should remind us of that.

Mr. J. Phelan: We missed that.

Mr. Dardis: The newspaper was quoting from an international analysis of all the countries involved and Ireland is fourth in the international league. That is why we have investment here because people are confident that they can invest without being suffocated by red tape. It is particularly important and it is being done here to ensure that small businesses at the lower end of the scale do not have to engage in an eternal rigmarole of sending in forms and not paying tax at the end of the day because they do not have to do so.

Mr. O'Toole: That is a fair point.

Mr. Dardis: It is entirely reasonable and the Minister has done that.

Mr. J. Phelan: It took ten years.

Mr. Dardis: If I were examining the budget beforehand and was worried about inflation, I would be looking for splurge but where is it? I do not see any splurge. I believe it was 6 o'clock Oscar Wilde who said he could give into everything except temptation. The Minister is an unusual political animal. He is to be congratulated on resisting the temptation to throw money in all directions.

Mr. U. Burke: That is the Senator's excuse for the lack of action on stamp duty.

Mr. Dardis: I am sure the Acting Chairman will protect me from unwarranted attacks from the other side. I am one of those who asked what impact providing stamp duty relief for first-time buyers would have on house prices.

Mr. O'Toole: The Senator did not say a word when the Minister referred to a figure of €3 billion in the House.

Mr. Dardis: The Minister will confirm that I raised the question at a meeting in Malahide. The problem is that those seeking to buy a new house have a certain amount of money to pay for the house and pay the stamp duty owing. When they place a bid they subtract the stamp duty they would incur, leaving the amount they are willing to pay.

Mr. O'Toole: Given the brains available to the meeting in Malahide, why did the Senator's party fail to work out that calculation?

Mr. Dardis: The mechanism chosen by the Minister to address the problem, increasing mortgage interest relief, is a good one. I hope my comments have not caused my party colleague, the Minister of State, Deputy Parlon, to leave the House, although I am pleased my constituency colleague, the Minister of State at the Department of Health and Children, Deputy Seán Power, has arrived to protect me.

The cost of the Minister's initiative on mortgage interest relief will be of the order of €60 million. No one has referred to an important aspect of this measure, that is, its retrospection which means it will apply to first-time buyers who bought a house in the past seven years. The other option would exclude this group and for this reason it is a good measure.

Mr. O'Toole: Senator Dardis will have to convince his party of that.

Mr. Dardis: I am prepared to defend the measure on that basis.

The outcome of the study on vehicle registration tax and taxation on CO₂ emissions will be interesting. I bet some of the sports utility vehicles, SUVs, will emerge well from the review because most of them are diesel vehicles. We keep comparing them with five litre and six litre petrol vehicles used in the United States.

Mr. Ryan: Diesel is a filthy fuel.

Mr. Dardis: I must put up with an expert engineer who does not know what he is talking about.

Mr. Ryan: Diesel may be better than petrol on CO₂ emissions but it is a filthy fuel.

Mr. Dardis: The measures on the business expansion scheme are appropriate, as is ensuring alternative energy production is supported through agriculture. The amount of money per hectare the European Union gives farmers was not sufficient to encourage farmers to grow alternative energy crops but the introduction of an additional payment of €80 per hectare will deliver significant progress in this area.

As the Minister noted, when one considers the budget in terms of the proportion allocated to the vital areas of health, social welfare and education, it passes all tests. It is a good budget, not an attempt to buy the votes of the electorate at the next election. In any event, the electorate is too intelligent to swallow such a move.

Mr. Ryan: We should not get involved in a nonsensical debate about whether this is an election budget. Every budget prior to an election, from all parties, has been an election budget, although none has been as generous as this one. If my party was in Government and in the same position as the current Administration, it would, without a shadow of doubt, introduce an election budget. Whether it would be directed at the same areas

is the question I propose to discuss. Allusions to gloriously detached macroeconomic management are but pretences and should be ignored.

In political terms, the Government's handling of the budget was poor because it released in advance details on most of the measures, including some of the most dramatic initiatives, one could expect. We knew a dramatic measure would be introduced to address the issue of first-time buyers and that the old age pension would increase to the magic figure of €200. We also knew the Progressive Democrats would get a 1% reduction in the top rate of tax because they would not get their way on stamp duty. I find it hard to find a reason for that party's obsession with reducing the top rate of tax without attributing motives which Deputy Dardis could not possibly share because he is far too decent a man. I cannot see the obsession with the top rate of tax *per se* as distinct from those who pay it.

One of the considerable achievements of the budget is the extraordinarily complicated muddying of the waters that has emerged. This began with a Government amendment in this House to a Fine Gael Party motion on stamp duty in which it tried to rewrite the way in which the proportion of those paying tax is calculated by using the effective amount of tax people pay as opposed to the number of people paying specific tax rates. An argument could be made for using this methodology because it would show that the effective amount of tax paid by rich people is minuscule. Its use, however, is a classic example of spoiled child behaviour, that is, when one is losing the game, one changes the rules halfway through to ensure one wins the second half. I thought adults behaved differently.

I will address the great boast made in the budget. After ten years of unprecedented prosperity, the minimum adult rate of social welfare is €186 per week. The Minister was triumphal about this figure which is regarded as one of the crowning achievements of the budget. Do political leaders live in two different worlds, one in which they listen to the advice of prominent economists and public servants on what is an acceptable minimum income and another in which they meet real people? An adult is expected to be able to live on a weekly income of €186, less than the price of a meal for two reviewed in many newspapers at weekends. Twenty years ago, in times of hardship, it may have been possible to argue we could not afford to pay satisfactory social welfare rates. Stating that €186 per week is the acceptable income on which an adult is deemed to be able to live is a statement of belief about how our society is organised, as the fact that the Government believes it is great to have come this far.

When I think of the Fianna Fáil Governments of the 1930s, it calls to mind the introduction of dramatic measures such as public housing and wet time payment for workers who had previously received nothing. Incidentally, the former

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initiative was described by an academic associated with Senator John Paul Phelan's party as the first sign of Bolshevism but Fine Gael, like all parties, has changed. It was dramatic changes such as these which characterised Fianna Fáil when it still had a feel for the needs of ordinary people. Its approach has transformed into econometrics with the party believing some of the nonsense spoken by economists.

Senator Mansergh gets a little excited about the issue of Ireland's world ranking in terms of income. Regardless of whether it is first, second, third or fourth in the table, this is one of the richest countries in the world. It is pathetic that Government backbench Deputies in the Other House stood up and cheered when the figure of €186 per week was announced. Social welfare rates may be better than they used to be — I am familiar with the figures — but Ireland is spectacularly richer than it was ten years ago. I thought the purpose of getting rich was to look after those who are less well off. We did a little better for this group than we did in the past but the figure of €186 sets itself up.

I am intrigued by the confused logic applied to the issue of first-time buyers. Who would object to the change?

However, that is not the nub of the country's housing crisis, which is based on a number of factors, among them the inadequate provision of social housing and the failure of the Government to manage. The Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Noel Ahern, stated in the House a few weeks ago that money was not the problem. I have given him the benefit of the doubt. The problem is the inability to strategically manage everything involved, including land, building, planning and organisation, to provide the numbers and quality in terms of social housing. There is nothing at all to change this.

The same situation applies to affordable housing. We know it is not about money but the Government is still living in the past in terms of a particular kind of Ireland and it has not learned how to put together institutions, organisation and plans. The first-time buyer's mortgage interest relief is most welcome but it will not solve the fundamental problem that housing is too dear and if we do not watch it, most people will not be able to afford to buy their own house. The fundamental problem is one of excess demand because investing in housing is the easiest place in Ireland to make money. Rent from property is simply a way of getting somebody to pay for the privilege of keeping one's property secure. The real benefits are capital gains, which are taxed at the rate of 20%.

Do we want a country that says this is a great way of encouraging enterprise by making property the best place to put money with virtually zero risk and with no problems? If a person is honest they will pay a good deal of tax on their

income — unfortunately, many people do not seem to be honest — but they will have a capital gain of 10% to 15%, perhaps more, and they will pay a level of taxation on it which is offensive to the sort of person who earns €45,000 a year earns another €5,000 and pays income tax at a rate of 41% instead of 42%. The Government boasts about the 1% reduction in the rate.

Minister of State at the Department of Health and Children (Mr. S. Power): The Senator should look at the figures on capital gains.

Mr. Ryan: I could nearly recite them. We are into voodoo. This notion that the reduction of capital gains tax increased revenues is actually voodoo because it went up as often as it went down in the past ten years, since Charlie McCreevy introduced something which was not mentioned in any election manifesto before it was introduced. It was a classic Charlie McCreevy stroke which the Progressive Democrats loved——

Mr. S. Power: It was one we could be proud of.

Mr. Ryan: ——and it has achieved nothing. Everything that is claimed for it——

Mr. S. Power: The Senator is more interested in the perception than the results. He should look at the figures, they speak for themselves.

Mr. Ryan: I know the revenues from capital gains tax. What would the Minister of State expect in a country where capital values have appreciated so rapidly? Would he expect less?

Mr. Dardis: Where did the Senator get the information that people are paying capital gains tax on their principal private residence?

Mr. Ryan: I did not say they were. I am well aware of the limitations.

Acting Chairman (Mr. J. Walsh): The Senator should speak through the Chair.

Mr. Ryan: I apologise. I was trying to speak through the Chair.

The most disturbing aspect of this budget is the failure to respond to the strategic issues that have been identified. Both Senator Ross and I have referred to the views of the American Chamber of Commerce Ireland about what is needed in the national development plan. I have recommended to the Leader and others that this document should be read. These are the companies that employ the majority of the people in this country employed by multinationals. Executives from the United States have told these companies that they will not come to Ireland for meetings because it is too difficult to get around Ireland. If this is not a call for a strategic look at——

Mr. Dardis: The Senator should read yesterday's *The Wall Street Journal*.

Mr. Ryan: I regret that nothing in the budget is focused on the scale of the infrastructure crisis in both transport and broadband and access to air traffic that is confronting this country, as identified by the American Chamber of Commerce Ireland. Ending where I began, it is about the next election and it is not about strategy. To the degree that it neglects fundamental strategic issues, it is an awful waste.

Dr. M. Hayes: Senator Ryan has raised some interesting points, such as the national development plan, which are a matter for debate on another day. I welcome the budget and I congratulate the Minister. It would be churlish to do otherwise. The fact there is so much money to distribute is a tribute to the Minister's stewardship of the economy and of the finances.

I am glad to see money going to individuals and being given into people's hands where they can spend it themselves as they wish. There are large swathes of the public sector in which money is not the problem. We should be asking people to give us more evidence of value for money that is being spent. If this is union-bashing, so be it. I managed a couple of large public sector enterprises and we never thought it was ideologically impure in any way to ask people to account for the money they received. This point was raised by the Acting Chairman the other day. I have never found senior management in the public sectors I dealt with who did not respect strong management. There is evidence of flabby management across the public sector which should be given attention.

Another matter I wish to raise was not dealt with in the budget. I do not raise this matter in a recriminatory sense but in the hope that it could be placed on the agenda and be considered. It concerns the question of philanthropy. The Minister has been very good in dealing with this matter. He has made it easier for people to give money to charity by means of the tax code. Ireland now has a generation of people with a lot of wealth and quite a number of them are anxious to use that wealth in a philanthropic way.

The question of inter-generational transfers of money is highly technical. People have money which they want to use in a philanthropic way while, on the other hand, there is a growing need in universities, in education, in health research and community work, where philanthropic funds can be deployed. These are very technical issues. I ask the Minister to think in terms of setting up a small group of people who would look at this in order to make it easy for Irish people with wealth and goodwill to dispose of their money in Ireland in a philanthropic way and to make it easier to do so than to export the money. That is the point I wish to make at this stage. Other than that, it would be impertinent of me to do other

than welcome the budget and to congratulate the Minister.

Mr. U. Burke: I welcome the Minister of State, Deputy Seán Power, to the House. Ten years' ago in this House, a Minister of State was forced to resign following the disclosure, prior to the announcement by the Minister for Finance in the House, of the details of the budget. Many people have said that details of the budget were hinted at by commentators in the media, and in that regard I refer to today's edition of the *Evening Herald*. I see a small paragraph on page three which is titled, "A glance at the budget". The detail contained is straight from the presentation made by the Minister. This newspaper was published this morning at 10 a.m. or afterwards and it was on the streets and in the House at lunch time. I could not believe it. It is despicable. I was able to tick off the details as they were presented in the Minister's speech.

Ms O'Rourke: Who was it who did this?

Mr. U. Burke: That is for somebody within the Department of Finance or somebody who knew the detail to take up. There was outrage when it happened ten years ago, yet it has happened again. The detail would indicate it was not only presumption on the part of the scriptwriter.

Ms O'Rourke: It could have been Phil at work again.

Mr. U. Burke: I do not know if he was in Government Buildings early enough this morning to have transmitted it.

This coincides with an article in today's *The Irish Times* by Vincent Browne. He described the bogus drama of budget day. The article summarises very well all the hype surrounding the budget and what could be done in a more positive way and collectively by the Houses of the Oireachtas in regard to the budget and the Estimates.

There are many items in the budget which are worthwhile and positive. However, an important sentence in the Budget Statement is that a good outcome for taxpayers' money would be the acid test of the success of any budget. We will have to wait for time to pass in that regard. Time and again, we have heard the Minister for Health and Children mention the enormous amount of money being spent on the health service. In an opinion poll in one of yesterday's newspapers, 58% of people polled said Professor Drumm had made no difference and 58% said the Minister, Deputy Harney, had made no difference. It was unusual that the same percentage of people said Professor Drumm and the Minister had made no difference to, or improved, the health service despite all the money spent.

Money was scattered about today to the various areas to improve the services but we will not know of the successes. This poll indicates the fail-

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ure of the Minister for Health and Children to utilise, in a positive and effective way, moneys given to her Department. If an audit was done on moneys given to each Department on budget day, what would it show? We would hear of failures such as PPARS, electronic voting, etc.

Senator O'Toole commented on what has happened in education. There was only the smallest reference to education despite the needs which are screaming at people. Perhaps we must wait in suspense for the Minister for Education and Science to announce the details.

I had hoped the Minister of State, Deputy Parlon, would have been here so that he could have answered the following question.

Ms O'Rourke: He was here.

Mr. U. Burke: I am not saying the Minister of State, Deputy Seán Power, will not be able to answer it. The Minister's Budget Statement referred to an increase of 15% in the forestry premium and 17% in REPS payments. Does that mean there will be a 17% increase in all contracted REPS in place, or does it refer to an increase in the announced REPS 4? There is confusion. The information is woolly. If it means a 17% increase to what already exists and if applies to all people under contract, it is a worthwhile scheme. I suspect, however, that is not the case. I ask the Minister of State to get me the details because it is a very interesting situation for farming.

This budget will do nothing to respond to situations which have arisen in the past couple of months where people have been excluded, forgotten and failed by us, and none more recent than that concerning the Minister of State, Deputy Tim O'Malley, and mental health services for children and adolescents. Although there is a paragraph in the Budget Statement on the policy, there is nothing in it which responds by way of financial support, other than what has been said in previous declarations of intent. I expect the Minister of State, Deputy Seán Power, will row in behind the Minister of State, Deputy Tim O'Malley, in his time of crisis but the reality is there is nothing in the Budget Statement to indicate an improvement.

Mr. S. Power: The Senator will have to read it again.

Mr. U. Burke: The Minister of State will have his chance to speak and I look forward to getting answers from him.

Ms O'Rourke: I am very happy to speak on the motion. I have been in the House since this debate commenced at 5 p.m. so I have heard everyone speak. It seems there is a misperception in regard to what a budget is about. One must take it in the round with the Estimates. People

have been shouting that there is nothing in the Budget Statement for various items but the Estimates were published the week before last and the main programmes for Departments were outlined in great detail in them. People talk as if the budget is the only source of finance for what is to happen. The budget must be taken in conjunction with the Estimates and when one does so, they form a round package.

Social welfare falls to be attended to in the budget but there are also other matters in the budget remit. However, the Estimates are the main means by which finance is given to the various Departments. Nobody brought that up this evening and I am surprised it did not form the main point of debate.

Senator Ulick Burke raised a question in regard to REPS. I would also like the answer to that question because when I read the paragraph, it puzzled me a little. Is it for REPS 4 or for the existing REPS? We will get the answer to that because the officials are very busy looking things up and I know they will produce a reply for the Minister of State. I thank the Minister of State, Deputy Seán Power, for coming to the House. He will be here again tomorrow. I also thank the Minister of State, Deputy Parlon, who was here earlier.

I was amazed when I heard Senator Quinn say he visualised at the outset of the Minister's Budget Statement short-term and a long-term list and that as time went on, the short term one grew much longer than the long-term one. He asked about the planning and strategy. I remind the House that budgets and Estimates are announced yearly. One is given money for the year to run one's Department and subheads. Of course, one has aspirations for the long-term.

There is the absurd question as to whether this is a budget for an election. Whether people like it or not, there will be a general election in May of next year, although the date has yet to be fixed. We are required by law to hold an election. Therefore, the question as to whether this is a budget for an election is nonsensical.

I wish to draw attention to a particular provision of this excellent budget. Purchasing a house for the first time is always a financial challenge and to support people in this regard the ceiling on mortgage interest relief is being doubled for first-time buyers for the first seven years of their mortgage, up to a limit of €8,000 for single purchasers and €16,000 for those married or widowed. The ceiling for non first-time buyers is also being increased, to €3,000 for single purchasers and to €6,000 for married couples. The cost of these provisions will amount to €70 million over a full year.

There has been much pious talk about first-time buyers, but this provision is a practical example of how they and others will be helped through mortgage interest relief. There has been mention of a grant for first-time buyers, but those grants go straight into the póca of the builder.

The situation would be similar with regard to stamp duty, the money would go into the other póca of the builder, which would not be much use. It is buyers, single or married, men or women, who will benefit from the interest relief.

The social welfare reforms provided for will have significant benefit for those in need. Senator Ulick Burke spoke about the marginalised. I know many people who will benefit from the increases in social welfare. Senator John Paul Phelan said he welcomed the measures. How could he not welcome these excellent provisions for those in need? I particularly appreciate the increase in the fuel allowance. It was never meant to buy sufficient fuel for a week, but to provide help to people who have difficulty heating their homes, particularly in winter and early spring.

This is a very balanced budget and I applaud the Minister for Finance for it. One would be bedevilled by the economic reporters, the interviews with the Minister and the headlines day after day announcing what the budget would bring. Economists and those who write these reports and interview the Minister for Finance leave me cold. I am speaking as one who has mothered an economist, but I must put up with him. Anyway, he is brilliant, as every mother's child is brilliant.

Over the past few weeks the Minister has opened his newspapers every day to hear one person saying this and another that and he has been barraged continuously on the content of the budget. I watched him carefully today with his calm, midlands face delivering a sensible, down to earth budget. He knows what is needed in society and is able to deliver it because he has never lost the run of himself. Of course he is happy to be able to deliver this budget, as is the Taoiseach. I knew listening to him that there will be many other provisions for disadvantaged about which the Taoiseach will be delighted.

With regard to the Minister of State at the Department of Health and Children, Deputy Tim O'Malley and mental ill-health in younger people, the Minister of State has apologised for what he said wrong. The debate will help focus minds on this acutely needed service for young people and will be worth while if it does that. It will be a good thing if the extra moneys provided can be put towards that area.

I applaud the budget and am delighted to be part of the legislative Chamber on its publication. I wish it God speed and the same to the myriad who will benefit from it.

Mr. McHugh: I welcome this opportunity to speak on the budget. I wish to refer to the introductory remarks of the Fine Gael spokesperson in the Dáil, Deputy Bruton, in respect of people on trolleys. The Minister of State, Deputy Seán Power, would have been there at the time and should agree with me that the reaction to what he said was, to say the least, juvenile and an insult.

The juvenile reaction from members of the Government was insulting to relatives of the people on trolleys and to the 34 people on trolleys in Letterkenny General Hospital today.

Mr. S. Power: The Senator should cop himself on.

Mr. McHugh: I am talking about people on trolleys. Deputy Bruton referred to the people on trolleys and he was heckled and jeered as if the problem did not exist, while 34 people were on trolleys today in Letterkenny General Hospital.

Mr. S. Power: The Senator and his party have all become very sensitive.

Mr. McHugh: Deputy Bruton was heckled and jeered and the Minister of State was part of it and he knows it. That happened during his introductory remarks on the budget today. The people——

Mr. S. Power: I ask the Senator to withdraw that remark. He has made an allegation against me and I ask him to withdraw it.

Mr. McHugh: The Minister of State will have a chance to respond. It is an insult——

Mr. S. Power: The Senator has made an allegation against me in the House and I ask him to withdraw it.

Mr. McHugh: It was the Minister of State and his Government——

Mr. J. Phelan: The Minister of State has gone very thin-skinned.

Mr. McHugh: The Minister of State and the Government control this House. When Deputy Bruton made reference——

Acting Chairman: Sorry, order Senator McHugh.

Mr. McHugh: I urge the Chair to be balanced on this issue.

Acting Chairman: I will. The Minister of State has pointed out the Senator accused him of being one of those who——

Mr. McHugh: I accused him and his Government. He was one of them. It was the Government collectively.

Acting Chairman: The Senator has made an allegation. The Minister of State has said he was not one of those people and I ask the Senator to accept that and withdraw the remark.

Mr. McHugh: I will not withdraw it. It was him and part of the Government. It is a collective Government and today that group heckled and

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jeered Deputy Bruton when he mentioned the people on trolleys as if what he said was not true.

Acting Chairman: The Senator must withdraw the remark or resume his seat. I ask him to withdraw the remark.

Mr. McHugh: I will not withdraw a remark about people heckling and jeering about people on trolleys, with 34 of them on trolleys today in Letterkenny General Hospital.

Acting Chairman: I am not asking the Senator to withdraw that. I ask him to withdraw the remark that the Minister of State, specifically, heckled. Does the Senator accept that is the point being made by the Minister of State?

Mr. McHugh: If he puts it on the record that he did not heckle.

Acting Chairman: Does the Senator accept that?

Mr. McHugh: He has not put it on the record.

Acting Chairman: He has.

Mr. S. Power: The Senator has made a personal allegation against me that is incorrect and I ask him to withdraw it.

Mr. McHugh: That is rubbish. The Minister of State should be a man.

Mr. J. Phelan: The Minister of State has the cheek to sit there and complain about other things and then gives out about something like that. That is pathetic.

Ms O'Rourke: How pathetic is the Senator himself——

Mr. J. Phelan: Come on now Senator O'Rourke, you would not have done it.

Acting Chairman: Allow me to handle the matter. The Minister has clearly put it on the record that he did not heckle and that what Senator McHugh said was incorrect. Does Senator McHugh accept that?

Mr. McHugh: I will accept that because I want to continue and make my point. I am not going to sit down.

Acting Chairman: I ask the House to allow Senator McHugh continue without interruption from the Government side.

Mr. McHugh: Thank you. To make my point clear, there were 34 people on trolleys in Letterkenny General Hospital today, the day of the budget. The reference made by Deputy Bruton, the Fine Gael spokesperson on finance, to the

fact that there are people on a continual basis on trolleys, should have been taken more seriously than it was. The reaction was like that of a junior or senior infant primary school class in the Dáil today and was disgraceful.

We need to ask deeper and more pertinent questions about the budget. How come the *Evening Herald* could print most of the content of the budget prior to the Budget Statement? How is it various media could print snippets of the budget all during the week? How is it we have been drip fed the budget all week? Has some of the budget been leaked?

Ms O'Rourke: Maybe Deputy Phil Hogan——

Mr. McHugh: I am being interrupted, Chairman. Some ten years ago a Minister of State resigned over a similar leak as a result of a simple mistake by a civil servant. Many newspapers had access to much of the information on today's budget, which basically made a damp squib of it. It was all much ado about nothing because the public in general knew exactly was coming up in it.

Reference was made in the Budget Statement to a review of motor tax — only a review, after ten years in Government. What is that about? The Government has been ten successive years in office, yet it refers in the budget to a review. That is an insult to the public. We are dealing with the people's money.

A budget is no more than the distribution of the people's hard-earned money. I accept that there will be razzmatazz on budget day and a perception that people will be better off in the long run. However, counties like that of the Minister of State, Deputy Seán Power, Kildare, and my county, Donegal, rely totally on the construction and services sectors to sustain employment, as is the case in nearly every county. I make this point because of the information outlined in the budget document, which refers to the economic outlook, GNP growth of 5.7%, GDP growth of 5.4%, growth driven by domestic demand, the small contribution from net exports, a general deterioration in competitiveness, a relatively modest rate of export growth and a low rate of labour productivity. When the razzmatazz and circus element of today's budget is finished, we will have to examine the real aspects of the economy and the long-term economic projections.

It is the labour intensive sectors such as the construction and services sector which keep our economy alive although hanging by a dangling thread. The sooner this Government wakes up and realises it has made mistakes, the better. It should have introduced the tax incentives for innovation and research and development, which it finally introduced today, ten years ago. This is ten years too late, as the Minister of State, Deputy Parlon, knows. I charge the Government with total neglect and irresponsible handling of this economy.

Mr. Parlon: In what country is the Senator living? We have created more jobs than ever before.

Mr. McHugh: The Government can use all the razzmatazz and glamour it wants, and put whatever slant it wants on this.

Mr. Parlon: Raiméis.

Mr. McHugh: The problem with this economy is that it is dangling by a thread, including the construction and services sectors.

An Leas-Chathaoirleach: The Senator should conclude.

Mr. McHugh: It is a disgrace. The razzmatazz and the insult of today will soon be over but the real lives and real people will remain, including hospital patients on trolleys, 34 of them in Letterkenny General Hospital. The Minister of State should tell them and their relatives it was a good budget, as they sit in the coffee dock.

An Leas-Chathaoirleach: I ask the Senator to conclude.

Mr. McHugh: Elective surgery has been cancelled. Patients have had procedures cancelled. The Minister of State should tell them it was a good budget. I will not.

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

An Leas-Chathaoirleach: Is that agreed? Agreed.

Mr. Leyden: I know the members of the Opposition are very upset. I sympathise with them because it must be very difficult to be in opposition to a very successful Fianna Fáil-Progressive Democrats Government. I have not witnessed such excitement and upset on the opposite side of the House for some time.

Our slogan "A lot done, more to do" is very true. We committed to introducing a €200 per week old age pension. That figure has been exceeded for contributory old age pensions, which will be €209, and has been reached for the non-contributory pension, which will be €200. This is a great achievement. We have delivered on our commitment whereas the rainbow coalition could deliver in the region of just £96 when Proinsias De Rossa, former Democratic Left Deputy, now Labour Party MEP — he was in every party — was in office. When he got his chance at the Cabinet table — he was Minister for Social Welfare — he could deliver nothing.

Mr. J. Phelan: That is nonsense. When he left Government, 1,000 new jobs a week were being created. Unemployment was cut from 16% to 10% in two and a half years.

An Leas-Chathaoirleach: Senator Leyden, without interruption.

Mr. J. Phelan: The Senator is talking through his hat. If he had been more spendthrift, he would still be in Government.

Mr. Leyden: The Opposition has criticised the Progressive Democrats more than it has criticised Fianna Fáil but the reality is that the Progressive Democrats are part of the Government and contributed to and shared in the decision-making in regard to the reduction of the higher tax rate from 42% to 41%, and in making a commitment, when we are back in power together again, to reduce it to 40%.

Mr. J. Phelan: The Government committed to reduce it to 40% by the end of this Government's life.

Mr. Leyden: We did. It is an objective.

Mr. Browne: Most people still pay at the top rate of tax.

An Leas-Chathaoirleach: Senator Leyden, without interruption.

Mr. Leyden: It is an objective for the Government to return to power with that commitment to the Irish people.

Mr. McHugh: Will the Government ask the people? Will it go to the country? Will it hold an election?

An Leas-Chathaoirleach: Senator Leyden, without interruption.

Mr. Leyden: The defining aim of the budget was to reward work and promote enterprise and innovation. I met the Minister for Enterprise, Trade and Employment, Deputy Martin, earlier. He is delighted with the budget because it gave him and his Department what they were seeking for small business.

Mr. McHugh: Ten years too late. Tell that to the people of Roscommon.

Mr. Leyden: I met the president of the Irish Farmers Association, Mr. Pádraig Walshe, who is happy despite the fact the IFA might be associated with Fine Gael at times.

Mr. J. Phelan: Tell that to the farmers.

Mr. Leyden: He is happy in this regard. Everyone I have met is happy with the budget.

Mr. McHugh: What about the farmers of north Leitrim?

Mr. Leyden: I met a man whose son and daughter have a reduction in their mortgage repayments.

Mr. Browne: The Minister underspent on agriculture.

Mr. Leyden: I have not met an unhappy person since the budget was announced by the Minister, Deputy Cowen, earlier today. I congratulate the Minister of State, Deputy Parlon, and the Minister, Deputy Cowen. I wish the Minister of State well in his work on decentralisation. Well done to him. He should keep up that work.

Mr. Daly: I thank Senator Leyden for affording me time to congratulate the Minister for Finance, Deputy Cowen, and the Minister of State, Deputy Parlon, who is present on his behalf, for the budget presentation. The Government has made a major achievement in that the budget covers a wide range of areas. Whether it might be an election budget, I can recall a budget where the current Opposition parties, with Mr. John Bruton as Minister for Finance, brought down their Government over the issue of taxation on shoes. It is important to remember that while there will be an election in the new year, every budget makes its own impact in the economy. Today's budget will make a major impact in a number of key areas, such as taxation, children's services, mortgages, the environment and other issues, including services for people with disabilities. The budget provided an additional €100 million for people with physical and mental disabilities, which is very welcome.

It is important to consider the budget in an overall context. It was stated in this debate that inflation was not mentioned in the budget and that more long-term attention should be paid to the issues. I remind the Senator who made that reference that the national development plan, which will be published in the new year, sets out the long-term objectives for the economy from 2007 to 2013. While I realise it has not been possible to read the entire budget in the short time since the budget presentation, the booklet presented with the budget contains a detailed analysis of inflation, which is estimated to converge with the average European rates. It is estimated that inflation rates should level off either next year or the year after.

Given any measure on which one wants to examine the budget, whether with regard to inflation rates, national development plans, care for the elderly, the position of those paying high taxes or children, it is a well balanced budget which ensures the benefits of our thriving economy spread down to the areas that need it most. In that regard, it is a welcome budget. I congratulate the Minister and the Minister of State.

Mr. Ross: I long for the day when the Government produces a budget, whether it is to its credit

or not, and a member of the Opposition in this House says: "Yes. On balance, this was a good budget. They did reasonably well." I long for the day that the Opposition comes to the House and treats a budget seriously and does not just pick on it and say this, that and the other is bad.

Undoubtedly, this budget was one of the easiest budgets in the history of the State to produce and one of the hardest to oppose. I would have welcomed if any member of the Opposition had come to the House today and said: "Yes. We approve of some of this. A lot of this is good." However, what happened in the Dáil has happened here this evening, in that the Opposition has constantly picked on the bad parts. What should have happened——

Mr. J. Phelan: Senator Ross simply did not listen.

Mr. Ross: Senator Phelan is behaving in the way I have described. Opposition Senators should have said that this is a good budget and that they approve of it.

Mr. J. Phelan: Senator Ross should have been here to listen to the debate.

Mr. Ross: They should have declared their intention to vote for it.

Mr. J. Phelan: Senator Ross was not here for the debate.

Mr. McHugh: He was not here to listen to the debate.

Mr. J. Phelan: Senator Ross is talking through his hat.

Mr. Ross: Rather than acting in such a manner, they decided to engage in a kind of mock war. Everybody knows that this budget was easy to produce. In my view, it was a particular reflection of the Government's management of the economy over the last few years. This is not very easy for me to say because I have spent my life opposing Fianna Fáil in many ways. I do not doubt that the ease with which this budget has been delivered, the considerable goodwill it will generate and the political benefit which may result from it can be attributed to the Government's superb management of the economy over many years.

It is easy to say the budget was tactically wrong. It is easy to say it did not cover this, that or the other. Regardless of how much money one has, there is always something more that one could do. Perhaps this budget is not as tactically clever as it could have been. It does not cover all the corners it might have covered in the cynical way one might expect in the months before a general election. It reflects the prosperity of an economy that has been managed particularly well over a period of time. Our economy's prosperity is not a result of global reasons. It has not happened by

accident. We need to consider why Ireland's level of economic growth is exceeding that of almost every other country, including other EU member states.

Mr. McHugh: It is because we are building houses. One would think someone as smart as Senator Ross would know that.

Mr. Ross: No, it is not just because we are building houses.

Mr. McHugh: Of course it is.

Mr. Ross: It is not that.

An Leas-Chathaoirleach: Senator Ross has one minute remaining.

Mr. Parlon: He is doing well.

Mr. Ross: I have seven minutes remaining.

An Leas-Chathaoirleach: The Minister of State, Deputy Parlon, needs to be called in advance of the end of the debate.

Mr. Parlon: Senator Ross is doing better than I could do.

Mr. Ross: Perhaps the Minister of State will give me a little of his time.

Mr. Parlon: Absolutely. Senator Ross is playing a blinder.

Mr. Ross: Our economic growth can be attributed to the Government's consistent resistance of attempts to increase the 12.5% corporation tax rate. That is the principal reason this economy is in such an incredibly strong position. I applaud both parties in the Government for that.

Mr. McHugh: The only party that is suggesting an increase in the rate of corporation tax is Sinn Féin.

Mr. Ross: The Opposition should give the Government credit for its approach, which ensured it had so much money to give away today.

Mr. Browne: Corporation tax was introduced by Fine Gael.

Mr. Ross: Heckling is particularly——

Mr. Browne: Corporation tax was introduced by Fine Gael and the Labour Party.

Mr. Ross: Fine Gael proposes to go into coalition with a party that is allied to the trade unions, which want to increase the rate of corporation tax to 20%. It will come under such pressure all the time. That is its promise.

Mr. McHugh: The people will decide that.

Mr. Ross: I want to discuss the issue of stamp duty.

Mr. Browne: These are the key issues——

An Leas-Chathaoirleach: Senator Ross, without interruption.

Mr. Ross: I will have to get injury time from the Leas-Chathaoirleach.

An Leas-Chathaoirleach: You are in injury time, Senator.

Mr. McHugh: He has nothing substantial to say.

Mr. Ross: Stamp duty is one of the most controversial issues to be raised in this budget. The effect of stamp duty, which is undoubtedly a tax, is difficult to explain to people. The cheap and obvious political thing to do would be to abolish it in respect of first-time buyers. We need to explain this complicated issue to people, rather than mislead them. The decision taken by the Government today is right, although I am not sure how it will work or whether it will work. It is infinitely preferable to double the level of mortgage interest relief for first-time buyers than to give stamp duty back to the developers. I do not think anybody knows what the result of abolishing stamp duty for first-time buyers would be. My instinct and that of most impartial economists I have heard talking about this matter is that, depending on who it is given to, it would simply result in the transfer of a substantial amount of money from the Exchequer to the hands of developers. If one really wants to benefit first-time buyers, it is far more equitable and effective to do what the Government did today.

An Leas-Chathaoirleach: I ask the Senator to conclude.

Mr. Ross: I would like to make a plea, which stems from my disappointment in one respect, before I give the Minister of State a chance to endorse what I have said, which he will undoubtedly do. While the Government has used the tax regime to give tremendous encouragement to multinationals, it has missed an opportunity in this budget to allow for a free-for-all on broadband. I thought the Government would give a compete and utter guarantee in this budget or in subsequent measures that every household in the State will get broadband, as they do in Northern Ireland. The Government's failure to give such a guarantee may deter multinationals and jeopardise our future prosperity.

Minister of State at the Department of Finance (Mr. Parlon): I thank all the Senators who made

[Mr. Parlon.]

comments. I thank Senator Ross in particular for his fair appraisal of the budget.

Mr. McHugh: The Minister of State should get him a membership card.

Mr. Parlon: He picked up on what was said when he was out of the House.

Mr. Browne: He criticised the Government in the end.

Mr. Parlon: As I have been busy all afternoon, I have only just started to learn about the widespread popular acceptance of this budget, which is a result of the Government's superb management of the economy over recent years, as Senator Ross said.

Mr. McHugh: The Senator is blindfolded.

Mr. Parlon: It is obvious that this is not a global trend. Ireland is practically unique, as Senator Dardis said, in having a Government that is able to stay under budget when providing for significant expenditure on social welfare benefits like old age pensions and various forms of infrastructure, at a time when its debt to GDP ratio is just 25%. The only other countries which are able to do that are countries with massive economies which are associated with oil barons. No other country has been able to manage its economy in the way Ireland has done.

I would like to respond to a few issues which were raised. Senator O'Rourke said that I would clarify the point made by Senator Ulick Burke about the rural environment protection scheme. The payments under the new scheme which is being introduced — REPS 4 — will be 17% bigger than the payments under REPS 3. Farmers who are currently operating under REPS 3 are free to transfer to REPS 4 and to avail of the 17% increase in the payments.

Senator O'Toole spoke about mortgage interest relief. The Minister's decision to extend mortgage interest relief means that a couple who are first-time buyers can get a 33-year mortgage over of up to €379,000, which is more than the price of the average house that first-time buyers are choosing to buy. Indeed, the average price of a first-time buyer's house in Dublin is more than €379,000. The relief that has been announced is certainly substantial.

Senator O'Toole raised some concerns about the accuracy of the revenue forecasts. We are living in a dynamic and fast-changing economy. The economy's revenue streams have been impressive and unprecedented. The Department of Finance adopts a very prudent approach to forecasting tax revenue, as it should do. It would be irresponsible of the Department to do otherwise. The production of accurate forecasts is challenging because the workforce is growing very fast, busi-

ness is booming and asset values are increasing rapidly. I think the Department of Finance has done well.

Senator John Paul Phelan asked earlier about home care packages. The Minister for Finance mentioned in his speech that the Minister for Health and Children will announce the details of the health package tomorrow. That announcement will include references to home care packages and home help.

Senator Phelan also made some comments about transport. Details of capital investment over the next seven years will be included in the 2007-13 national development plan, which will be published by the Minister for Finance in January. The Senator is aware that Transport 21 will form a significant part of the new plan.

Mr. McHugh: Transport 22 will be coming along shortly.

Mr. Parlon: Senator Maurice Hayes raised the question of philanthropy. I welcome the Senator's call for philanthropy to be supported. The tax code already includes generous provisions to encourage charitable donations by individuals. Charities are able to reclaim the tax that is paid on donations in excess of €250 by individual taxpayers at the marginal rate. People who are self-employed are able to take a full reduction against their tax liabilities in respect of charitable donations, subject to the horizontal measure which applies to high earners, which prevents them from reducing their tax liability to zero.

Senator Quinn spoke about our long-term prospects. We have set out the long-term budgetary prospects, including the implications of aging to 2050, in the stability programme update, which is the part of the budget documentation that sets out the economic background. I draw the Senator's attention to chapter 6, which explains our strategy to ensuring the sustainability of public finances.

I thank all the Senators for their contributions. As Minister of State at the Department of Finance, I am happy and proud to be part of the Government that was able to bring in what I believe to be an excellent budget which, as Senator Ross said, has been widely welcomed across all sectors of society.

Mr. Browne: It could yet turn out to be the sting of a dying wasp.

Question put and agreed to.

Industrial Development Bill 2006: Second Stage.

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

Minister for Enterprise, Trade and Employment (Mr. Martin): I am delighted to be in the House for the Second Reading of the Bill.

In accordance with the recommendations of the Enterprise Strategy Group and the new mandate for Shannon Development, the indigenous industry support functions carried out by Shannon Development, under delegated authority from Enterprise Ireland, will revert to Enterprise Ireland on 1 January 2007. The reversion of these functions will also involve the transfer of about 40 staff from Shannon Development to Enterprise Ireland.

The purpose of this Bill is to provide the legislative basis to designate the transfer of the individual staff members concerned and provide a statutory guarantee to the staff who are so designated that their pay, conditions of service and pension arrangements shall not be diminished by virtue of the transfer.

The context for the new arrangements for indigenous enterprise is that by the start of 2005 a range of developments had occurred which necessitated a review of the role of Shannon Development. These included the Enterprise Strategy Group recommendation, accepted by Government, that Shannon Development's enterprise development functions should be brought within the remit of the national enterprise development agencies; the establishment of an independent Shannon Airport Authority; the proposed relocation of the headquarters of Enterprise Ireland to Shannon as part of the Government's decentralisation programme; the transfer of responsibility for Shannon town from Shannon Development to Clare County Council; and the abolition of the licensing requirement for companies setting up in the Shannon Free Zone.

Against the background of these developments, I asked Shannon Development to submit proposals to me for a new strategy for the company. These proposals, which included exiting the role of support for indigenous enterprises, are reflected in the new mandate I have authorised for the company.

Shannon Development will now have a more focused strategic role on the broader regional economic development of the Shannon region. The company will work in partnership with other public and private organisations in the region to identify and bring forward new initiatives, projects and programmes to maximise the development potential of the region and help create a viable counter-pole to the more developed eastern region. In this context I have specifically instructed the company to give priority to addressing the needs of the less developed parts of the region.

Shannon Development will use its extensive property portfolio, located throughout the region, as a lever to drive the delivery of the economic development infrastructure that is essential for regional development. The company will also continue to work closely with Enterprise Ireland and IDA Ireland in identifying and addressing the property needs of both indigenous and foreign direct investment companies and in pro-

moting the Shannon Free Zone as a location for foreign direct investment. The company's activities as the regional tourism authority for the Shannon region will also continue to have a key role to play in the economic development of the region.

I have recently approved a new three year corporate plan for the company which reflects the terms of the new mandate. The specific activities that Shannon Development will undertake will be selected on the basis of its potential to generate significant economic impact locally, regionally and nationally. For example, included in the plan are projects such as the eTowns initiative, designed to build the knowledge economy of the Shannon region, the development of the Kerry deepwater zone and the regeneration of the Shannon Free Zone as a location for high value added knowledge age investment.

The reversion of responsibility for indigenous enterprises support to Enterprise Ireland would provide a more logical delineation of responsibilities between the two development agencies in the mid-west region. As the support programmes currently provided by Shannon Development to enterprise clients are operated on behalf of Enterprise Ireland, they already reflect the supports available nationally. Provision has also been made for Shannon Development staff to transfer with the functions. It is anticipated therefore that the transition to the new arrangements will be seamless from the perspective of the company's clients.

As Enterprise Ireland is a significantly larger organisation than Shannon Development, the staff who will transfer from Shannon Development will consequently have access to more career development opportunities.

Shannon Development is uniquely placed to meet the challenge of regional economic development and specifically to maximise the development potential of the Shannon region in line with the objectives of the national spatial strategy. For more than four decades, initiatives developed and delivered by the company have been adopted and reproduced successfully in Ireland and internationally. With the more focused remit that it now has the company will be in a position to meet the new challenges that the region faces.

I will now briefly outline the main provisions of the Bill which are set out in a new section 21A to the Industrial Development Act 1993. These provisions are based on numerous precedents for transferring staff between statutory bodies.

Subsection (1) of the new section contains a number of definitions. Subsection (2) is an enabling provision. It provides legislative authority to designate the transfer of staff from Shannon Development to Forfás. Forfás is the legal employer of the staff in the three agencies established under the Industrial Development Acts — IDA Ireland, Enterprise Ireland and Science Foundation Ireland.

[Mr. Martin.]

Subsection (3) provides that staff designated for transfer by the Minister will be appointed to the staff of Forfás. Section 3 of the Bill subsequently amends the Second Schedule to the 1993 Act to include staff transferred from Shannon Development in the categories of staff that Forfás may second to the agencies.

Subsections (4) and (5) of the new section contain the terms of the guarantee that is being provided to the Shannon Development staff who will be designated for transfer. Specifically, it provides that staff who are designated for transfer may not receive a lesser scale of pay or be subject to any less favourable conditions of service than they were entitled to in Shannon Development. The superannuation benefits of the staff concerned may not be less favourable than those to which they were entitled in Shannon Development.

It has been normal practice to include the type of provisions contained in this Bill in legislation providing for the reorganisation of State agencies. In this instance, however, no new body is being established and both Enterprise Ireland and Shannon Development will continue to operate as separate agencies, each with its own distinct remit.

Shannon Development and Enterprise Ireland are well advanced in identifying the number of posts to be transferred. Shannon Development staff and their representatives are engaging positively with the process and I understand a strong level of interest is being expressed by staff in transferring to Enterprise Ireland.

Enterprise Ireland has also recently announced that it intends to move both its regional development headquarters and the newly established city and county enterprise boards unit to Shannon. Enterprise Ireland plans to have interim office accommodation in Shannon to accommodate both the Shannon Development staff and the regional headquarters staff by mid-2007. It is anticipated that approximately 70 Enterprise Ireland staff will transfer into this new accommodation as soon as it is available.

Mr. Coghlan: I welcome the Minister to the House. We support this Bill, which is technical in nature. I wish the staff well and welcome the guarantees provided for them which, as the Minister outlined, is quite a normal feature.

In accordance with the new mandate for Shannon Development announced by the Minister for Enterprise, Trade and Employment in July 2005, the indigenous industry functions carried out by Shannon Development under delegated authority from Enterprise Ireland will revert to Enterprise Ireland in the new year. The purpose of the Bill, as the Minister outlined, is to provide legislative authority for the Minister to designate the transfer of staff from Shannon Development to Forfás and to provide a statutory guarantee to the staff that their pay, conditions of

service and pension arrangements shall be in no way be diminished by virtue of the transfer. That is to be welcomed.

Nobody could doubt the importance of Shannon Development. Traditionally, it has had functions throughout the mid-west stretching to parts of Offaly and covering Clare, north Tipperary, Limerick and north Kerry. I was delighted to hear from the Minister of the development of the Kerry deepwater zone and other developments. I hope these initiatives live up to the promise the Minister outlined.

It is unfortunate that much time has passed since the Minister originally announced almost a year and a half ago that he was stripping Shannon Development of these traditional enterprise creation functions. It was a decision many condemned at the time, not only because of the manner in which it was announced — the crucial decision was buried in a press release, as my colleague in the Dáil, Deputy Pat Breen, pointed out — but because it was done in the middle of the summer. However, earlier this year the Minister flip-flopped and opted to allow Shannon Development to retain its enterprise functions within the Shannon Free Zone.

Shannon Development should be rightly proud of its recent announcement that Digital River will provide 350 jobs over the next five years in the Shannon Free Zone. Shannon Development is to be complimented on that because Mr. Kevin Thompstone and his team have gone to great lengths throughout Europe and elsewhere in the world to find industry suitable to the region and Digital River will be a welcome asset. In the intervening period between the original decision and its reversal the relevant agencies were left in limbo about who was responsible for what.

I welcome the fact that the core expertise of Shannon Development is being retained at the Shannon Free Zone. There must be a renewed focus on enterprise creation in the remainder of the county. As Deputy Breen recently pointed out to the Oireachtas Joint Committee on Enterprise and Small Business, Ennis is in danger of becoming a dormitory town while the outlying towns of north, west and east Clare could all do with an employment boost. One good employer in Ennistymon is doing well. It is a digital company that exports signs throughout Europe and elsewhere in the world. Ennis in particular is suffering from a stream of job losses and I would welcome renewed efforts from the IDA and Enterprise Ireland to reverse some of the job losses we have seen in recent years.

Nationally, in the past five years more than 33,000 manufacturing jobs have relocated from Ireland to more competitive economies and more than twice that number of jobs that would have been created by companies locating here have not come to pass. Notwithstanding last week's rollback, the Government's recent approval of large price hikes in gas and electricity in the absence of

a proactive jobs policy is, at best, misguided and foolhardy and, at worst, irresponsible.

The Government is making our economy less competitive and driving manufacturing industry out of the country into more competitive countries. The recently announced price increases will also hit the already hard-pressed domestic consumer on top of the existing burden of high mortgages, long commute times and high child care costs, all of which will fully impact only in mid-2007. We cannot allow the destruction of our manufacturing industry here in the same way the Government has allowed the destruction of the sugar beet industry. Ireland has gone from being ranked fourth in 2000 to being ranked 21st this year in the World Economic Forum's Global Competitiveness Report due mainly to the Government's failure to control prices.

Mr. Leyden: Has the Senator any good news? His contribution is all doom and gloom.

Mr. Coghlan: I will leave that to the Senator when he will shortly have an opportunity to contribute. I am doing my best to get through this script.

Mr. Leyden: The Senator should skip it; he should send it back to his party's press office.

An Leas-Chathaoirleach: Allow Senator Coghlan to continue without interruption.

Mr. Coghlan: I do not want to be distracted but in introducing this Bill on budget day it is as if the Minister is trying to bring in something under radar.

The National Competitiveness Council advises that Irish prices rose 22% more than those in other EU countries in the years 1999 to 2003. Ireland is ranked 20th in the World Economic Forum's Global Information Technology Report that measures the technological readiness of countries. We are behind our major trading partners such as the US, the UK and other EU countries such as the Netherlands, Sweden, Germany and Austria. Let us not forget that in February 2006 because of the failure of Government to properly deregulate the electricity market, Airtricity announced that it was pulling out of the Irish market.

I urge the enactment of this legislation before the end of the year to facilitate the transfer of staff from Shannon to Enterprise Ireland, as the Minister outlined. At the same time responsibility for indigenous industry support functions will transfer from Shannon Development to Enterprise Ireland on 1 January.

We support and welcome this Bill. The legislative provisions are based on numerous precedents for transferring staff between public bodies and I welcome that a statutory guarantee has been provided that there will be no diminution in the pay or service conditions of Shannon Development

staff when they transfer to Forfás. I hope the Bill will be enacted quickly. I also hope the mistakes by the Government on Shannon Development will be rectified giving the IDA a proper job creation role in the mid west to give a boost the economy in this fine region. Shannon Airport, located in the middle of the region, is an engine for growing jobs there. I hope Shannon Development will be successful in the near future. I wish the Bill a speedy passage.

Mr. Leyden: I welcome the Minister and his officials to the House. I congratulate the Minister as a member of Cabinet on the introduction of an excellent budget. In regard to the promotion of enterprise, the Minister has achieved a tremendous effect in terms of the provisions of the budget, which will ensure that we will remain competitive, particularly for the 800,000 people working in the small enterprise sector. The Minister set up the enterprise unit, which made recommendations, the results of which are provided in the budget. He can take great credit for this work. The BSE scheme extended for a seven year period. Other initiatives, of which the Minister will make great play, include the Small Business Forum which he established. All the recommendations of that forum were adopted by the Government and Cabinet, which the Minister steered through the Cabinet.

I understand that with the agreement of Senator Coghlan, it has been proposed to take all Stages of the Bill tonight. It is important that we agree to take the Second, Committee, Report and Final Stages with the agreement of the House.

An Leas-Chathaoirleach: It that agreed? Agreed.

Mr. Coghlan: Yes, I have already indicated that.

Mr. Leyden: I thank the Senator. He has been most co-operative.

Mr. Coghlan: As per usual.

Mr. Leyden: Yes, but I wish he would not use the script from the Fine Gael Press office.

Mr. Coghlan: We all have a job to do.

Mr. Leyden: I withdraw that comment. I acknowledge that the Senator has a personal opinion on this matter.

I welcome the Minister to the House and I am grateful for this opportunity to speak on the Bill. The new mandate for Shannon Development means that the indigenous industry support functions carried out by Shannon Development will revert to Enterprise Ireland on 1 January 2007, necessitating the transfer of approximately 40 staff from Shannon Development to Enterprise Ireland.

[Mr. Leyden.]

I welcome the Bill, as it provides a statutory guarantee to the staff who are being transferred that their conditions of service and pension arrangements shall not be diminished by virtue of the transfer. I anticipate that the relocation of Enterprise Ireland to Shannon as part of the Government's decentralisation programme will lead to a renewed focus on the development of industry in the west and I very much look forward to this development. I also welcome the fact that Enterprise Ireland has a base in Athlone close to my country and the decentralisation of those services is welcome.

I am pleased that the changes proposed in the Bill will enable Shannon Development to have a more focused, strategic role on the broader regional economic development of the Shannon region. Shannon Development has the resources and expertise to successfully promote growth and innovation in the Shannon region.

The Shannon Free Zone is a most attractive location for foreign direct investment. The company's activities as the regional tourism authority for the Shannon region will also continue to play a key role in the economic development of the region. It makes sense that the staff of Shannon Development, who are currently engaged in development activities with business in the region, are to be transferred to Enterprise Ireland as this ensures continuity for their clients, as well as providing them with opportunities for career advancement.

I commend the work of Enterprise Ireland and Shannon Development in the region, and I wish the staff the very best in their new role. Shannon Development has played a vitally important role in the development of the mid-west region. I note its innovation in tourism and in other areas, using a sensible approach which has secured its future and the future of the region. The two bodies have worked together using a united approach and I commend the Bill to the House.

Mr. Hanafin: I wish to share my time with Senator Daly.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Mr. Hanafin: I welcome the Minister to the House. This is a technical Bill and I support the recommendation of the enterprise strategy group and the new mandate for Shannon Development. The indigenous industry support functions carried out by Shannon Development under delegated authority from Enterprise Ireland will revert to Enterprise Ireland on 1 January 2007. The reversion of these functions will also involve the transfer of about 40 staff from Shannon Development to Enterprise Ireland.

This Bill provides me with an opportunity to commend Shannon Development for a success that has been emulated by many other countries

since 1959, when it was first established. In 1960, the Shannon free zone established the duty free area, which was carried from Abu Dhabi to Moscow as a success story. Successive Fianna Fáil Governments can be commended for duty free and tax free initiatives. In a recent report in *The Economist*, it was stated that at present, the GDP per person in Ireland is far ahead of our neighbours. This is a continuing success story and even when we take purchasing power parity into account, there has been enormous success. The Minister and the Government can take the credit for this.

I hope this success continues with today's budget. We have come a long way since 1959 and the original Barrington report in the 1960s, which showed that Ireland had severe economic difficulties, with many people emigrating, many not getting married and many with no opportunity. That has all changed. People are not only talking about jobs and career paths, but also about taking a few years' out to travel the world. Long may it last.

In 1963, the major tourism initiative began at Bunratty Castle. In 1964, the first international consultancy assignments were undertaken. In 1968, Shannon got responsibility for all regional inward industrial investment. In 1972, the foundation of what is now the University of Limerick occurred. In 1978, the first small and medium enterprise pilot programme was launched. In 1980, an innovation centre for indigenous high technology firms was opened. In 1984, the national technology park commenced operations. In 1986, Shannon Development established Shannon Heritage Limited and the Limerick food centre opened. In 1990, the Shannon world aviation park opened.

In 1994, the pilot programme of Shannon venture capital was initiated. In 1997, direct marketing centres were successfully launched. In 1999, Kerry Technology Park was launched. In 2001, the Limerick navigation system and marina was opened. In 2002, Doonbeg Golf Club was opened. In 2003, Shannon broadband was launched and Birr Technology Centre was opened in 2003.

Mr. Coghlan: Sweet Doonbeg is a pleasant spot.

Mr. Hanafin: In 2004, e-towns were launched and Limerick broadband networks were completed. Technology was boosted in different areas and heritage attractions have been developed at Bunratty Folk Park. The living past centre has been developed at Craggaunowen, which opened in 1970. It has been a marvellous success story. I wish the Minister well. He will continue the good work. Transferring staff to Enterprise Ireland is a good idea because they are all under one roof. I wish continuing success to Shannon Development.

Mr. Daly: I thank Senator Hanafin for giving me the opportunity comment briefly on the Bill and I welcome the Minister to the House. We were apprehensive about this when it was initially announced, but after some discussion with the Minister and with Shannon Development we are very satisfied that a resolution has been found to allay the fears that some staff had about the transfer. In making this arrangement, it consolidates the organisation of the industry in a way which will be better for the region in the long term. It will also be better for Shannon Development and Enterprise Ireland.

I am glad that Enterprise Ireland has taken the decision to decentralise to Shannon and that it has placed its new offices for the enterprise boards in the Shannon area. This will be very important for the long-term interests of the enterprise boards. This Bill makes a firm decision on long-term prospects and that is good for the region. There has been much anxiety in the region, due to changes at Shannon Airport and the development of the new airport authorities.

The Minister for Arts, Sport and Tourism recently endorsed Shannon Development's role in the tourism industry, which is also very important. Some local input into the work of Shannon Development in tourism would be a good thing. Many people in the region hold the view that while the board has done a very good job and highly skilled personnel are involved in that area, there is a necessity for some local input and some involvement by local authorities. An example is Shannonside, which was abolished in 1989 when much re-organisation took place to get better value for money.

I hope that the personnel in Enterprise Ireland will take a more positive view of relocating to Shannon. Shannon has been a success story for relocation long before this recent announcement was made. The vehicle registration unit of the Department of the Environment, Heritage and Local Government relocated to Shannon, which has been a great success. The people in that office had the opportunity to avail of a better lifestyle, with far less traffic problems than in this city. Personnel at Enterprise Ireland should look favourably at moving to our region, one of the most attractive in Ireland. I am sorry to say this in the presence of Senator Coghlan from Killarney, but we do not give away any jewels on the tourism crown of the west coast of Clare.

Mr. Coghlan: I am glad that the justifiable fears of the good people of Clare have been allayed.

Mr. Daly: We are satisfied that this move will be successful. I wish the Minister well in getting it expedited. He will have my support in getting it through the House.

Mr. Kitt: I welcome the Minister to the House and I also welcome the Bill. There are numerous precedents to bringing one agency under another.

There were some worries about this case, but those worries have since been eased and I wish the people of Shannon Development the best of luck. Coming from Galway, I often looked on in envy at Shannon because we did not have the same development until the city and county development boards were created. They are now doing tremendous work and I am glad to see that the city and county development boards in the mid west will also have their offices in Shannon.

One of the great success of Enterprise Ireland has been the creation of enterprise centres. They are the new advance factories, because that concept is probably gone. The enterprise centres set up by Enterprise Ireland have been very successful and today's budget will be of great benefit in setting up more of those centres.

I congratulate the Minister and the Government on the budget. It was very much pro-industry and small business in particular. I want to see more involvement in those centres.

One query I have about this issue is that Enterprise Ireland does not sufficiently investigate where it can get sites or buildings for these small industries. I chair a committee of Deputies and Senators from the west. In conjunction with the Council of the West, we have met on a number of occasions and we are very glad Enterprise Ireland is to meet us. I welcome that initiative as well because it is very important. There is no excuse for agencies such as this not visiting different centres, given the early flights available between Dublin and Galway and Shannon. There are many opportunities to hold such meetings and they can all be accommodated in one day, the intention being to discuss how best industry may be promoted in our area. That is one of the developments I gladly welcome.

I recall that we spent 26 years on a committee trying to get a rail corridor which, thankfully, is now being begun to be built between Ennis and Athenry. Fr. Mícheál MacGréil would often say it was a pity Iarnród Éireann would not meet us. We tried for a long time and, eventually, its representatives flew into Knock Airport, we had some great discussions and this helped in getting the ultimate Government decision to open the western rail corridor.

I would like to see the same thing happening with these bodies. I hope the good work done by Shannon Development is recognised. It is possible to have a satisfactory transition as happened when other bodies were subsumed into larger agencies or Departments. If the work Shannon Development has done can be done by Enterprise Ireland, so much the better and I welcome the Minister's continual interest in setting up more enterprise centres.

Minister for Enterprise, Trade and Employment (Mr. Martin): I thank all the Senators for their contributions. I appreciate very much the very positive support the Bill has received in the Seanad.

[Mr. Martin.]

We consulted widely across the area. Trade unions representing workers were anxious to discuss matters with us. We facilitated such discussion and it is good to see we have achieved a significant degree of consensus on the way forward in terms of the indigenous sector. Given the significant restructuring that has taken place within Enterprise Ireland, it is important to have a national remit and that the people and companies in the mid-west can benefit from this and from the enhancement of skills that will be on offer. For example, Enterprise Ireland has a strong capacity in terms of research and development technology supports for small enterprises. In the years to come it will be in a stronger position to deploy these advantages to the companies in the mid-west.

Likewise, the international agenda through sales and marketing has been highlighted in a variety of forums including the enterprise strategy group. It is important that companies in the mid-west have better access to the resources Enterprise Ireland has internationally in 34 locations across the globe. They can participate in the new divisions of Enterprise Ireland, be part of the productivity funding and have access to a variety of other advantages. There was significant access through Shannon Development, as well.

Shannon Development, as we know from the infrastructure within the mid-west, has achieved an enormous amount for the region in more than 40 years. Given the changing nature of industry, globalisation etc., the time was right, however, for moves towards innovation and research. The types of supports Enterprise Ireland has in house, especially in technology supports, research and development and in terms of international sales and marketing skills will have a full national remit and companies in the mid-west will have unrestricted and comprehensive access. Employment of companies in the mid-west will benefit as a result of this move.

Mr. Coghlan: We hope the Minister is right.

Mr. Martin: Senator Daly touched on a very important point in terms of the new mandate I have given Shannon Development, and not just in the context of this Bill. Certainty and opportunity have been achieved for the workers. A national organisation for workers who may be interested in new opportunities is on offer. There is far more opportunity in the immediate future in the context of the Enterprise Ireland structure than may have been available under Shannon Development, and that is important. I take on board what Senator Daly said about the attractions of the Shannon and mid-west region, which I do not doubt.

Mr. Coghlan: I do not doubt them either, but I believe he knew that anyway.

Mr. Martin: I have asked Shannon Development to look at other areas within its region. Parts of Clare, perhaps, that might not have developed as well as the Shannon area might be focused on, as well as north Tipperary, parts of Offaly and west Limerick. These are important areas that need particular attention because in some of them, traditional indigenous manufacturing has declined. In that regard we need to concentrate on the small business opportunities for such areas. I know Shannon Development is keen on that, through major projects such as Digital River, the major deep water facility and the proposed FEG initiative there. In my recent discussions with Shannon Development I was assured this was ongoing and I am quite satisfied with the progress that has been made. Senator Coghlan referred to that in the course of his address.

Senator Leyden made a broader point in the context of today's budget, which is very topical and appropriate to this debate. The range of measures announced today for the small and medium enterprises sector represents more than 100% of the recommendations of the small business forum, SBF. The SBF comprises representatives of small businesses as well as the agencies and that sets a good context and backdrop for the new structures we are putting in place which should facilitate the regions.

Senator Hanafin eloquently went through the history of Shannon Development and dealt with its contribution across different areas, from tourism to heritage and industry, and that point has been well made.

I accept what Senator Kitt had to say and Enterprise Ireland will be glad to meet him and his group. In fact, along with Enterprise Ireland, I addressed a large group of indigenous interests last year in Galway city. We also met small employer forums from Mayo and Galway to hear at first hand about the challenges they faced in setting up and running businesses in that region. We had frank exchanges with them which were facilitated by Enterprise Ireland and I look forward to continuing this type of approach of listening to what people at the coalface of business have to say. Senator Coghlan is no stranger to that, either, to be fair. I thank all the Senators for their co-operation.

Acting Chairman (Mr. Daly): I thank the Minister for his reply to Second Stage of the Bill.

Question put and agreed to.

Committee Stage ordered for today.

Industrial Development Bill 2006: Committee and Remaining Stages.

Sections 1 to 4, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

Mr. Leyden: I thank the Minister for coming to the Seanad on an historic day. I know he was anxious to get this Bill passed. I thank Senator Coghlan for his great co-operation at all times. When it comes to anything to do with industry, Senator Coghlan has been strongly supportive of Bills going through this House. I thank him especially for his co-operation on this Bill. I again thank the Minister and his officials.

Mr. Coghlan: I also wish to thank the Minister and his staff. It was important to deal with this matter expeditiously, as the end of the year is approaching. Of course Opposition Members are amenable when good, constructive work such as this is being done, as the Members opposite are aware. I congratulate the Minister and wish him all the best with the Bill.

Minister for Enterprise, Trade and Employment (Mr. Martin): I again thank Senators Coghlan and Leyden and other Members for their co-operation and facilitation of the speedy passage of this Bill. While it is technical in nature, it is an important Bill and I appreciate their co-operation and assistance at this time of year. I also thank my staff for the work they have put into this issue for some time.

Mr. Coghlan: I also included them.

Mr. Martin: I suspect they are particularly happy with the degree of facilitation shown in the House this evening.

Question put and agreed to.

Acting Chairman: When is it proposed to sit again?

Mr. Leyden: At 10.30 a.m. tomorrow.

Adjournment Matters.

Water and Sewerage Schemes.

Acting Chairman: I welcome to the House the Minister of State at the Department of Transport, Deputy Gallagher.

Mr. U. Burke: I welcome the Minister of State to the House. Senator Kitt will agree the Gort regional water scheme has been discussed for at least 30 years. However, it seems there has been little or no progress in that time as to how a proper water supply for Gort should be provided or augmented. The latest response from Galway County Council stated that work is ongoing on

the environmental impact study and the abstraction order cannot proceed until it has been completed.

While I do not know who is responsible for compiling the environmental impact study in this instance, this has been going on for years. Someone is passing the buck along the line in respect of both the EIS and the abstraction order. There is no agreement as to the nature of the construction in the lake, regarding the water coming out or otherwise. Examples have been cited, mainly by the local farming community, who are concerned about the levels of the water and the manner in which it is proposed to dam the water at that location.

I wish to raise some important points regarding the town of Gort. Approximately five years ago, a serious fire took place in the town, which highlighted a problem, namely, that when the fire brigade attempted to use the hydrants, it found there was no water pressure. Subsequently, steps were taken to install new piping in the town's main street. While this was done, it did not improve either the supply of water or other matters. Even the Ennis road, which is probably one of the areas closest to the source of the supply, has no pressure whatever.

Apart from the question of pressure, the question of quality also arises. The water is distinctly discoloured and at present, no one can take and drink a glass of water from the supply in Gort. It would remain unacceptable even after boiling. Last year, I was told that tenders were issued for new pumps to augment the supply in various areas in which the pressure was low. This mainly concerned areas such as Ballyhugh, the Ennis road and other localities within the town. Although the pumps were purchased during the year, they will not be installed until 2007.

I do not know who is to blame in this case. However, this is not as much a matter of apportioning blame as it is a complete stifling of progress in this locality. The worst aspect of the issue is that in recent times, there have been clear indications that the local authority will not allow any further developments and will refuse planning permissions within the town. This constitutes a serious blow to a town such as Gort, which has just begun to expand, as have many other urban areas within striking distance of Galway city. However, it would be a serious consequence if, on top of everything else, restrictions were to be placed on the number of planning permissions and the development of the town.

As long ago as 2003, all local public representatives made representations on various aspects of the inadequacy of the supply of water to Gort. We were fobbed off with assurances to the effect that matters were in progress or that planning had reached a particular stage and awaited input from someone else. Frequently, the buck stopped in the Department with the Minister. It would then be thrown back and forth between the Department and the council.

[Mr. U. Burke.]

I ask the Minister of State to ensure that clear decisive action will be taken regarding the improvement of the supply and quality of water in the town. This cannot be allowed to continue and whoever has been stifling progress or making inadequate efforts to secure a proper supply should be asked to move the issue along as a matter of urgency in order that the town of Gort can develop properly.

The most important point regarding supply to domestic households, hotels, bed and breakfasts and so on, is that at present, they cannot use the water safely for drinking and are obliged to buy water in cans. As the Acting Chairman is aware, within half a mile of this locality, the floods can be up to six feet high. Nevertheless, the town of Gort has no drinking water. I ask the Minister of State to take whatever initiatives are necessary to ensure the supply of water in Gort, in terms of both pressure and quality, is rectified as a matter of urgency.

Minister of State at the Department of Transport (Mr. Gallagher): I thank Senator Ulick Burke for raising this matter and giving me the opportunity to reply on behalf of the Minister for the Environment, Heritage and Local Government.

The Department's Water Services Investment Programme 2005-2007, published in December 2005, includes some 60 major water and sewerage schemes, with a value of more than €451 million, for Galway. The Minister for the Environment, Heritage and Local Government is pleased to confirm that the Gort regional water supply scheme is one of these schemes. Funding of €15.8 million has been allocated for it in the investment programme and it is scheduled to start next year.

Galway County Council's preliminary report for the scheme was received in the Department in January 2006. The council was informed that same month that the Department's examination of the report would have to await the outcome of the environmental impact assessment the council was then carrying out. Obviously, the environmental impact assessment could have a significant impact on the design, scope and scale of the council's proposals and there would have been little point in subjecting them to detailed examination until the situation in that respect had been clarified.

From recent contacts between the council and the Department, the council may have recently determined that a full environmental impact assessment might not be required. It is to confirm the position in this regard to the Department in the near future. When this issue is resolved, the Department will be able to reconsider its position regarding the preliminary report. Approval of that report will allow the council to prepare contract documents, which will be used to invite bids for the construction of the scheme.

From what has been said, it will be clear that further progress with the scheme is entirely in the hands of Galway County Council. I can assure Senator Burke that the Department will do everything it can to facilitate an early start to the construction phase once the council comes back with firm proposals. The money for the scheme — there is no question about that — is available in the Department and the Minister is keen to see it get to construction as soon as possible.

The Department provided funding in 2004 for certain advance elements of the scheme to deal with the most pressing water supply problems affecting the town; these works are now complete.

I reiterate the importance of the council getting back to the Department as soon as possible. After that, I hope progress can be made and tenders invited.

Mr. U. Burke: The Minister of State stated the Department is not requiring a full EIS report. This has been bandied about for at least ten years. If somebody could make a decision as to whether we are looking for a full EIS report and get on with it, the sooner the Minister could approve it.

Mr. Gallagher: To clarify, what I stated was that Galway County Council has stated an environmental impact statement might not be required and it is to confirm this. As soon as the council confirms, if it is not required then progress can be made. I will relate all of what Senator Burke has stated to the Department.

Mr. U. Burke: I thank the Minister of State.

Motor Insurance Regulations.

Mr. Kitt: I thank the Cathaoirleach for allowing me raise this matter and I welcome the Minister of State, Deputy Gallagher, to the House.

I am raising the issue of why policy numbers are displayed on insurance discs. I received a note from the Financial Regulator stating that regulations requiring the display of an insurance disc were introduced on 1 July 1986 and were signed by Liam Kavanaugh, the then Minister for the Environment, at the end of 1984. The Financial Regulator gave me all the details contained on these discs, including the name of the vehicle insured, the registration number, the commencement date of the insurance policy and the expiry date. At the top of the disc is the policy number.

Although the Minister might not believe this, a number of people have contacted me stating that policy numbers are being copied off windscreens in broad daylight and people are abusing the system by quoting these numbers when they are involved in insurance claims, for example, following an accident. This should not be allowed. I suggest to the Minister that if there is a need to include the policy number on the disc, it should be put on the reverse of the disc. A number of

people have approached me stating that assessors have rung them about accidents in which they were not involved and people have had increases in their premia on renewal. Nowadays insurance companies can pay up quickly in the case of small claims. There is a scam involved here and the simple answer is to put the number of the policy on the back of the insurance disc.

The Minister of State may not be able to give me all of the answers on this tonight because it has been going on for 20 years. It comes as a major shock to people when they are told by assessors that they must pay an insurance claim following an accident which did not involve them. This is wrong. It is appalling that this should continue 20 years after the insurance disc was introduced. While the idea of an insurance disc is good, I fail to understand why it must contain so much information.

I thank the Minister of State for attending the House. Perhaps he will be able to give me information on the matter.

Mr. Gallagher: I thank Senator Kitt for raising this issue. The question of vehicle insurance is vital and issues such as insurance fraud and uninsured driving are matters of concern which affect all legitimate policyholders and insurance companies. Under the Road Traffic Act 2006, enacted in July this year, the powers of the Garda were extended to allow them to seize all uninsured vehicles, whether registered within the State or otherwise.

Insurance discs now play a central part of the motor insurance regime in Ireland. The concept was introduced in 1984 by means of regulations. While such a disc system is not common throughout the whole of Europe, it is an effective system by which evidence of vehicle insurance is both obvious and readily available.

The insurance disc was introduced to reduce the number of uninsured vehicles on the road. The Garda can readily establish from an inspection of a vehicle if the vehicle is insured. In the case of an accident it enables other parties involved to establish full insurance details including the policy number and is, therefore, an aid to expediting insurance claims. The system has proved itself to be simple, robust and beneficial over the years.

The Department is not aware of any widespread practice of fraud as suggested by Senator Kitt. The officials contacted a representative body of the sector and it is likewise unaware of widespread fraud in this area. This is not to say, of course, that the many people who have contacted Senator Kitt do not have an issue with this and it is a matter we must examine.

At a recent hearing of the Joint Oireachtas Committee on Enterprise and Small Business reference was made to the practice of registering vehicles with incorrect addresses. The Minister undertook to have this issue examined. I have also noted the comments of the same committee

in its Fourth Interim Report on Reforms to the Irish Insurance Market that there is a necessity to have a tight control to ensure there is an absence of fraud in the preparation of registration discs, insurance discs and NCT tests.

Senator Kitt has raised the option of not having the policy number on the front of the disc but printing it instead on the reverse. It is my view that printing the policy number on the back of the disc would reduce the apparent validity of the disc, make the number more difficult to see and make it difficult for the Garda or other genuine parties to secure this information without having access to the interior of the vehicle. In view of this matter being raised by Senator Kitt, we will consult the insurance sector further to seek its views on the Senator's suggestion and to establish if that could be considered and possibly implemented.

I appreciate Senator Kitt raising this issue. It obviously is a difficulty for some people. It can lead to fraud. Perhaps it is something that we should examine more closely. I will ensure we consult the insurance sector immediately and keep Senator Kitt informed of developments.

Pre-nuptial Agreements.

Mr. Browne: I welcome the Minister of State, Deputy Gallagher, to the House. On 18 October last, we had a good debate here on this serious topic. The Tánaiste and Minister for Justice, Equality and Law Reform, Deputy McDowell, agreed with the main thrust of the debate, which was, the idea of clarifying the current status of pre-nuptial agreements in Irish law and looking at the effect of their possible introduction. There was unanimous support in the House for the whole concept. In the past 30 or 40 years, we have undergone major economic and social changes. People are marrying later in life and, consequently, entering marriage with considerable assets which they own in their own right, with no input by their new spouse. People are remarrying and, in that context, may also have built up considerable assets. They may have a family from the first marriage and would see much benefit from a pre-nuptial agreement. In addition, there is the issue of those who own businesses and farms, so these matters affect a wide range of people.

I was amazed at the reaction to the debate in the House on 18 October. Initially, it may have been thought that pre-nuptial agreements concern only American multi-millionaires, but it was soon realised such matters apply to a wider number of people. During the earlier debate, we disagreed on one point. I urged the Minister to ask the Law Reform Commission to examine the issue of pre-nuptial agreements, but he suggested the establishment of a working group which would produce a report more quickly. That was six weeks ago, however, and the working group has still not been established. I am concerned that

8 o'clock

[Mr. Browne.]

despite the unanimous decision of this House, we have not seen progress on the appointment of a working group and neither have we seen its terms of reference being clearly laid out. I am aware of many people who would be keen to make submissions to such a working group. Earlier this week, the programme “Ear to the Ground” referred to this issue in the context of marriage breakdown and family farms being divided as a result. If people have been married for a long time I can see why a farm, or half a farm, may be sold. However, if a couple have been married for only a year or two when their marriage breaks down, it is outrageous that, in effect, they end up having to sell the farm and cannot continue in farming. Not alone do they lose their marriage, therefore, but they also lose their livelihood. The Minister of State will be aware that farming has become a difficult endeavour. It is difficult to earn an income from a farm and, therefore, impossible to do so from half a farm. It is vitally important to clarify the law in this area. If people opt for a pre-nuptial agreement, the State should recognise it.

I look forward to the Minister of State’s reply. I hope it will not be a general and ambiguous answer, as is normal with Adjournment matters, but will deal in specifics. The Minister of State should tell us exactly how many people will be on the working group, when they will be appointed and what the group’s terms of reference will be.

Mr. Gallagher: I thank Senator Browne for raising this matter. I apologise on behalf of the Tánaiste who is unable to attend the House.

I refute the Senator’s suggestion that there has been a delay in appointing members of the group to study the operation of the law with respect to pre-nuptial agreements. The fact is there has been no undue delay. The Tánaiste indicated previously to the House that the study group would be chaired by a senior counsel. I am pleased to inform the House that Ms Inge Clissmann SC has agreed to undertake this task. Ms Clissmann is an

expert in family law and has represented clients in some of the leading cases in this field. Her particular specialist areas include matrimonial litigation, child advocacy and related private international law issues.

The terms of reference of the study group are “to study and report on the operation of the law since the introduction of divorce in 1996 with respect to pre-nuptial agreements, taking into account constitutional requirements”. The Tánaiste has asked the group to report by 31 March 2007 and to make recommendations for change, as it considers necessary. The Tánaiste intends to publish the report and any recommendations made.

The other members of the study group will include experienced legal practitioners in family law, legal academics and representatives from the Department of Justice, Equality and Law Reform, and the Office of the Attorney General. The necessary consultations and formalities involved in appointing the remaining members of the study group will be completed shortly.

On 18 October, as Senator Browne said, there was a full exchange of views in this House on the issue of pre-nuptial agreements. As the Tánaiste made clear on that occasion, the issue, as circumscribed by the Constitution, is not straightforward and will require close examination by the group. The Tánaiste looks forward to having the group’s report which, he expects, will help fully to inform the public and the Government on what action can and should be taken. As I have said, the group will be asked to report by 31 March next. While the chairperson has been appointed, I expect the other members of the group will be appointed in the near future.

Mr. Browne: I thank the Minister of State for a very informative reply. That is all news to me and vindicates the purpose of the Adjournment debate.

The Seanad adjourned at 8.05 p.m. until 10.30 a.m. on Thursday, 7 December 2006.