

SEANAD ÉIREANN

—
Dé Céadaoin, 31 Eanáir 2007.
Wednesday, 31 January 2007.
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Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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Paidir.
Prayer.
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Death of Former Members: Expressions of Sympathy.

Ms O'Rourke: On behalf of my party and on behalf of the House I wish to express my sympathy with Mrs. Gráinne Yeats and her family on the sad death of the former Senator Michael Yeats. He served in this Chamber for many years with truly great distinction, in addition to a period as Cathaoirleach, and his work here was much admired. When we talk about Michael Yeats we tend to place him within the context of both his father and grandfather but he was a man of great eminence himself. All his recent obituaries prove that fact.

He was a stalwart member of the Fianna Fáil party from his youth. When he attended secondary school, which was rather posh and maybe more suited to the other side of the House—

Mr. B. Hayes: The Senator should speak for herself.

Ms O'Rourke: —he was teased about his republican sympathies, but he expressed them forcibly early on. He wrote a brilliant memoir entitled *Cast a Cold Eye* in which he explained that the prejudices of his fellow students turned him into a de Valera republican from an early age. I thought that was interesting, although I do not know what school he attended. He had a life-long commitment to Fianna Fáil.

When he had passed away, I was listening to the radio by chance and heard John Bowman's selection of extracts from the many interviews Michael Yeats had given over the years. He gave one such interview to Mike Murphy in which he was both funny and explicit about his politics.

Michael Yeats was first appointed to the Seanad in 1951 by Éamon de Valera, and was subsequently re-appointed by Seán Lemass and Jack Lynch — three former Taoisigh. Michael Yeats was also elected to this House at least once if not twice. He was a strong supporter of the European ideal and in the 1950s represented Ireland on the Council of Europe. He served

from 1973 to 1979 as a member of the European Parliament, becoming a vice president of that assembly.

He gave dedicated and patriotic service to Fianna Fáil, Ireland and Europe. As we know, his late father, William Butler Yeats, donated many of his treasures to the National Gallery and there is currently an exhibition in the National Library marking his life. For that, the Yeats family, and Michael Yeats in particular, deserve to be much admired. He spoke about those aspects in another interview I heard played on the radio.

For years, Michael Yeats was a member of the Dalkey Fianna Fáil cumann and attended the various functions run by that body and by other cumainn in Dublin and elsewhere. I remember that when he was invited to a function in the midlands, he was so willing to attend as a committed member of the party. I know his family will be devastated by his passing. Many of us have met his daughter Síle Yeats who works in RTE. I express our deep sympathy to his family along with our thanks for all the years of service he gave to our party and to his country.

Mr. B. Hayes: On behalf of my Fine Gael colleagues, I join the Leader in expressing our sincere sympathy to the family of the late Senator Michael Yeats. I did not know him personally but I read about him and was aware that he was the son of the great poet and patriot, William Butler Yeats. As the Leader rightly said, Michael Yeats had his own talents and skills. His commitment to public service over a period of approximately 35 years was immense. It is always more difficult to be the son of a famous man — someone who was indelibly marked by the foundation of the State and the literary revival. His father was at the heart of all that, yet in his own life Michael Yeats made a substantial contribution to the history of this country, including parliamentary life. As the Leader said, it is particularly poignant that we would remember a former Cathaoirleach of the House because that very distinguished office within our Constitution and the House is not given to everyone who goes through this House. That he served in such a way for such a period deserves to be mentioned and honoured today.

I was interested to learn when I was researching his life that he was one of the first vice presidents of the European Parliament. At that time, before direct elections were introduced in 1979, we appointed people to the European Parliament. It was a very distinguished role. He clearly had the support and the credibility within his political party because to be not only selected as an MEP in the period before direct elections but also appointed as a vice president of the Parliament shows the standing in which he was held within his own party.

I am aware of the great contribution Senator Yeats and his family made to ensuring that many of the Yeats papers — the memorabilia and the primary source material that was connected with

[Mr. B. Hayes.]

the poet's life — remained in this country. I understand he and his family were offered a very significant sum of money as a means of ensuring those papers would go into a private collection, probably outside this country, but he chose in the most patriotic way to offer these great papers to the National Library to ensure that Irish people in centuries to come would be able to see the work of the great poet.

It is with great regret that we offer our sympathy to his wife Gráinne, his daughters Caitríona, Siobhán and Síle and his son, Pádraig. We will always cherish his memory and his service in this House.

Mr. Norris: I would like to say a few words on behalf of the Independent Senators in memory of the late Senator Yeats. My colleague, Senator Ross, also has particular reason for wishing to say a few words and I hope he might be indulged, with the approval of the House.

Yeats is a name to conjure with. What a tribute it is to that family that the late Senator Michael Yeats emerged unscathed from the extraordinary celebrity of that family. We tend to forget that his grandfather was an internationally known painter, John B. Yeats. His father was one of the world's greatest poets, William Butler Yeats. His uncle was Jack B. Yeats. Many people have been damaged by the fact a parent achieved such a degree of international celebrity, but it is all through that family and continues. Anne Yeats is a remarkable painter, Gráinne Yeats is a musician of great talent and Síle Yeats, who we all know, works in our broadcasting service.

I have said it is a name to conjure with. Of course, that relates to the literary world. I did not know the late Senator Yeats very well but I did occasionally meet him, which is why I wanted to pay tribute to him today. I found him a man of remarkable breadth of intellect and generosity. I was asked by Professor Declan Kiberd to speak at the Yeats school in Sligo, which is a wonderful institution and long may it thrive. After many years of the school's operation, I was asked to give an iconoclastic view of Yeats from the Joyce point of view. I had great fun in doing it but I was vehemently attacked — almost physically — by an American professor who said, "Do you think it is honourable to receive an honorarium for spewing this filth out before students?" There was nothing filthy in what I had said, I was simply outlining what Joyce had to say. Michael Yeats enjoyed it all with a broad smile and indicated that he was very pleased that his father could still cause fireworks. That is the kind of spirit I really like.

I am glad Senator Brian Hayes and the Leader have both paid tribute to the generosity of the Yeats family because it is remarkable. Literary papers are a very marketable product. It is a signal of the generosity of the Yeats family that they

made such munificent donations to the National Library.

I would like to tell a story on that subject. Ten or more years ago I was invited to speak at an international symposium on Joyce in Monte Carlo where one of the attendant events was an exhibition and talk on Jack B. Yeats, sponsored by the waste paper magnate Mr. Smurfit. As a result of this, Stephen Joyce, the grandson of James Joyce, made a most ill-natured and ill-judged attack on the Yeats family, chiding it for what he described as the way the family was milking the resources of the Yeats estate for financial advantage. The words "pot", "kettle" and "black" sprang into many minds in the audience. However, Michael Yeats' sister Ann was present and in a dignified way — without rebuking, attacking or mentioning Stephen, a wonderful humiliation — said that as the question had been raised, the gathering should know the arrangements made by the Yeats family were A, B, C, and D and they indicated the immense degree of the donation that had been made.

Michael Yeats was a very good Cathaoirleach of the House, but before my time. As father of the House, Senator Ross may be closer to that period although he is younger than me in years, but not in wisdom. Those of us aware of Michael Yeats's political career bear in mind that he was a strong, broad-minded, non-partisan European. Therefore, he is someone whose passing we can mourn.

The last time I saw Michael Yeats was around Christmas 2005. He floated up the street, a tall, elegant figure in a raincoat, carrying some Christmas parcels and took a rest in Leinster House. He had achieved a mature age, so his death is not a tragedy but the culmination of a life for which we should all be grateful.

Mr. Ryan: Professor Roy Foster is not my favourite historian, but his magnificent two-volume biography of William Butler Yeats, one and a half volumes of which I have managed to read, raised in my mind the point raised by Senator Norris. Perhaps the single greatest tribute to both William Butler Yeats and Senator Michael Yeats is that a man of such firmly rooted good sense survived extraordinary celebrity.

I did not appreciate that celebrity existed on the scale it did 100 years ago until I read Professor Foster's biography. William Butler Yeats was not just a poet, but a significant national and international celebrity, with all that carried with it. It is astonishing that Michael Yeats came from that with the breadth of vision he clearly had. I will not try to pay tribute to a man I never met, but he clearly had vision and it is clear he left a wonderful memory in Fianna Fáil. He is not just somebody about whom people are nostalgic or whom they remember in a ritual way. It is clear he had an impact on Fianna Fáil and that it had an impact on him and left him with huge loyalty to the party.

The richness of that sort of family commitment is something which culminated in extraordinary generosity in terms of the amount of the memorabilia of William Butler Yeats which has been donated to the Irish people. It will, courtesy of the National Library, be a source of wonder, entertainment and study for generations. That heritage could have been scattered to a dozen different enormously rich American universities, as has happened in other cases. It is not just a tribute to the poetry of William Butler Yeats, but to the extraordinary practical patriotism of the Yeats family. There is, of course, no doubt that former Senator Yeats was a man of considerable years, meaning that there is no sense of tragedy in his passing. However, there is a sense of history, since we are moving a generation further away from figures who formed our national consciousness. Professor Roy Foster's biography was the first time I fully appreciated, as an ignorant engineer, the degree to which a culturally separate identity was moulded at the turn of the 20th century along with the political one. There was a ferment of different ideas, people who argued with Yeats and with whom he argued, out of which emerged a very distinct sense of a separate identity for the people of this State as opposed to what was then the rest of the United Kingdom.

Michael Yeats was quite clearly a product of such a sense of different identity. It was not an exclusive one, since he was a committed European, and his father was also a man of international vision, with a great attachment to poets not only from different countries but from different parts of the world, Rabindranath Tagore being one of his great friends and heroes.

It is therefore a particularly apposite moment for Seanad Éireann to pay tribute to the late Michael Yeats. On behalf of the Labour Party, I sympathise with his family on the occasion of their considerable loss. However, I would also like to think we were celebrating the man and the family, who did so much to give this country a separate identity and then, having done so, contributed to its development and security.

Mr. Dardis: On behalf of the Progressive Democrat group, I join the Leader of the House and those of the other groups in mourning the passing of former Senator Michael Yeats. I acknowledge his contribution to Ireland and celebrate a very long and distinguished life. Members of the family have been well spoken of by others, and I will not repeat those sentiments, other than to say this. Among those things for which they were notable, something perhaps unusual at the time, was their belief that nationalism and inclusion were not mutually exclusive ideas. They felt they could embrace nationalism as part of an inclusive process, which is how nationalism should be and how I believe it was practised by both Senator Yeats and his father, in whose poetry it is evident.

Michael Yeats was a candidate in the general election of 1948 and became a Member of this House in 1951. He was a very distinguished Cathaoirleach, but the aspect on which I would like to concentrate is his contribution to the European movement, beginning with the Council of Europe. He was the first Irish speaker in the European Parliament and later, as the Leader stated, a Vice President. In times when we were less confident as a nation, that was a most singular achievement. It was also very important that Irish voices be heard in that forum and throughout Europe. It has been through people such as Senator Yeats that Irish society has advanced to this point, where we have confidence in our membership of the European Union and our place internationally. Those are part of the legacy he left us.

With regard to the papers, it is highly significant, and to the family's great credit, that the Yeats collection is with the National Library. I do not find it surprising, however, since they were patriots, and that is why they gifted it. That is another respect in which we might usefully learn from the life of the late Senator. For those reasons and the others mentioned, I mark his passing and extend our sympathy to his wife and family, as well as to his Fianna Fáil colleagues.

Mr. Scanlon: I echo the sentiments of all speakers and, as a Sligo person, convey my sympathy to the late Senator's wife and children on behalf of the people of the county. I had the honour of meeting Michael Yeats on several occasions, most notably when he was made a freeman of the Borough of Sligo. It was always very nice to meet the man, since he was a genuinely warm and pleasant person to talk to, and the conversation could be extremely interesting. There is no doubt he was a mine of information, and I certainly enjoyed his company each time I met him. He made a considerable contribution to the Fianna Fáil party. He was most influential in the early years of the party from the 1950s on, as Cathaoirleach and as a member of the European Parliament. I express my deepest sympathy on behalf of Sligo people to his wife, his three daughters and his son, Pádraig.

Mr. Ross: Former Senator Yeats was extraordinarily self-effacing, a quality that is rare in this House. It is most unusual for politicians to have this quality and to survive with it intact. It is a tribute to the respect in which he was held by his fellows and the people that he survived. We could all learn a lesson from this if we were honest.

Senator Yeats was complex and full of contradictions, as a result of bearing the burden of a famous name. I suspect it was difficult for him in that he bore the name of his father without sharing his interests and passions. The book to which the Leader referred informs us of the disinterest and the tense relationship between father and son. This also told us a great deal about his father, for which we should be thankful.

[Mr. Ross.]

The most interesting point is a political one that has been made by all sides of the House. Although he came from a particular background and was sent to St. Columba's College, a very posh school, he developed republican views early in life. His best friend at school was Mr. Brian Faulkner, who was subsequently Northern Ireland Prime Minister. That friendship was maintained throughout the difficult times both endured. Senator Yeats held strong republican views and was considered to be on the republican wing of Fianna Fáil but was tolerant of what took place north of the Border in a more intransigent atmosphere. That is a considerable tribute to him.

His generous donation to the National Library was an extraordinary gesture. He could have raised massive sums if he sold these items. He was controversial in this House for reasons of which I am not aware. When he was appointed Cathaoirleach there were two votes against him, from Senators Sheehy Skeffington and Robinson. I do not wish to redeem this on behalf of Trinity College Dublin but, on behalf of my constituents, I pay tribute to him and express sympathy with the family.

An Cathaoirleach: I wish to be associated with the tributes to Michael Yeats, who served as a Senator from August 1951 to March 1980 when he resigned to pursue his career in Europe. He also held office as Cathaoirleach from 1969 to 1973. I was elected in 1977 and had the pleasure of serving with him. I knew him quite well and he was a gentleman in every sense of the word. He was intellectual, humorous and kind. On many occasions I was entertained by his humorous and astute descriptions of campaigning strategy in Seanad elections. He was held in high regard by all parties and had a wide circle of friends across the political spectrum. I extend sincere sympathy to his wife Gráinne, Cairíona, Siobhán, Pádraig and especially to Síle who worked in Seanad Éireann for some years. I now call on Senators to pay tribute to Mr. Seán O'Leary.

Ms O'Rourke: I wish to pay tribute to Mr. Seán O'Leary, a former Senator and High Court judge. He served as a Senator on two separate occasions and his passing will be mourned because he certainly died before his time. There was a number of times in a row when the Seanad sat for only six months and I served in one of those periods with Mr. O'Leary. I was always struck by his practical approach to all matters and the way he cut through humbug, palaver or whatever one might call it.

I later had occasion to observe this at first hand when I became responsible for the Department of Public Enterprise. Mr. O'Leary had been appointed by a previous Government to be the judge presiding over the Luas investigations, but the General Secretary of the Department, seeking to do the right thing, stated that he expected

the new Government to have its own nomination. I indicated that I would like Mr. Seán O'Leary to continue in his post and I wrote inviting him to continue his work on the Luas investigations, which had been set up and adjourned. He replied with a brief and witty letter, stating he was surprised but honoured and that he would continue his work.

I should tell the House how wonderful he was when dealing with that investigation. He sat in his chamber, which I believe was over Heuston Station, with a secretary from the Department. When people argued that their gardens would be affected or reverberations would be felt in their houses he went to visit those houses and walked the part of the line affected. If he felt the people concerned had a case, he offered them a certain amount of money and that was then end of the matter. I did not receive a letter of complaint on the matter and neither did anyone else. He dealt with everyone with a fairness of manner and breadth of vision. I was told by a person who works in these Houses that he was seen prowling around the back of a house one night walking on the land pertaining to a complaint. The investigation team had amazing powers which he exercised fully. The result was everybody accepting his dictum. He was able to give the good and the bad story to people and had qualities of serving.

I wrote to him in thanks when the process finished and he replied with a most charming letter, stating his hope that everyone travelling on the

Luas would have good and happy
3 o'clock journeys, which has been the case.

That wisdom and experience gained from the process would have served him well when he went on to the Circuit Court and High Court benches. He was a wonderful and an amazing person, being very practical, ordinary, down to earth and full of common sense. Even in the six months I served with him in the Seanad I can remember those qualities with startling quality. Hence I was able to decide very quickly who should chair the Luas investigation team.

His family must be devastated by his loss. He is survived by his wife, Mary, and children Margaret, Anne, Patrick, Mary and Catherine, as well as sisters and a brother. He did an amazing service with the valedictory papers he left behind which were written about and produced after his death. He asked that these would await his passing.

He also chaired the Residential Institutions Redress Board responsible for compensating the victims of abuse in State orphanages and I would like to think his same practicality and common sense shone through what must have been very difficult discussions on those matters. The judicial world will miss him greatly.

He gave fine service to this Chamber and on behalf of my party I express sympathy to his wife and family. I also express my gratitude for his many services to not only the Houses of the Oireachtas but also to the State.

Mr. B. Hayes: Unlike Senator Yeats, Seán O'Leary died before his time. Those of us who knew him from being in the heart of Fine Gael politics for more than 30 years prior to his appointment to the Bench were extremely saddened to hear of his death at Christmas. I was in The Lough Church on St. Stephen's night with other colleagues and the outpouring of love and affection for him from the legal and political communities, friends and family was there to be seen. He was truly a great man.

In recent times he thought about retiring and spending time with his children and grandchildren. However, this terrible illness occurred shortly before Christmas and he was taken from his beloved family. It is a tragic loss for the O'Leary family and everyone who knew Seán O'Leary.

I got to know him during the 1992 general election campaign. I had just left college and my first job was to work for the Fine Gael party as an alleged apparatchik. I was given a Nissan Micra and one of the extremely large mobile telephones about half the size of one's arm which existed at the time. My job was to travel around the country with our party leader and take calls from Seán O'Leary. I recall him ringing four or five times every day with his distinctive Cork city voice — which unlike the Cork county voice is shrill and to the point — asking to “get me so and so” and one got the person for him. He was very much to the point and, as the Leader stated, practical. I got to know him very well during that campaign.

Since the foundation of the party, no one in Fine Gael commanded the same respect in terms of his approach to elections and the advice he gave the party leadership and candidates. His knowledge of the system of proportional representation by single transferable vote was second to none. On election night, the person to listen to on radio was Seán O'Leary because he called it first and always got it right. He was the quintessential national handler.

It was right and proper of Dr. Garret FitzGerald, on assuming the office of Taoiseach in the early 1980s, to appoint Seán O'Leary to this House. He was not a candidate or on the way up or down. His knowledge of politics and sheer practicality required him to be a Member of this House and what a distinguished Member he was. It is worth stating that even though he was a loyal Fine Gael Member of the House during most of the 1980s, he lost the party whip when he voted against a criminal justice Bill.

Mr. Ryan: He did indeed.

Mr. B. Hayes: It shows his independence of mind. It is extremely difficult to lose the whip, particularly on the Government side, to vote against one's colleagues, to take the other position and be shunned. However, he showed that absolute independence of mind on key issues and

Seán O'Leary is a model for those wanting to follow a career in politics.

One of the great parts of his life he remembered and cherished was his time as Lord Mayor of Cork in 1972. The President at that time, Éamon de Valera, had never been offered the freedom of the city of Cork. Over Christmas, I read that Seán O'Leary regarded it as a great honour that as Lord Mayor he was able to propose and see through offering the freedom of the city to Éamon de Valera.

I spoke to some of his colleagues on the night of the funeral. I was struck by the number of judges who stated not only did he deserve to be a Circuit Court judge but that he deserved to be a High Court judge and that he had the intellect to go with it. There is often a question mark over who becomes a judge in this country, but he had the respect of his colleagues right across the Bench and in all sections of the legal community.

We offer our deepest sympathy to his wife, Mary, and his children, Margaret, Anne, Patrick, Mary and Catherine. In particular, we remember in this House the passing of a great man who served Irish life, politics and the legal system in this country with such distinction all his life.

Mr. Ross: Like the Cathaoirleach and possibly only Senators O'Rourke and Ryan, I served with Seán O'Leary for the short period he was a Member of this House in the 1980s. While I agree with Senator Brian Hayes that one of his most distinguishing characteristics was that he was unparalleled on the logistics of politics such as the minutiae of elections and constituencies and was extraordinarily beneficial to the party to which he was attached, this is not really what his lasting legacy will be. Senator Brian Hayes put his finger on it when he said that although he was a real insider in Fine Gael at the time and the quintessential national handler who was trusted with the ear of the leader and the people who mattered in Fine Gael, he stated in this House one day that he would not vote for the Criminal Justice Bill 1983. This is a very difficult thing to do. It is all right if one is a known maverick with no career left within the party, but Seán O'Leary voted against the Criminal Justice Bill and was outside the party for a period of about six months. He was out of the party and its higher councils of which he was a vital member for so long.

This was not the only evidence that he was a man of incredibly independent mind. Just before he died, he left his verdict on an amazing judgment, which was immensely courageous. In barely coded language, he criticised the Supreme Court in terms which were very courageous. He said the Supreme Court of this nation had bowed to the mob, that we needed a Supreme Court which would not take a populist view and which would not make judgments because they were popular but make unpopular judgments and that this is why the Supreme Court existed. This was

[Mr. Ross.]

the sort of *obiter dictum* which many people were thinking about that particular judgment but dared not say. It was characteristic and typical of Seán O'Leary that he should have put this debate into the public arena and caused a great deal of controversy but also accentuate his own independence.

For this reason, we are at a loss for his departure because we need more people who have the guts to say and do things which are unpopular in the face of colleagues who will shun them for doing so. I mourn his loss and, on behalf of the Independent Senators, express my sympathy to his family.

Mr. Ryan: I am privileged to be able to say I think Seán O'Leary would have been a friend of mine. He was the sort of friend one would like to have, which meant that sometimes he was one's greatest ally and sometimes when he felt that one deserved to be told something else, he was well able to say it in language that was not equivocal. One would never be under any illusion when Seán O'Leary disagreed with one because it would not be couched in equivocations or hints. He used language that was very blunt.

As Senator Ross said, he took a very courageous position on the Criminal Justice Bill 1983, a position which was motivated entirely by conviction. There were no pluses in it on a personal or political level for Seán O'Leary. It was an issue in which he believed strongly and therefore he took the position.

He was all set to take a similar position on the national lottery at a later stage because he believed it was a profoundly wrong concept. This was a view I shared with perhaps less passion. The House was so enthusiastic on that issue we could not muster the numbers to call a vote and therefore he was spared the indignity of being expelled from Fine Gael for a second time. The then Minister of State, who is now a senior member of the Fine Gael Front Bench will remember for a long time the interrogation he got about the ins and outs of the national lottery from a man from his own benches who was both a formidable politician and lawyer.

Ms O'Rourke: Who was it?

Mr. Ryan: It was Deputy Jim O'Keeffe who suffered at the hands of a very capable and occasionally sharp tongue.

Seán O'Leary was an extraordinarily warm man with a strong sense of social justice. Injustice in politics and society annoyed him. The letter to which Senator Ross referred was a manifestation of that genuine sense of unhappiness with injustice. He correctly identified that injustice begins with injustice to those who are seen to be least deserving of sympathy and moves from there to others. That is what concerned him.

I was somewhat sorry when he was made a judge because much of the man therefore had to be concealed within the proprieties of his position. By all accounts, as the Leader has said, he was a very capable man in his judicial role. I believe he was also a very compassionate man in this role. The other wonderful side of his personality was taken from us from the public point of view, especially the extraordinary political analysis laced with considerable and wicked humour.

Above all, his early death took away from us, in a way that seems so unfair and cruel, a real and genuine human being who contributed to life, politics and his family. He was a man of humour and compassion, a consummate lawyer and, in my case, a friend. He is a significant loss to Irish life, an even more significant loss to Fine Gael and, clearly, a huge loss to his family. We, in the Labour Party, would very much like to be associated with the words of sympathy to his family. Ar dheis Dé go raibh a anam fíor-uasal dílis.

Mr. Dardis: On behalf of the Progressive Democrats, I am happy to join in the tributes being made to the late Seán O'Leary and to extend our sympathy to his wife, children and the Fine Gael Party on his passing. His achievements have been well documented but apart from his political expertise, which was legendary, what emerges from many of the tributes passed to him at the time of his death was the fact that he was a man of great charm and humour. They were characteristics which are also worth recording.

I was interested to read that he stood in a general election before he became a member of Cork Corporation and that he met his wife at the count in Cork in Jack Lynch's constituency. Perhaps on top of all the other reasons for not having electronic voting there is another one there in that—

Ms O'Rourke: Romance.

Mr. Dardis: —romance can blossom at the long counts in cold halls around the country. The best thing I can do is read what Garret FitzGerald said in his autobiography which sums up the man very well.

The director of elections was Seán O'Leary, a Cork accountant and barrister who had himself been a Dáil candidate and whose qualities of warmth and vitality, political gut instinct, natural authority, toughness and *joie de vivre*, together with his excellent relationship with our national organiser, Peter Prendergast, equipped him ideally for his task.

All his characteristics are summarised in that sentence. I do not think I can add to that.

He as described in *Who's Who* as the *Eminence grise* of the Fine Gael Party. That is somewhat harsh and is not fair. He was much more than that and a much more rounded character. Reference has been made to his observations about the

courts and the fact that the higher courts should not be populist. There is a message there that we as well as the courts can take to heart. I wish to be associated with all the comments that have been made and to extend our sympathy.

An Cathaoirleach: I also wish to be associated with the tributes to the late Seán O'Leary who, as already stated, was nominated by the then Taoiseach, Garret FitzGerald, to be a Member of the 15th and 17th Seanad. I had the pleasure of serving with him in those Seanad. He was a great debater, being articulate and passionate. Many debates were enriched and enlivened by his contributions and the independence of his thoughts.

His political expertise with percentages and quotas was recognised by the Fine Gael Party and led to his appointment as director of elections. His untimely death is a loss to the Fine Gael Party, the Judiciary and Irish society in general. I extend my sincere sympathy to his wife, Mary, son, daughters and extended family on their sad loss.

Members rose.

Business of Seanad.

An Cathaoirleach: I have notice from Senator Paddy 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 Communications, Marine and Natural Resources to provide the option to voluntary salmon fishing clubs for a minimum seven-year renewable lease on waters where licences currently exist.

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

The need for the Minister for Education and Science to provide approval for a new primary school to replace the sub-standard buildings at St. Catherine's national school, Aughrim, Ballinasloe, County Galway.

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

The need for the Minister for Health and Children to intervene in order to secure the rights of independent pharmacists to be represented by their union, the Irish Pharmaceutical Union, in the current round of fee negotiations.

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

The need for the Minister for Education and Science to indicate a timeframe in which she will enter into discussions with the patrons of Seamount College, Kinvara, County Galway with a view to ensuring that provision is made for the enrolment of first year students in September.

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

The need for the Minister for Arts, Sport and Tourism to provide funding to be allocated to New Oak boy's soccer club, Burrin Road, Carlow under the National Lottery sports club fund.

I have also received notice from Senator O'Meara of the following matter:

The need for the Minister for Enterprise, Trade and Employment to have the IDA bring investors to north Tipperary as no site visits by investors have taken place in 2005 and 2006, while significant job losses have occurred in the constituency.

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

The need for the Minister for Health and Children to ensure the availability of some of St. Finan's Hospital lands, Killarney, when it closes, for social and affordable housing, together with some voluntary social care and sporting purposes.

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

The need for the Minister for Transport to initiate moves to provide a train service from Dublin to Donegal.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Paddy Burke, Kitt and Norris and they will be taken at the conclusion of business. Senators Ulick Burke, Browne, O'Meara, Coghlan and Ross may give notice on another day of the matters they wish to raise.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, a motion regarding a sessional order as agreed by the Committee on Procedure and Privileges, to be taken without debate; No. 2, a referral motion whereby the subject matter of motion No. 15 on today's Order Paper is being referred to the Joint Committee on the Environment and Local Government for consideration — the proposed new regulations will amend the exempted development provisions of the planning and development regulations 2001 to encourage the uptake of cleaner and cheaper energy from small scale renewable sources in the home, and these proposed changes to the planning and development regulations will facilitate a significant increase in the contribution of renewable energy technologies to meeting Ireland's energy needs and in renewable electricity generating capacity — to be taken without debate; No. 3, a referral motion whereby the subject matter of motion No. 16 on today's Order Paper is being referred to the Joint Committee on Justice, Equality,

[Ms O'Rourke.]

Defence and Women's Rights for consideration — the purpose of the proposal is to strengthen the capacity of the Union and the member states to combat transnational organised crime — to be taken without debate; No. 4, the Broadcasting (Amendment) Bill 2006 — Order for Second Stage and Second Stage, to be taken on the conclusion of the Order of Business until 5 p.m. with the contributions of spokespersons not to exceed 15 minutes each and those of other Senators not to exceed ten minutes each; No. 23, motion No. 36 to be taken from 5 p.m. until 7 p.m.

Mr. B. Hayes: I move amendment No. 1 to the Order of Business:

“That following the conclusion of the Order of Business a period of one hour shall be set aside for statements on health”.

The Seanad has not met for approximately eight weeks. The important issue throughout the country is the chronic problems in the health service as highlighted yesterday in St. James's Hospital, where 20 surgical operations had to be cancelled due to the lack of bed and theatre space. Last Sunday the Tánaiste said, with his chest puffed out, that the Government would not be mud-wrestled on the issue of negotiating the contract with consultants. By 5 p.m. the next day the only person who was mud-wrestling was the Taoiseach by his evasive and less than supportive comments on the Minister for Health and Children.

It is important that we debate this issue today, in the context of the three solemn commitments given by the Government four and a half years ago. It promised 200,000 additional medical cards, which have not been delivered, 2,000 hospital beds, which also have not been delivered, and no waiting lists for elective surgery by 2004, also not delivered. Given the circumstances in St. James's Hospital yesterday and the continued speculation and controversy about the site for a national children's hospital, we must debate these matters today.

Dr. Henry: I second the proposed amendment to the Order of Business. As somebody who attended the Irish Hospital Consultants Association's meeting after the Tánaiste's mud-wrestling speech, I must say he is a great man with words and has a great deal of influence on people.

Could the Leader arrange a debate, as soon as possible, on the reports of the inspector of prisons and those of the visiting committees for the various prisons? The Leader and the House have attempted to have them debated in the past but the Tánaiste has little enthusiasm for debating them. He said in the House that we cannot debate all the reports. However, we are spending hundreds of millions of euro on reports and, as the Leader has agreed, reports are of little value if we do not examine their content and consider what we can learn from them.

There is much debate on the airways at present about sentencing policy, prison reform and restorative justice. I am delighted the pilot studies in Nenagh and Tallaght were successful and that the Tánaiste has set up a committee to examine the possibility of expanding restorative justice in place of prison sentences. These issues need to be debated in the House. We are the people who will be required to introduce the legislation on restorative justice and prison reform. We need to consider the advice and information we are being given.

Mr. Ryan: I fully support Senator Brian Hayes's proposal which has been seconded. I would love an hour in which to explain how two parties can put together a collection of intelligent and simple proposals, none of which requires rocket science, to reform the health service. This is something the Government has failed to do for ten years.

Ms O'Meara: Hear, hear.

Mr. Ryan: It is a simple set of proposals put forward by our two parties which has a very simple start by which a plan is made and the resources are then allocated. What the present Government did was to first allocate lots of resources only to discover later that a plan was needed. It is now trying to retrofit a plan to resources. One must think before one starts. It is terrible that so much has been wasted and that the people of this country are confused as to how the richest or one of the richest countries in Europe or in the world can have one of the worst health services. This House needs to repeatedly debate the issue of health because otherwise the Government will forget about it. The Government would prefer to have the Tánaiste marching up and down a few hills to proclaim some law and order speech. The health of our citizens is the main concern of our citizens and it ought to be the main concern of this House.

On a few occasions both Senator Ross and I have mentioned in this House the submission on the national development plan made to the Government by the US Chambers of Commerce in Ireland whose members employ more than 100,000 people in this country. One issue mentioned in the submission which should have transfixed Government, but obviously did not, was that close to 50% of the companies reported that their US-based executives were now asking them not to hold meetings in Ireland because of the state of our transport system. According to the submission to Government by the US Chambers of Commerce in Ireland, this was reported by a total of 43% of the companies, not far off half the total number. After what has happened to Motorola in Cork, it is easy to imagine a US senior executive being persuaded that this place — which is impossible to get into and to get around — would not be the place they would want to

sustain. The Minister for Enterprise, Trade and Employment, has stated that there is nothing wrong with our competitiveness but that we must be vigilant.

Everybody wants to beat the drum about wages but I refer to all the other issues, such as the broadband debacle which is getting worse, not better. The rural broadband scheme has been abandoned. Eircom is now reverting to the old days of the Department of Posts and Telegraphs. Rather than trying to get prisoners out of jail, many politicians will be writing letters on behalf of people trying to get telephone lines or have their telephones repaired. We thought those days were behind us. Our technological, telecommunications, information technology and transport infrastructure is crumbling. This is the reason multinationals under pressure will not choose to stay here nor will they choose to come here. Parts of the country have not seen even a visit by a prospective investor in years because those investors cannot get to those places. It is a fact that one developer drove 20 miles outside Cork city and decided not to go any further because he regarded the transport system as being too bad to consider investing in the area.

We need a proper debate on this country's attractiveness to investment. Ireland is in decline as an attractive location for investment and this is not to do with wage levels. The debate on this issue should centre on the 350 well paid, knowledge-based jobs in Cork which are about to disappear.

An Cathaoirleach: The Senator's case is very eloquently made.

Mr. Leyden: I wish to bring to the attention of the House that if Senators were listening to "Morning Ireland" this morning they would be excused for thinking the Seanad was not returning today—

An Cathaoirleach: The House will not debate what was said on "Morning Ireland". Has the Senator a question on the Order of Business?

Mr. Ryan: I was listening to the leader of the Labour Party.

Mr. Leyden: In my view the House was slighted by the journalists on "Morning Ireland". They should know that this is an equal Chamber and the second Chamber of the Oireachtas. RTE broadcasters should be aware we are returning today and that the Broadcasting (Amendment) Bill 2006 is on the Order Paper for today.

This House is given excellent coverage by "Oireachtas Report", by Jimmy Walsh of *The Irish Times* and on local radio. I thank God for local radio because they give us tremendous coverage. I hope RTE is listening and that the journalists involved will be aware in future that

the second Chamber exists and that we have returned today after the Christmas recess.

Mr. Dardis: Here endeth the broadcast.

Mr. Finucane: As we face a general election it is interesting to note we will be back to using the old pencils again. The Taoiseach said we wanted to get rid of those old pencils. I was surprised to read in the *Official Journal of the European Union* an advertisement for extra polling booths for the country.

Ms O'Rourke: That is good. I love polling booths.

Mr. Finucane: Having seen polling booths in operation and the structures involved, I would have thought local authorities and returning officers could examine the logic of the requirement for extra polling booths to cope with the extra population without resorting to putting an advertisement in the *Official Journal of the European Union*. This is ridiculous.

Dr. Mansergh: I ask for a debate on the national development plan which is an excellent and ambitious programme for progress over the next ten years—

Mr. Finucane: It is a rehash.

Dr. Mansergh: I would have thought Senator Ryan, like myself —

An Cathaoirleach: Senator Mansergh—

Dr. Mansergh: I am entitled to ask for a debate.

An Cathaoirleach: Yes. I am not denying the Senator that request.

Dr. Mansergh: I thought Senator Ryan, like myself, would be availing of the important and excellent improvements in communications from the south of this country, both by road and by rail but he is not here to confirm this.

Mr. B. Hayes: It is reheated porridge.

Dr. Mansergh: The second point on which it would be good to have a debate is the subject of developments in Northern Ireland. We all welcome the decision of Sinn Féin to participate in and support—

Mr. Ryan: I wish to inform Senator Mansergh that I have returned to the Chamber.

Dr. Mansergh: —policing, both from the point of view that it removes an obstacle to the operation of democracy, the rule of law and power-sharing devolution in the immediate future, but also because it helps to level the playing field as and between the different communi-

[Dr. Mansergh.]

ties in Northern Ireland so that policing is no longer mainly the preserve of one community *vis-à-vis* the other.

A debate to clarify in our own minds and in the minds of others the significance of and reasons for what has happened would be also welcome. There is inevitably a lot of hype and partisan argument on different sides. This is a good Chamber in which to coolly analyse both the significance of what has happened and where it is hoped to go in the near future.

Mr. Norris: I understand Senator Brian Hayes raised the question of the urgent situation in St. James's Hospital and I wish to support what I understand he said. The situation is extremely serious. It would be wise if the Minister were able to come into the House to explain how this was arrived at and how it can be resolved. I have never attacked the Minister for Health and Children, Deputy Harney. She has shown great courage in taking this job and I always believed she should be given time for the policies to take effect. However, this is critical and urgent. The ICU is full. Serious operations which are necessary and vital are being cancelled as we speak.

The ideology behind all these private hospitals and the invocation of competition should be examined. The rubbish we repeatedly hear about competition has damaged the interests of ordinary people. I am not an ideologue but if I were offered a choice between competition and proper treatment in hospital, like everybody else with his or her head screwed on the right way, I would choose the latter. I am not attacking the Minister for Health and Children, Deputy Harney. I would like her to come to the House because citizens are entitled to know the reasons they are not receiving proper treatment. Let us have a proper national health service in which everybody in the country is covered and let the Government pay for those who cannot afford cover.

I propose a conditional amendment to the Order of Business. The Leader is a remarkable, fine and honourable woman. For this reason, I am very sorry to see the amendment submitted in her name and written not by her but the Department of Foreign Affairs. It is a tissue of lies, evasions and hypocrisy and unless it is withdrawn, I will propose an amendment to the Order of Business that the House instead discuss No. 34 in the name of the Independents which deals with the issue addressed in the amendment.

I will substantiate my description of the amendment as a tissue of lies. It states that the Government "responded urgently from the outset to allegations of extraordinary rendition" and co-operated to the fullest extent with the investigation carried out by a committee of the European Parliament. That is not true.

An Cathaoirleach: The Senator's amendment is not in order.

Mr. Norris: Why not?

An Cathaoirleach: The matter will be discussed when the House deals with the business in question.

Mr. Norris: In that case, as I anticipate that the Leader will not be able to withdraw the amendment, I propose that the House deals with No. 34 first. Is that in order?

An Cathaoirleach: That would be in order.

Mr. Norris: I will make such a proposal which I encourage Senators to support. The Government states it co-operated with the European Parliament's investigation to the fullest possible extent. It did not do so.

An Cathaoirleach: The Senator may not make a speech on the Order of Business.

Mr. Norris: Co-operation is not a one-way street. If the other party clearly and publicly states the Government did not co-operate and refused to answer questions, the Government's approach cannot be described as one of co-operation. The amendment states the TDIP committee is under the impression that the Government directs the work of the Oireachtas.

A Senator: That is not true.

Mr. Norris: The amendment refers to the Government having offered full co-operation. That is a downright lie. It commends the Government on its policy of early and proactive engagement with the US authorities. It did not pursue such a policy.

An Cathaoirleach: The Senator must conclude. The House cannot debate an individual item on the Order of Business.

Mr. Norris: My final point is that it is perfectly clear—

An Cathaoirleach: The Senator may not make a final point. I call Senator Dooley.

Mr. Norris: —that, to the shame of the Government, aircraft engaged in rendition flights were fuelled when returning through Shannon Airport.

Mr. Dooley: Will the Leader request information from the Minister for the Environment, Heritage and Local Government on proposals by the heritage section of his Department to restrict extensions of certain graveyards which are considered by the Department or deemed to be of archaeological, ecclesiastical or monastic significance? There is an age old practice in rural areas of burying families together. Unfortunately, guidelines emanating from the Department are

making it impossible for local graveyard committees to extend older graveyards in line with expectations. This has created considerable annoyance among elderly people who had intended to be buried on the grounds in which their forebears were buried. People are concerned that regulations are now off the wall. These kinds of restrictive practices should not be allowed to continue. Will the Leader invite the Minister to the House to discuss this important matter?

Mr. U. Burke: The proposal by the Department of Education and Science to transfer responsibility for dealing with under-performance by teachers at primary and secondary level from school inspectors to boards of management is a mistake. Boards of management at primary, vocational educational committee and voluntary secondary school level have different responsibilities.

School inspectors' involvement in schools is greater than ever. The number of inspectors has increased and whole school evaluations are being carried out. The inspectorate also carries out more subject examinations in schools than in the past.

Devolving responsibility for addressing teacher under-performance to boards of management at local level will have serious consequences, especially given that members of boards are essentially volunteers. Placing the onerous responsibility for removing a teacher from a school on members of boards is wrong. It could cause the individuals in question embarrassment and create unnecessary dissension in small communities.

The Department has paid scant regard to supporting teachers who experience difficulties. They are not given sufficient time off to engage in in-service training or retraining or to allow them to reinvigorate their enthusiasm in subject areas. The Minister should drop her proposal and have her Department devise a fair mechanism for dealing with this issue. Will the Leader request the Minister to address this issue as a matter of urgency?

Mr. Daly: The Leader will be aware that substantial funding has been promised to increase significantly subvention payments for patients and elderly people in nursing homes and hospitals. It is proposed that the enhanced subvention will be paid from the beginning of this year. The House should ask the Department to indicate how quickly the new system will be introduced and how it proposes to proceed.

Many individuals and families are under severe financial pressure owing to the current low rate of subvention. It is important, therefore, that the payment is enhanced and the increase backdated as soon as possible. A way must be found to prevent institutions from increasing charges in anticipation of the increased subvention. I ask

that the House discuss this matter as soon as possible.

Ms Tuffy: Will the Leader arrange a debate with the Minister for the Environment, Heritage and Local Government, Deputy Roche, on the definition of the phrase "affordable house"? The Minister was quoted the other day indicating that an affordable house is one which costs approximately 80% of its market value. The figure has varied, increasing from 50% to 60%, then to 75%, and more recently to 80%. Slapping on a label of "affordable house" has created a new way for developers to make a mint on the backs of home buyers. The House must discuss this issue as a matter of urgency.

Mr. MacSharry: Will the Leader arrange a debate on the environment? As Senators will be aware, the United Nations will launch an important report on global warming later this week. Even President Bush is beginning to acknowledge that this is the greatest single issue facing the world.

Ireland needs to play its part in tackling global warming and the Houses of the Oireachtas could lead by example. A phenomenal amount of paper is wasted in the Houses every day. The large number of reports, agendas and information supplied in paper format and unsolicited could be provided via e-mail. Senators are sufficiently literate in information technology to be able to use e-mail. Instead of filling bags and bins with unsolicited reports, few of which we will read beyond the executive summary, an e-mail facility would allow us to view reports once alerted that they have become available and, if necessary, print them out. We could begin to lead by example by having a general debate on the report which will be launched later this week.

Mr. J. Phelan: I concur fully with Senator MacSharry's last point. Reports are available for Members in hard-copy format in the Oireachtas Library, but there is a scandalous waste of paper in that regard. I also agree with previous speakers who have sought a debate on the health service. I hope the Government will accede to the request for an hour to discuss it today, with particular emphasis on the siting of the new national children's hospital. The issue was raised before Christmas by a number of Senators, including myself. We should have a full discussion on the reasons behind the decision that was taken. People should be allowed to express their views on the matter in the Chamber.

Senator Ryan requested a debate on the national development plan, with particular emphasis on infrastructure and broadband. Last week, we saw that the Government has abandoned the rural broadband scheme, so it would be opportune to know what its future plans are in this regard. What has been promised up to now has not been delivered upon by the Government.

[Mr. J. Phelan.]

Many Senators in rural areas are in a similar position to me and know that businesses cannot get broadband connections. Last week, I was alarmed to learn that the port of Waterford — a few miles from where I live in Kilkenny — does not have broadband connectivity. That is a shocking situation. If that is the case in south County Kilkenny, I am sure a similar situation exists across the country.

The Leader should ask the Minister for the Environment, Heritage and Local Government to attend the House to explain his recent announcement on funding for local roads. He has announced a 6% or 7% increase in funding for local authorities for local roads. On the face of it, that would be welcome were it not for the fact that last year the cost of road-building materials increased 40%. In real terms therefore it is a huge decrease in terms of what work will be carried out on local roads around the country, despite the razzmatazz surrounding the Minister's recent announcement. He should attend the House to discuss that issue.

Mr. Scanlon: I support Senator Daly's call for a debate on nursing home subventions. A number of families have contacted me, particularly since the start of the year, when the cost of nursing home care increased substantially in some cases. There does not seem to have been an increase in the subvention paid to such families, however.

In recent days, I came across an anomaly whereby an elderly person living alone in receipt of a social welfare pension is entitled to the living alone allowance. However, elderly people living alone on a pension for which they have worked and contributed all their lives, but which is not a social welfare payment, are not entitled to a living alone allowance. We should examine that matter because such a person has the same financial needs as someone on a social welfare pension. Sometimes there is not much difference between both pensions.

Mr. Ross: I formally second Senator Norris's amendment to the Order of Business. The fact that there will be two votes on the Order of Business, and several more, is indicative of the fact that peace is not breaking out in this House. I endorse the calls by Senator John Paul Phelan and Ryan for a debate on infrastructure. Senator Mansergh also touched on it when he sought a debate on the national development plan. As Senator Ryan rightly said, we will not have much of a national development plan if we do not have broadband. There is a motion on the Order Paper in the names of all the Independent Senators calling for a far more robust and committed attitude to broadband.

Senator Ryan and I may approach this matter from different angles, but I agree with virtually everything he said. Ireland is becoming a dangerous place for foreign investment. If the word goes

out that we have abandoned our broadband programme, which is true, foreign investment will cease to come here with the same enthusiasm as before. It is a cause of immense embarrassment to many people in the IDA and elsewhere when they must explain to multinational organisations that they will give them the 12.5% corporation tax but cannot give them any communication facilities with their home bases around the world.

Broadband is an essential weapon in anybody's armoury when it comes to marketing Ireland. We should have it in every household. The smugness with which we accept the investment of American multinationals is being wiped off our faces by the loss of 350 jobs in Motorola, the possible loss of jobs in Vodafone, and the loss of BUPA. We are in danger of losing other multinationals.

The construction industry, which is the second pillar of the national development plan, is booming but it is feeding off these multinationals that are paying so much money to those people who can afford the houses that are being built. We must provide that infrastructure otherwise the economy will be in for a difficult time in the years ahead.

Mr. Browne: I join with Senator Brian Hayes in calling for a debate on health. We should focus on filling vacancies. Clearly, patients are not the centre of attention when it comes to staff on sick leave, retiring or on extended maternity leave. There seems to be no regard for patients within the HSE. I came across two cases recently arising from the fact that the orthodontist in Carlow-Kilkenny was out. We have been told that it could be two or three years before people can obtain appointments again. This is crazy. In every other walk of life in the private sector, when a temporary or permanent vacancy arises it is filled far more quickly. It should not take that long in the public sector. I asked the HSE how many vacancies currently exist but God knows when I will receive a reply.

ADHD assessments must be undertaken by an educational psychologist. Students cannot get special needs assistance unless they have this assessment, yet there is a major shortfall of educational psychologists. We have a crazy scenario whereby the HSE will pay exam fees of clinical psychologists to go abroad, to England for example, to do a doctorate, yet it will not pay for an educational psychologist to study abroad for a doctorate. Meanwhile, there is a major shortfall in this area which is crying out to be filled. The Minister for Education and Science and the Minister for Health and Children should examine the issue. Why are the fees of clinical psychologists paid, but not those of educational psychologists? I am sure educational psychologists will gladly work in the Irish educational system for a few years afterwards in return for their fees. One lady in Carlow is facing a bill of £12,000 sterling per year to study for a doctorate in England. If she did it in Ireland it would take three years,

whereas it takes only a year in England. If the overseas fees were reimbursed, we could have educational psychologists two years earlier in our own system, which we badly need.

Ms O'Meara: I support the motion for a debate on health this afternoon. This critical issue has become worse over the Christmas recess. The public cannot understand why, after almost ten years in office, the Government has failed to solve the accident and emergency crisis, which has worsened. The situation in St. James's Hospital is a classic example. Only last week, Limerick Regional Hospital ran out of trolleys and people had to be treated in ambulances in the car park. That indicates how the system is failing. There is, however, total resistance in Government circles to the idea that the system needs more beds and better management. There is also the debacle over the children's hospital in Crumlin. In addition, fewer and fewer people now qualify for much needed medical cards. These are only some examples of how the Government is completely failing in the health sector.

We also need a debate on jobs and the economy, which should be organised as soon as possible. I do not mind if the debate focuses on the national development plan. However, there is major concern about the future of multinationals in this country and how the IDA is operating. North Tipperary has been abandoned by the IDA and there have been no site visits for more than two years. It is simply not interested in north Tipperary. I would like to know the view of the Minister for Enterprise, Trade and Employment in this regard. What is the policy on foreign direct investment and what is the responsibility of the IDA with regard to all, not just some, of the counties of Ireland?

An Cathaoirleach: That might be a matter for the Adjournment.

Ms O'Meara: That is why I put it down as a matter for the Adjournment.

Dr. Mansergh: It is a different story in south Tipperary, as the Senator knows.

Ms O'Meara: It connects with the wider issue raised by Members of the House. It is an example of the concerns in one part of the country. It is urgent that we would have a debate on the matter of jobs and future investment in infrastructure and broadband, which particularly affects rural areas, and in particular where that investment is going.

Mr. Quinn: With so many items of serious concern, it seems wrong at this stage to raise an issue like banking, but there is a great need to have a debate on banking. The Polish competition authority last week banned the use of what we call

interchange fees for the issuing of credit cards. I am sure interchange fees exist in many European countries although not in others. I understand the Polish Government accused the banks of acting as a cartel in this area. If it happens in Poland, I assume it happens in Ireland also.

I raise this issue because of the major increase in credit card usage which was outlined in a publication today but even more so because the European Commission today issued a 4 o'clock report which suggested inquiries should take place because it would appear a cartel exists among banks with regard to the issuing of credit cards. Not necessarily this week but in the coming months we should have a debate in the House on the issuing of credit cards by banks. Much information will become available to us in the coming weeks and a decision will be reached by the Commission in June.

Ms O'Rourke: Senator Brian Hayes put forward an amendment to the Order of Business which was seconded by Senator Henry. This amendment will be put to the House in due course. As I said, while I cannot pluck the Minister from where she is at present, the Senator is entitled to put down an amendment and it will be voted on.

Senator Henry also called for a debate on the report of the inspector of prisons, which we are trying to obtain. The Senator welcomed the moves made with regard to restorative justice.

Senator Ryan called for a debate on the submission by the US Chambers of Commerce in Ireland on the national development plan. He also referred to Motorola. We are all sad about the situation at Motorola but it had nothing to do with infrastructure or anything of that nature.

Mr. Ryan: How does the Leader know that?

Ms O'Rourke: I read what the chairman of Motorola said.

Mr. Ryan: The Leader should not mind the press release.

An Cathaoirleach: Order, please. The Leader to reply without interruption.

Ms O'Rourke: He said it was a change of strategy on the part of the company. I read this in a newspaper.

Mr. Ryan: The strategy is to get out of Ireland.

Ms O'Rourke: The Senator sought a debate on declining investment in Ireland. The last report of the IDA showed an increase in investment in Ireland. I do not know why Members are trying to downplay our country. It is serious that Members are in that mode but I suppose they must do something.

Mr. B. Hayes: That is just spin.

Ms O'Rourke: Senator Leyden raised a matter which I thought was ironic. I will not mention the programme involved because the Cathaoirleach does not want me to do so. The programme told how the other House was coming back and would debate legislation on prisons. This House is back in session and will debate the Broadcasting (Amendment) Bill. I thought it was ironic the programme did not mention this, as the debate will affect journalism.

Mr. Norris: Hear, hear.

Ms O'Rourke: I found it quite annoying.

Senator Finucane stated that we need more polling booths, which we do, as well as more people going to them. However, if one seeks that type of material, there are procurement laws in place and it is necessary to put an advertisement in the *Official Journal of the European Union*. That is why it exists. I am sure the Senators would welcome new polling booths and many people going to them.

Mr. Finucane: We will welcome new voters.

Ms O'Rourke: Senator Mansergh praised the excellent road and rail connections between Cork and Dublin and the improvements to them. He also welcomed Sinn Féin's commitment on policing, which this House should affirm. What has happened is quite stunning. I am struck by the generosity of the concept and its execution. The potential is huge. Nobody wants to paint anyone else into a corner but I hope the myriad of voices on the DUP side will eventually become one voice of acceptance, and soon, not in years, as a man stated this morning. We have got this far. It is a stunning development in its generosity and we should pay due regard to it and hold a debate on Northern Ireland, as Senator Mansergh stated.

Senator Norris referred to the situation at St. James's Hospital. He proposed that the Government amendment be replaced by No. 34, which was seconded by Senator Ross.

Senator Dooley raised the matter of the extension of graveyards and sought information from the Minister for the Environment, Heritage and Local Government. The Senator stated that there are often archaeological objections to such extensions. It would be a suitable matter for the Adjournment, if the Senator would put it down as such.

Senator Ulick Burke stated it is now the responsibility of boards of management to judge the competence or incompetence of serving teachers in their particular schools, and that the inspectors who were in charge of that matter are no longer so. The shape of boards of management has changed and the Teaching Council has been established, which is an excellent method of adjudging proficiency.

Senator Daly raised the enhanced subvention which is to be paid to people in nursing homes. He hopes nursing home charges will not increase.

Senator Tuffy referred to affordable housing. I agree with the Senator that the definition of affordable housing is very loose and hard to pin down.

Senator MacSharry warned about global warming. He stated the Oireachtas could set an example by not producing so much waste paper every day when the information is available in the Oireachtas Library and on e-mail. It is not necessary that the information be printed in such vast quantities.

Senator John Paul Phelan referred to the national children's hospital. Many Members have referred to a "debacle" in this regard. There is no debacle. The site has been chosen and we will move ahead with the project.

Mr. B. Hayes: There is significant controversy.

Mr. Browne: Tell that to the Taoiseach.

An Cathaoirleach: Order, please.

Ms O'Rourke: They talk about politics——

Mr. B. Hayes: The Leader should not undermine doctors like this.

Ms O'Rourke: If we are in favour of children getting the very best of care, we should move ahead with building the hospital.

Mr. B. Hayes: There is a different view.

Mr. Browne: There are mixed signals. The Leader should tell this to the Taoiseach.

Ms O'Rourke: Why? The Senator wants us to keep jumping from one site to another.

Mr. Browne: The Taoiseach is confused.

An Cathaoirleach: Order, please. The Leader without interruption.

Ms O'Rourke: Senator Scanlon raised the issue of nursing homes. He stated that if a person is in receipt of a private pension and is living alone, he or she should be just as eligible for the living alone allowance as those on social welfare. I agree.

Senator Ross seconded Senator Norris's proposal. He also called for a debate on broadband. He stated Ireland is becoming a dangerous place for foreign investment. That is not the case. The figures are available but people do not want to believe them.

Senator Browne referred to the filling of vacancies in the health services, particularly with regard to ADHD and the length of the waiting period to be seen by an educational psychologist, who can do a course in the UK in one year that

would take three years here. Perhaps the course here is better but it is a very serious matter.

Senator O'Meara called for a debate on the health services. She stated that a hospital in Limerick ran out of trolleys and that the system needs more beds. The Senator also spoke about the future of multinationals in Ireland.

Senator Quinn called for a debate on banking, particularly the cartel which seems to appertain with regard to credit cards. We will endeavour to have that debate.

Visit of Northern Ireland Delegation.

An Cathaoirleach: Before proceeding, I wish to inform the House we have a delegation of SDLP

members from the Northern Ireland Legislative Assembly in the Distinguished Visitors Gallery. I welcome them to the House and hope they will have fruitful discussion here.

Order of Business (Resumed).

An Cathaoirleach: There are two amendments to the Order of Business. Senator Brian Hayes moved an amendment proposing that statements on the health service be taken for one hour on the conclusion of the Order of Business. Is the amendment being pressed?

Mr. B. Hayes: Yes.

Amendment put.

The Seanad divided: Tá, 17; Níl, 31.

Tá

Bradford, Paul.
Browne, Fergal.
Burke, Paddy.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.

Hayes, Brian.
Henry, Mary.
Norris, David.
O'Meara, Kathleen.
Phelan, John.
Quinn, Feargal.
Ross, Shane.
Ryan, Brendan.

Níl

Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Hayes, Maurice.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.

MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.
Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.

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

Amendment declared lost.

An Cathaoirleach: Senator Norris has moved an amendment to the Order of Business, that No. 23, motion No. 34, be taken before No. 1.

Question put: "That the amendment be made".

Senators: Vótáil.

An Cathaoirleach: Will the Senators claiming a division please rise?

Senators Norris, Quinn and Henry rose.

An Cathaoirleach: As fewer than five Members have risen, I declare the amendment lost. In accordance with Standing Order 54 the names of

the Senators dissenting will be recorded in the Journal of the Proceedings of the Seanad.

Amendment declared lost.

Order of Business agreed to.

Order of Business: Motion.

Ms O'Rourke: I move:

That the practice of calling the Leader of the House to reply to the Order of Business no later than 40 minutes after the proposal of the Order of Business shall be continued until the Easter recess.

Question put and agreed to.

**Planning and Development Regulations 2007:
Motion.**

Ms O'Rourke: I move:

That the proposal that Seanad Éireann approves the following Regulations in draft:

The Planning and Development Regulations 2007,

copies of which were laid in draft form before Seanad Éireann on 25th January, 2007, be referred to the Joint Committee on the Environment and Local Government in accordance with paragraph (1) (Seanad) of the Orders of Reference of that Committee, which, not later than 20th February, 2007, shall send a message to the Seanad in the manner prescribed in Standing Order 67, and Standing Order 69(2) shall accordingly apply.

Question put and agreed to.

**Council Framework Decision on Organised
Crime: Motion.**

Ms O'Rourke: I move:

That the proposal that Seanad Éireann approves the exercise by the State of the option or discretion provided by Article 1.11 of the Treaty of Amsterdam to take part in the adoption of the following proposed measure:

a proposal for a Council Framework Decision on the fight against organised crime,

a copy of which proposed measure was laid before Seanad Éireann on 15th June, 2006, be referred to the Joint Committee on Justice, Equality, Defence and Women's Rights in accordance with paragraph (1) of the Orders of Reference of that Committee, which, not later than 20th February, 2007, shall send a message to the Seanad in the manner prescribed in Standing Order 67, and Standing Order 69(2) shall accordingly apply.

Question put and agreed to.

**Broadcasting (Amendment) Bill 2006: Order for
Second Stage.**

Bill entitled an Act to make further provision in relation to Broadcasting, for that purpose to make further provision in relation to the supply of programme material for the purpose of its being transmitted and the transmission of such material and related and other data by digital means, in relation to the combination of such programme material, in relation to the broadcasting of certain services to Irish communities outside the island of Ireland, in relation to the discontinuance of certain broadcasting services transmitted by analogue means, to confer additional functions on the Commission for Communications Regulations,

Radio Telefís Éireann, the Broadcasting Commission of Ireland and Teilifís na Gaeilge, to confer power subject to licence on Teilifís na Gaeilge, to amend the Broadcasting Authority Acts 1960 to 2001 and certain other enactments and to provide for related matters.

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

Question put and agreed to.

**Broadcasting (Amendment) Bill 2006: Second
Stage.**

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

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): The Bill before the House today has two principal objectives, the first being to amend the public service remit of RTE to allow it to broadcast to Irish communities living outside the island of Ireland. The second is to amend the Broadcasting Act 2001 to allow for the development of digital terrestrial television and digital radio services in Ireland. I propose to address each objective in turn.

First, I will address the proposed amendment relating to broadcasting abroad. RTE's public service remit is set out in sections 16 and 17 of the Broadcasting Authority Act 1960 and section 28 of the Broadcasting Act 2001. Section 28(1) of the 2001 Act provides that the

national television and sound broadcasting service required to be maintained by the Authority under section 16 of the Act of 1960 shall have the character of a public service, continue to be a free-to-air service and be made available, in so far as it is reasonably practicable, to the whole community on the island of Ireland and the Authority shall have all such powers as are necessary for or incidental to that purpose.

As such, RTE's statutory mandate does not extend to the provision of television services to Irish communities living outside the island of Ireland.

Section 28(8) of the 2001 Act limits the use by RTE of public funds drawn from television licence fee income to its public service remit. As a consequence RTE may not use the proceeds of the television licence fee to provide television services in Great Britain or elsewhere. Until 2001 a private channel, Tara TV, provided a means for the Irish community in parts of Great Britain to access some of RTE's programming. This was not an RTE service but a private company in which RTE contributed its programming as a means of investment in a commercial venture. Unfortunately, Tara Television did not manage to attract sufficient revenues and ceased to broadcast in 2001.

The report of the task force on policy regarding emigrants, presented to the Minister for Foreign Affairs in August 2002, noted that the issue of contact with Ireland and the desire for information about contemporary Ireland is critical for Irish communities abroad. The loss of Tara TV was greatly regretted by many Irish people in Great Britain, particularly the elderly. Members of this House, including me, have relatives in the UK who miss the service and have contacted public representatives about it. The task force recommended developing the role of television as a contact point for the Irish abroad and making funding available for the provision of such a service. With a view to implementing this recommendation the Government agreed that the draft general scheme of the broadcasting Bill should include provision to amend the existing public service remits of RTE and Teilifís na Gaeilge to allow them to develop broadcasting services for Irish communities abroad. It also agreed that public funds could be deployed for such a purpose. Given the scale and scope of the draft general scheme of the broadcasting Bill, and ongoing work under the e-Consultation initiative, the Government has decided to extract and progress this small element by means of the Bill before the House. This follows requests from Members of both Houses.

Sections 3, 14 and 15 outline the legislative amendments necessary to affect this change. Section 3 amends section 16 of the 1960 Act to require the RTE authority to provide a television service to Irish communities outside of the island of Ireland which is representative of the programme schedules of the existing public service channels RTE 1, RTE 2 and TG4. While ultimately a matter for RTE, it is likely that the programme service provided will consist primarily of domestic programming commissioned or produced by RTE and Teilifís na Gaeilge. Section 3 also places a statutory duty on Teilifís na Gaeilge to supply some of its programming to RTE for the purposes of the new service at a level to be agreed by the two public service broadcasters. The provision is intended to define such supply as being of the nature of a public service duty rather than an arms length commercial arrangement.

Section 14 amends section 28(8) of the 2001 Act to allow RTE to use public funds drawn from television licence fee income for the purposes of providing the new television service. Section 14 also amends section 28(10) to require the RTE authority to report to the Minister on its use of public funding for such a purpose. Members may express views on whether direct Exchequer payments should be made rather than using licence fees revenue. I look forward to hearing the views of Members during the debate. Although the Bill does not provide for it at present an amendment could be introduced to effect this.

Section 15 amends section 32 of the 2001 Act to empower the Minister for Communications,

Marine and Natural Resources to direct the RTE authority to maintain a special account of its use of public funding regarding the provision of the new television service. While the Bill is just the first step in the process of getting this service on air, it is an important step. The issue is dear to the hearts of many in the Irish community in Great Britain and I commend the efforts of Irish community organisations in Great Britain and the Deputies and Senators who worked on their behalf in promoting this issue.

I now propose to consider the elements of the Bill that deal with digital terrestrial television, DTT, and digital radio broadcasting. The roll-out of DTT in Ireland is imperative in ensuring the continued availability of free-to-air Irish public broadcasting to Irish television viewers. Satellite, cable and MMDS will offer extensive and differentiated services to the Irish consumer into the future. However, none of these platforms will provide the near universal, free-to-air digital offering regulated under Irish law that DTT can provide. Given changes in technology, analogue terrestrial transmission will become obsolete over a short period, particularly as most European countries move to digital provision. DTT is a technology upgrade necessary to maintain free-to-air availability of Irish television broadcasting into the future. Regarding television service level, DTT will allow for the provision of more channels and services to citizens. New and enhanced Government and public services may be provided across DTT, and possibilities will be created for additional private sector investment and product offerings.

Current estimates indicate that approximately 29% of TV licence households use analogue free-to-air terrestrial television only, and that up to 90% of households use analogue free-to-air terrestrial television on at least one television set. The future roll-out of DTT will be particularly important for these households in providing a viable alternative to analogue television with increased quality and range of broadcasting services. It will also serve to meet the requirement that all TV licence holders will continue to receive public service broadcasting on a free-to-air basis.

I am conscious of the need for Ireland to keep ahead of developments in digital broadcasting across the EU. With this in mind, I launched my Department's digital terrestrial television pilot project in August. This will encourage stakeholder and public interest in DTT and bring momentum to the development of DTT in Ireland. The pilot project, which is set to run until 2008, is to provide insight into the issues associated with the roll-out of a national DTT system and the potential impact on the analogue television network.

Digital transmission is more efficient than analogue transmission with regard to spectrum-planning. A move to DTT and a subsequent analogue switch off will free up spectrum that can be made

[Mr. N. Dempsey.]

available for additional broadcasting or telecoms applications. The release of additional spectrum is a key consideration in the move towards digital broadcasting across Europe. While demand for additional spectrum is not as significant a factor in Ireland as it is across Europe, Ireland wishes to, and will be expected to, plan for the use of spectrum in an internationally compatible way. The European Commission has suggested 2012 as a target date for switch-off of analogue services. Consequently, there is a pressing need to publish amending legislation in order to facilitate the activities that will lead to analogue switch-off.

The DTT elements of the Bill amend one part of the Broadcasting Act 2001. The basic policy objectives underpinning the 2001 Act remain in place. The licensing model set out in the Broadcasting Act 2001 required an all or nothing response from the market which was not attractive and proved to be unworkable. The proposed legislation seeks to establish a more scaleable model which allows public service broadcasters to migrate to DTT and private sector operations to seek DTT multiplex licences as they see fit.

Without amended legislation in place, the DTT pilot project currently being run by my Department would come to an end in 2008 with no further basis for DTT roll-out. It is essential to ensure continuity for parties who wish to further develop commercial services on the DTT platform. This Bill offers a degree of flexibility in the take-up of multiplexes which will prove more attractive to private sector operators than previous legislation. The proposed framework also puts in place a mechanism to implement analogue switch-off, which has not been developed before.

Under the Bill it is proposed that six multiplexes or frequencies would be dedicated to DTT, allowing for approximately 25 to 30 standard television channels. However, flexible allocation of the frequencies thereafter could mean further DTT multiplex allocations if required by market players. It is also proposed that the first multiplex be allocated to RTE and will also contain TG4, thereby ensuring a foundation level of Irish broadcasting services on the DTT platform. TV3, if it so desires, will also be allowed on this particular multiplex. A second multiplex could be allocated to RTE, subject to consultation. This is likely to be for high-definition television, as it requires more spectrum.

The next four multiplexes will be left to open competition run by the Broadcasting Commission of Ireland. It is expected that TV3, as the fourth analogue terrestrial licensee, may be on one of these four multiplexes. The framework will allow for multiplexes to be added as the market requires, with spectrum for these four multiplexes guaranteed. The response from the market in the context of the DTT pilot suggests these multiplexes will be in demand. However, the framework will allow for a gradual take-up of multiplexes over time if that is the market response.

A similar process will be run by the BCI on the allocation of sound broadcasting multiplexes for Digital Audio Broadcasting, DAB. Although DAB is not as well-established across the EU as digital terrestrial television, it has been established successfully in the UK. RTE is currently running a DAB trial which will allow issues around a national roll-out to be explored. In that context, this Bill allows for the establishment of DAB multiplexes and provides a model for licensing by the BCI of DAB in the future.

With regard to the specifics of the Bill, section 1 provides for the short title, collective citation, construction and commencement, which are standard provisions in any legislation. Section 2 provides for interpretation and definitions for a number of terms used throughout the Bill.

Section 3 provides for the RTE authority to establish and maintain multiplexes, and it makes provision to ensure that the RTE and TG4 channels are carried on the first multiplex. It also ensures that consideration will be given to the carriage of TV3 on the DTT platform in the event that measures under section 4 do not bring this about. It provides that TG4 and TV3 may make payments to the authority in the event that the authority carries these channels on a multiplex.

Section 4 outlines the functions of the Broadcasting Commission of Ireland with regard to arranging contracts with multiplex contractors to provide additional multiplexes of programming. The BCI will be required to ensure compliance by contractors with the provisions of this Act. It also sets out the conditions to allow for provision of the analogue commercial licensee — TV3 — services on the DTT platform, and for any Northern Ireland service that could be designated for carriage in the future.

Section 5 provides that the Commission for Communications Regulation, ComReg, is required to make available licences for DTT services for both RTE and other multiplex service providers. Under this section, ComReg may allocate further licences for DTT, to be contracted by the BCI, and also other services. It also provides ministerial powers to make provisions for the use of services under section 5 in the event of a declared emergency.

Section 6 provides that the Commission for Communications Regulation is required to make available licences both to RTE and other providers in a similar arrangement to that of Section 5 but for digital sound broadcasting. Section 7 provides for ComReg to levy fees by regulation on various broadcasting licences, including multiplex licences.

Section 8 provides that the BCI should run a competition for the awarding of multiplex contracts, both television and radio, which should be publicly advertised. The competition can be initiated by the commission as frequencies become available. Under this provision the BCI has discretion to set the coverage area for any multiplex service and services can include

regional and local digital services. In the context of this section I would be interested in hearing the views of Members on whether there should be a time limit on the initial competition at least, in order to ensure the process is concluded sooner rather than later. Depending on the contribution of Members and the discussion as a whole, we may bring forward amendments if necessary.

Section 9 sets out the criteria to be considered by the BCI when awarding contracts to multiplex contractors and additional criteria can be added at the discretion of the BCI where necessary. Section 10 allows the BCI to set out the terms and conditions for multiplex contracts and also a number of possible terms and conditions to be included. In addition, it provides that the commission may suspend or terminate the contract under certain conditions, that the contractor may pay fees to the commission and that each multiplex contract shall be open to inspection by the public.

Section 11 sets out the provisions to allow consideration by the Minister for Communications, Marine and Natural Resources of a date for analogue switch-off, having consulted with all relevant stakeholders. It provides for the Minister, following consideration of a report from the commission or the authority, or at any stage, to issue a policy direction in this regard.

Sections 12 and 13 give effect to various minor amendments to the 2001 Broadcasting Act with regard to DTT and the new licensing model proposed, in particular electronic programme guides and the application of BCI codes and rules. There may be some technical adjustments to some of these sections on Committee Stage.

Sections 14 and 15 relate to RTE's public service remit, to which I referred earlier. Section 16 provides for an analogue broadcasting licence for TG4 after TG4 is separated from RTE on 1 April 2007. Section 17 provides for the repeal of sections of the Broadcasting Act 2001 so the new alternative licensing regime can apply. Section 18 allows for the Minister's costs in the administration of this Act. The Schedule sets out the sections of the Broadcasting Act 2001 that are repealed by section 17, so the new alternative licensing regime can apply.

Extensive consultation has taken place on the proposed legislation with a wide range of public service and private sector bodies, including the BCI and ComReg. In addition, both ComReg and the BCI will have a role in the issue around the allocation for spectrum for DTT purposes. My Department has also been in communication with the European Commission in the context of analogue switch-off.

The DTT pilot currently being run currently by my Department has provided an opportunity for full engagement with regulators, broadcasters and all other stakeholders on issues concerning DTT roll-out, both for the pilot and in the future. It is planned that this pilot will continue over a two-year timeframe, which started last August, during

which time DTT broadcasts will transmit from the Three Rock site in Dublin and the Clermont Carn site in County Louth. Although digital television is currently available on a number of platforms, such as cable, MMDS and satellite, this is the first time digital television will be available from terrestrial transmitter systems in Ireland.

One of the objectives of the pilot is to introduce the concept of DTT to Ireland and test the feasibility of developing a national DTT platform and the attractiveness of digital services. In addition, the pilot will provide an opportunity to review the impact of the DTT service on users and to consider issues surrounding a progression towards analogue switch-off. The establishment of a DTT pilot stakeholders' group by my Department has provided a forum within which stakeholders can raise and discuss issues associated with the pilot and long-term DTT strategy.

Key discussions were facilitated with a range of public service and commercial broadcasters on the issues arising out of participation in the DTT pilot. This allowed for engagement with set top box manufacturers on the issues relating to assessing and adapting equipment standards for the Irish market. Consultation with other private sector operators has also taken place on a range of technical issues involved in DTT.

The Government will play a key role in informing citizens of changes taking place as a digital switchover is planned and implemented, and of the reasons for these changes. Timely information regarding a switchover date will allow people make better informed decisions when purchasing equipment. All stakeholders will have a role in informing viewers of the likely changes. For the viewer, the reception of DTT will involve limited additional costs as a set-top box will be required to receive DTT signals for each television. However, Irish viewers will benefit from a roll-out of DTT through a greater choice of channels and services available free-to-air.

This Bill presents an opportunity to ensure the Irish public continues to have access to new and improved broadcasting services on a universal and free to air basis. I believe a national DTT platform is a prerequisite for maintaining and developing a vibrant and relevant Irish broadcasting sector, while meeting our commitments to the EU switch-off target date of 2012. Consequently, I commend the Bill to the House.

Mr. Finucane: I am indebted to Cathal Goan of RTE who sent me a briefing document on this matter. I was unfamiliar with a great deal of the terminology used and it gave me a opportunity to familiarise myself with it.

Fine Gael welcomes the Bill, for what it is, and welcomes the opportunity to discuss broadcasting in Ireland generally. The Minister stated a new framework will be established to allow for the licensing of digital terrestrial television, DTT. The Minister also stated this new framework will

[Mr. Finucane.]

amend the existing framework set out in legislation, make it more flexible and allow for consideration of the licensing of digital sound broadcasting services in due course.

The Minister went on to state that building on the experience of the DTT pilot, Ireland will proceed to upgrade the analogue network to a digital terrestrial network. We all support this. Digital means many more television channels, better picture and the provision of high definition and interactive services.

Once DTT is rolled out and viewers swap over to DTT or other digital platforms such as cable, satellite and IPTV, it will be possible to switch off the analogue transmission network. When will all of this happen? Will the Minister give us a guarantee that digital will be rolled out in a set timeframe? What measures will be put in place to ensure no slippage? What infrastructural deficits must be overcome? Where are the bottlenecks?

I am uncertain about subsequent transmission. Will we have another plethora of masts? Will existing masts be piggy-backed, assuming a mast requirement exists? As the Minister and I well know, the mast issue tends to be contentious.

What public education and information process will be put in place to let the public know about DTT? I understand and appreciate the publicity aspect. If we roll it out for operation in 2012 it would be premature to provide information to the public now. However, the public would like to know we are progressing on the digital concept and moving away from analogue. I am interested to learn what information is available to the public on what is happening.

It is gratifying the Bill covers the important area of reaching out to the emigrant population. The way we treated those who, through economic necessity, were forced to leave their country is not something of which we as a nation can be particularly proud. Fine Gael and the Labour Party are committed to implementing the recommendation of the Task Force on Policy Regarding Emigrants. Despite the report being accepted by the Government in August 2002, many key recommendations have not been implemented in full.

The progress made since 2002 has come about largely as a result of pressure from the Opposition parties and various organisations representing the Irish abroad. The task force recommended the provision of €34 million in official government funding for emigrant services by 2005. However, a year after this deadline, only €12 million was provided for 2006, representing slightly more than one third of the amount promised. Fine Gael and the Labour Party are conscious of the generosity of our emigrants during the lean years of the 1950s and 1960s, when they sent home the equivalent of €3.5 billion to assist those left behind. It is about time we expressed our thanks in a tangible form.

We note greater linkages between Irish-born emigrants and their home country was a key recommendation of the report of the Task Force on Policy Regarding Emigrants. The provision of Irish radio and television services to Irish emigrants plays an important role in maintaining such connections. The Minister referred to a decision by a private broadcaster to no longer provide RTE television. Following that decision, RTE TV broadcasts are no longer available to Irish emigrants based in the UK. RTE has an all-Ireland remit to broadcast within the island of Ireland. We support the legislative expansion of this remit to include the UK. This would give Irish emigrants access to domestic programmes.

On a related note, I welcome the decision by RTE to use the long wave 252 frequency to relay RTE Radio 1 to those outside the state. This service replaces the "Atlantic 252" pop music service, launched in the late 1980s to considerable opposition from many who felt the service did nothing to nurture RTE's reputation as a public service broadcaster, providing as it did nothing but pop music and inane chatter all day long.

I take this opportunity to address an important issue for television audiences, namely, the growing trend by digital and satellite broadcasters to impose special pay-per-view charges for specific events, mainly sporting events. This should be guarded against and I would welcome an assurance from the Minister that RTE and other Irish-based broadcasters will not move into this dangerous territory during and after the switch over to digital.

In particular, the Department's woeful failure to secure free-to-air rights for the Ryder Cup comes to mind. Information released last year to my colleague, Deputy Jimmy Deenihan, showed that €15.7 million of taxpayers' money was spent on developing the Ryder Cup project. One would think with this level of investment the Government should have ensured the event was broadcast on free-to-air television. Instead it ensured it was only available on subscription TV, which reduces access to only one in five households in the country.

Legislation was already in place to ensure key sporting events such as the Ryder Cup were made available on free-to-air television. It would have been a simple matter to add the 2006 Ryder Cup to this list. Above all, it would have been in the national interest. It was grossly unfair to the Irish taxpayer who only saw deferred highlights of the event, diluting the excitement and attraction for sports fans who could not afford to pay for the privilege of seeing the event live.

While many people would welcome the developments, it is significant that although every household can get television in one form or another and receive the Irish channels free if they wish, more than 250,000 families have free access only to the Irish channels. This is because they are outside the areas in which free multichannel reception is available, houses cannot be cabled or

they cannot or do not want to pay satellite or cable charges. Most of these viewers do not want to pay future subscriptions to receive what they currently enjoy without additional costs. People want reassurance that during the changeover from analogue to digital they will not face extra costs. They already pay for a TV licence. RTE has plans to ensure this will not happen and will probably follow the example of the BBC in this regard, which I welcome.

This legislation is urgently required. Based on current figures, in two years' time 88,000 families in the Leinster area who receive free multichannel television, including the Irish and UK stations, will be cut off instantly when UK services in the west of England and Wales go digital. A further 115,000 Irish households, including many viewers who receive overspill signal from BBC and TV transmitters in Northern Ireland, will lose free multichannel reception in a stage process as other UK areas are switched off.

In conclusion, I wish the Minister well in this challenge. What is happening is futuristic. I wish the BCI and RTE the best of luck in proceeding in this venture.

Debate adjourned.

Human Rights Issues: Motion.

Mr. Ryan: I move:

That Seanad Éireann

- noting that the members of Seanad Éireann have always condemned the CIA practice of prisoner rendition;
- remembering that in spite of this, Seanad Éireann declined to set up an inquiry into Irish collusion in such rendition;
- welcomes the report of the European Parliament committee set up to inquire into European complicity in such rendition;
- alarmed by the unequivocal criticism of Irish Government practice contained in the report;
- agrees with the findings of the committee that acceptance of diplomatic assurances is an inadequate way to defend human rights;
- regrets the reported failure of the Irish Government satisfactorily to answer all questions put to it by the committee and calls on the Government to comply with the committee's request to set up an Oireachtas investigation into the manner in which the State has dealt with the issue of rendition at domestic, European and international level; and

- pending the outcome of such an investigation calls for an immediate ban on the use of Irish airports and airspace by all CIA aircraft.

This is a well-attended debate, as they say in the local newspapers. I am sorry I must move this motion because there was a developing strong consensus in this country about foreign affairs up to four or five years ago. The period after the collapse of the Soviet Union left a world in which there seemed to be a real possibility that a superior set of ethical and moral values would emerge, not in any sanctimonious way or one that smacked of moral superiority.

Even if we acted as any sensible country would and said that in all choices, the interests of Ireland must come first, we would then hopefully have begun a debate on what the interests of Ireland were. I believe Éamon de Valera first expounded on the matter approximately 70 years ago when he stated the interests of a small country were in stability, international order and an international rule of law. I understood this was our position.

As with everything, including our personal lives, really difficult challenges to our value system determine whether or not we believe in things. Sometimes, the fact that we believe in something does not mean we live up to our standards and we can deviate from them and sometimes use ambiguous language. The experience of the world after the Second World War was that wars achieved very little and mostly did no more than delay an outcome that would otherwise have happened and in the process of delaying it, wreaked considerable human damage.

The second thing I thought we were going to work at was a very strong commitment to end the idea of an international arms trade once and for all. The third thing was that while there might have been a surviving military superpower or, as the French call it, a hyperpower, the ingrained values of democracy in the United States, which the people of that country take for granted, would prevail. They believe they live in the freest country in the world which has always defended freedom, democracy and human rights everywhere in the world. It comes as a shock to many decent Americans to discover the actual record. It is not as bad as others but is far from perfect. This was the context in which we operated and most of us in this country believed in it although we might have disagreed about details.

Something has happened over recent years, which is why this issue comes up again. We experienced the horror of the events of 11 September 2001, which were horrible, but there have been other horrors. It is not to diminish the extraordinary trauma of the American people after those events to say that other people in other states at other times have suffered awful trauma. Aeroplanes have been blown out of the sky by other terrorists. There had been bombings

[Mr. Ryan.]

of public transport in Italy and, I believe, in France before the events of 11 September 2001. The response to the events of 11 September 2001 ought to have been and should continue to be part of a recognition of the need for states to deal with the use of violence as a political weapon via the targeting, directly or irresponsibly, of civilians, which is what terrorism is, in my opinion.

The fundamental value we were defending was the value of freedom. There is no freedom without the rule of law. Freedom is a wonderful concept that people like me advocated in a vague form with a slightly fuzzy head in the 1960s, but it is really only possible under the rule of law. The real tragedy, which is the nub of this notion, concerns how the country that most vigorously claims to be the defender of freedom and the rule of law scandalously abandons this commitment to facilitate the extraction of information by coercion — I believe this word is now used in its draft regulations — but what the rest of us know to be torture, finds willing allies outside the US and possibly within the EU to facilitate this and, in some cases, finds allies outside the EU to organise and carry out the job of torture for it. This is where the entire issue of rendition arose.

To the citizens of Europe, as they have expressed their views through Parliament and the European Parliament, rendition is among the most grossly offensive activities that a country which claims to be governed by civilised principles could practise. It ranks with Abu Ghraib and the extraordinary tolerance of the vulgar abuse of the former Iraqi dictator as he was about to be executed. It is among those things that people see as offensive to the values we stand for and incompatible with them to the extent that no matter how grave the emergency might be perceived to be, it can never be justified.

This is where this issue arose. I give Senator Norris credit for being the first person to raise this issue. He raised it in terms of identified flights and aeroplanes and the times of their passing through Shannon Airport in particular. At the beginning, people in this House simply asked repeatedly for the information that was available to be made known. For at least a year, if not longer, obfuscation from the Department of Transport was the perpetual response. It was only when other investigating agencies outside this State began to assemble irrefutable information that there was a dawning of interest, which was not simply found on this side of the House. Sincere Members on the Government side, whose sincerity I accept, began to see that there was an issue of profound moral importance.

We got to the stage where we agreed on the creation of an all-party committee to investigate the information that was available. I said at that first informal meeting that I wanted an all-party committee on which there was a Government majority because I wanted a report which reflected a consensus of views and because I

believed there was a widely held consensus about the unacceptability of these things. Then the all-party committee disappeared. We discovered the European Parliament, to its credit, had set up a special committee to investigate this issue and its report was published recently. This report was and ought to be an embarrassment to many of the governments of Europe. In defence of our own position, whether by design or by accident, we are not as culpable as others. Nobody was kidnapped on our territory.

Nobody is saying we have a scrap of evidence that any person on the way to or from one of these torture chambers was in an aeroplane that landed in Ireland. Nobody ever suggested that. It would be a great pity if the Minister of State were to devote a significant portion of his speech to the fact there is no evidence, because nobody suggested there was. What we suggested is that aeroplanes that are manifestly linked with these activities were given the full facilities of Shannon Airport. When we knew these aeroplanes were being used for such appalling practices, why did we not attempt to find out if there was forensic evidence proving people had been detained forcibly on those aeroplanes? We claim to believe in the supremacy of the rule of law.

The committee of the European Parliament that investigated the issue released a draft report. The response — mostly from the Government side — was that it was only a draft report and we should await the final report. When the final report was produced it was a poor reflection on many of the countries of Europe and it contained conclusions which are and ought to be an embarrassment to anybody living here. That is unfortunate for a country that used to stand for the highest of principles. The judgment of the committee is that the Government did not co-operate fully with it.

The report stated there was a significant number of flights. Since then the Government has been having fun identifying a couple of flights it claimed could not have been what they were alleged to be. The reason the committee may not have been right about these details is that it was not given enough information in time, in the same way we were refused that information. The information was clouded in confusion.

In another example of confused information, two different versions were given of whether the Garda has the right to search an aeroplane. One version was stated publicly and another privately. Which is true? The Government stated it asked the US authorities if prisoners were transferred through Shannon Airport and they said “No”. All they ever said is that nobody went through Shannon Airport. We then discovered a prisoner in shackles who was a member of the US forces passed through Shannon Airport. We were told that was a mistake.

The Government still chooses to believe the unsubstantiated, non-evidence based assurances of senior members of the US Administration. The

committee of the European Parliament concluded the Government should not rely on diplomatic assurances as these matters were far too serious. It also suggested we should now do what the Human Rights Commission suggested and set up an Oireachtas committee to investigate this matter. If Seanad Éireann had done what we had asked it to do, and what the House originally needed to do, we would not be subject to that criticism now.

The motion simply repeats what has been said in the committee. The amendment is so extraordinary Senator Norris almost got a fit of apoplexy about it on the Order of Business today. Perhaps he was right because it seems to say all manner of extraordinary things. It commends the Government for its full co-operation with the work of the committee, even though the Government has been criticised by the committee for not giving its full co-operation. We now have a situation straight out of "1984" or perhaps "Alice in Wonderland" where the truth is what we say it is. The committee stated the Government did not co-operate but the Government is clapping itself on the back for its co-operation. It is a great pity this motion has to come before the House. It is an even greater pity the good name of a country that has a courageous record of standing up for human rights has been tarnished by the silly ineptitude of a Government trying to curry favour with what is now perhaps the most discredited regime that has presided over the United States in 50 years.

Ms O'Meara: I second the motion. I support every word uttered by my colleague, Deputy Ryan. The report last week of the EU committee has raised again an issue which is a matter of great concern to a large body of the public. While it may not seem like the most pressing issue to some people, it goes to the heart of a matter of fundamental importance, how we conduct ourselves as a sovereign state, especially in terms of how another state gets to use our facilities during a war.

It is notable a survey conducted by Amnesty International and Lansdowne Market Research showed that 76% of respondents thought the Government should be checking US flights through Shannon. This confirms my view that at some level, whether we like it or not, the public does not fully trust or believe assurances from the US Government or diplomatic sources when they state Shannon Airport is not being used for the transportation of prisoners or for rendition purposes.

The use of the word "rendition" is symptomatic of an element of this entire debate, the use of words in a confusing or incorrect way. We are talking about a breach of international human rights law. As my colleague Senator Ryan stated, Ireland has been the proud upholder of democratic values and has sincerely tried to spread the word about democracy around the world. The

effective kidnapping of so-called suspects and their incarceration in Guantanamo Bay in the manner in which they are held undermines the stated value of democracy and offends countries around the world for whom democracy is held sacred, including Ireland.

Ireland and the USA have had an excellent relationship at many levels, political, historical and economic. It pains many people to find themselves in a situation where they are concerned about how the US is conducting itself on this issue, and especially how the Government is conducting itself in this regard. This is an important matter for us as a sovereign State. Many people feel we need to assert ourselves in order that our values are not undermined by our involvement, at whatever level, in the activities of the US Government in the matter of rendition. That is why a parliamentary inquiry on behalf of this sovereign State is so important. It is a pity the initial all-party consensus on this matter and the concerns expressed by Members of this and the other House from all parties was not acted upon but allowed to effectively die on the vine. An Oireachtas inquiry is the best way to restore public confidence in our ability to conduct our affairs on the international stage. If such an inquiry were to take place it could have the effect of allaying public concern on the matter. Let us have an inquiry because what we have at present is suspicion and concern and the element of not knowing.

In response to the publication of the draft EU report the Taoiseach asked last week to be shown the evidence. We cannot be clear on evidence when we do not have a system where our authorities automatically check out what is happening with CIA planes landing at Shannon. We know the Garda has acted on complaints and, as Senator Ryan has said, there has been one incident where a US military officer, under arrest for theft, was transferred by use of military personnel from Kuwait to the US, via Shannon, which was illegal. The ambassador apologised for it but called it a misunderstanding and said that was the reason for it happening. This has been highlighted as an example of what we do not know and what we only find out by accident.

There was also the report, in *The Irish Times* in May 2006, that an aircraft technician saw a detainee shackled to the floor of a US plane at Shannon Airport in 2005. This claim was made by Edward Horgan, a former Army officer and anti-war campaigner, and was based on information he received from a third party. This kind of drip-drip information adds to public concern and the sense that at some level we are willingly used by the US in the matter of CIA flights using Shannon Airport.

I was one of many thousands who protested on more than one occasion at Shannon Airport on the issue of the war against Iraq and, in particular, concern about the use of Shannon Airport for the landing of military aircraft on its way to

[Ms O'Meara.]

Iraq. There is no doubt that concerns still exist among Irish people about the use of Shannon Airport for military flights. That is not precisely the subject matter of the debate today but it is important to implement a ban on CIA aircraft using all Irish airports. This would probably be the most effective way of restoring public confidence alongside a parliamentary investigation. It would be hugely important to act against the background of our long-standing and good relationship with the US. We would also establish our position as a sovereign state in the matter of human rights at home and particularly our concern and commitment to human rights on an international level. We cannot stand idly by and pretend it is not a matter for us. It is a huge issue for us. It is a moral issue as well as a political and human rights issue and is one that can no longer be ignored.

I commend the draft report from the EU. It is no secret that our colleague, Proinsias De Rossa, MEP, has played a major role in drawing up the report and has made a huge contribution to it.

Mr. Dooley: That explains it.

Ms O'Meara: We speak the truth and people do not want to hear it. That kind of response—

An Leas-Chathaoirleach: Will the Senator conclude?

Ms O'Meara: —does not help the debate. Initially we had an all-party approach. This is a matter of major concern to Members across the Houses of the Oireachtas—

Mr. Mooney: That is not true.

Ms O'Meara: —and one in which we can re-establish, by way of all party inquiry, all the facts, not just the myths, and place them in the public domain.

Mr. Mooney: I agree with one premise that has been put forward by the other side of the House on this issue. All of us, without qualification, are concerned at what has been alleged to have happened and what seems to have happened in terms of abductions and kidnappings outside the rule of law. No one of us in this or the other House has a monopoly of concern on the rendition issue.

It is interesting that the theme of the contributions by the proposer and seconder of the motion is that somehow Ireland's reputation as a country that defends human rights has been tarnished. Perhaps I can put something on the record to answer that. The first report that appeared was a Council of Europe parliamentary assembly report, not a European Union one, which did not in any way implicate Ireland directly. It did state that aeroplanes had landed but it did not engage the Irish Government in complicity with rendition.

I commend the report to all Members, including the proposer and seconder of the motion, because it is far superior to the European Union report which followed on as an afterthought, in a turf war between the European Union and the Council of Europe, which implied that the Council of Europe represents only 46 member states across Europe and that the European Union is more important than the Council of Europe. I say that as a proud and privileged member of the Irish delegation.

Last week at the plenary session of the parliamentary assembly I had the honour of being unanimously voted as chairman of the human rights committee of the Council of Europe.

Ms White: Hear, hear.

Mr. Mooney: My strongest supporter and advocate was one Senator Dick Marty, the chairman of the legal affairs committee and the rapporteur who investigated the rendition.

Ms O'Meara: I am delighted to hear it.

Mr. Mooney: The Senator misinterprets what I am saying. In normal circumstances I would be reluctant to flaunt the election to a committee, irrespective of where it was.

Ms White: He is a statesman.

Mr. Mooney: I am putting it on the record in order to answer the specific charge that Ireland's reputation as a defender of human rights is somehow tarnished at international level and within Europe. I am providing an alternative argument that here was a man who was touted and referred to repeatedly by Senators Ryan, Norris and many others in this House. I have no difficulty with that because it was the report that was published at the time. One cannot now turn around and use the argument that somehow Ireland's reputation is tarnished at human rights level when the man who was the rapporteur in that report—

Mr. Norris: For Ireland.

Mr. Mooney: —was one of the strongest supporters. With all due respects I would never interrupt the Senator in anything he has to say.

Mr. Norris: The Senator is welcome to do so.

Mr. Mooney: I would be grateful if the Senator did not interrupt in this instance because this issue is highly charged, evidence of which we witnessed earlier. It is a serious issue.

Mr. Ryan: Let us not include personalities.

Mr. Mooney: I wish to repeat what I said earlier that all of us share the concern here. In my opinion this is not about concern. I believe there is a partisan motive behind all of this—

Mr. Norris: Hear, hear.

Mr. Mooney: —that it is in order to somehow rub the Government's nose in it.

Mr. Ryan: It is all on our side.

Mr. Mooney: I am prepared to accept the word of the elected Minister for Foreign Affairs of this country. He asked a direct question of the Secretary of State of the United States, a friendly country, and was given the answer that nothing illegal was carried out on the sovereign territory of the Republic of Ireland. I accept that simply because that is the way international relations operate between friendly countries.

Notwithstanding that, if there were any specific evidence — and there are now two reports on the matter — to suggest that anything illegal had been carried out on this country's territory, I would support a move by the Government and the Garda Síochána to investigate it and, if necessary, board the aeroplanes that are alleged to have been involved in that illegality. However, no such evidence has been presented to date. It is extraordinary, although probably understandable given that this is a political Chamber, that there would be a suggestion that the Government, regardless of its political hue, representing the people of this country and exercising the sovereign right of this country to make its own decisions internationally, would tolerate or accept any such illegality being conducted if there was even a scintilla of evidence that it was being hoodwinked.

Nevertheless, that argument was weakened to a degree by the incident involving the US marine who was transported through this country to an American stockade to answer for an army crime that had nothing to do with the issue being debated here today. Unfortunately, it has been used as an example of perfidy on the part of the American authorities.

Mr. Ryan: Just indifference. We do not count and we always accept the apology.

Mr. Mooney: The argument is that if they did not tell us about the US marine, they did not tell us about anything else. My confidence in the American assurances was shaken by that incident.

Mr. Ryan: Obviously the Senator got over it.

Mr. Mooney: There is no question that the Americans were wrong on that occasion, and the Irish Government took the appropriate steps. The US Ambassador was summoned by the Minister for Foreign Affairs and he was told that it was unacceptable behaviour. I believe the Americans understood our position with regard to that incident.

An Leas-Chathaoirleach: The Senator has one minute left.

Mr. Mooney: It is unfair to single out the Minister for Foreign Affairs in this motion and to state that he has been hiding evidence or hiding the truth. I have the greatest respect for Proinsias de Rossa, who is the president of the Labour Party and a former distinguished Minister.

Mr. Ryan: He is not the president. Deputy Michael D. Higgins is the president of the Labour Party.

Mr. Mooney: Forgive me. He is a former president of the party. He also has a distinguished record in Europe. However, I understand he was the only member of that committee to put forward a proposal that Ireland be singled out with regard to this issue. That is wrong.

Mr. Ryan: Senator Mooney is wrong.

Mr. Mooney: In the same context, the fact that the Minister for Foreign Affairs called for a review of the relevant civil aviation legislation, the Chicago Convention, was ignored. The reason he sought this was not just because of the developments in civil aviation since the conclusion of the convention in 1944 but because the convention currently only applies to military, police and customs aircraft transported a country.

Most of the CIA aircraft are privately owned and privately hired. There were 147 flights.

An Leas-Chathaoirleach: The Senator is in injury time.

Mr. Mooney: Perhaps I could have a few extra seconds while the substitute is changing.

Any rational examination of the manner in which international affairs are carried out at diplomatic level will show that Government Ministers use Government jets and official carriers. Business at international level is now conducted by aeroplane. There is no suggestion that the 147 CIA owned flights were associated with rendition. They were most likely associated with diplomats and many other people—

Mr. Norris: Rubbish.

Mr. Mooney: That is the stated fact.

Mr. Norris: It has been proved that several of them were refuelled on their way back from rendition.

An Leas-Chathaoirleach: Senator Norris should allow Senator Mooney to conclude without interruption.

Mr. Mooney: Not all these flights.

Mr. Norris: I am trying to tell the truth.

Mr. Mooney: It is incorrect and mischievous to bundle all 147 flights together and claim that they

[Mr. Mooney.]

were operating in an illegal fashion on this country's territory. It is damaging to this country's interests to suggest it.

Mr. Bradford: I support the motion. If we had continued with our efforts 12 months ago to establish the Oireachtas committee, it might not have been necessary to debate this motion today. The questions posed would already have been answered, the investigations would have taken place and we would have been in a position to satisfy public opinion. Senator Ryan and Senator O'Meara outlined the background regarding the committee that was proposed last year. At that time it appeared to be fully supported by all sides of the House and preliminary meetings had taken place. Some of the Fianna Fáil Senators are indicating otherwise but the Fianna Fáil Party was represented on the committee, as was the Labour Party, Fine Gael and the Technical Group.

We were disappointed that the committee could not get its work under way. Fundamental questions were asked at that time but in the 12 months since then they have remained unanswered. Unanswered questions mean there are no winners. This country has not benefited, the United States has not benefited and the broader issue of civil and human rights has not benefited.

Extraordinary rendition is a serious issue. It challenges us to take a stand on a matter of principle, that is, people's rights. Earlier today there were expressions of sympathy on the death of a former Member of this House, Judge Sean O'Leary. He was prepared to ask the difficult questions and take the difficult stance in defence of rights. That is the issue before the House in this debate.

There is serious evidence to suggest that Irish airspace and at least one Irish airport have been used for rendition flights. Some months ago, I listened with interest to a report on the matter at the Council of Europe. The report was not conclusive but it posed many questions which have not been answered. We now have the European Parliament report. It is not fair to focus on one Member of the European Parliament and suggest that he attempted to secure a certain type of report. The report was by a European Parliament committee comprising all the groups in the European Parliament. The report poses serious questions for this country.

Extraordinary rendition is taking place. The question is whether Ireland is facilitating it and whether Irish airspace and airports are being used. There will be no winners from the dreadful practice of extraordinary rendition in the long run. Unfortunately, over recent years the reputation and the level of admiration across the world for the United States have diminished. One or two generations ago the United States was seen as the greatest promoter and defender of human and civil rights. Whether it was during the

Second World War or the Cold War, one could state without challenge that the United States defended and promoted civil and human rights. However, as a result of practices such as extraordinary rendition and the ongoing situation in Iraq, that is now questionable.

We are not doing the United States a favour by leaving questions unanswered and by failing to challenge the US Administration on this issue. The Government amendment to the motion is long on paragraphs but I am not sure what it hopes to achieve. It refers to the responses received from the US authorities and the Government's satisfaction with those responses. However, questions still remain to be answered.

The Opposition would be remiss in its duty if it did not pose those questions. Asking those questions was to be at the core of the proposed work of last year's committee of the House, as was challenging any assumptions put forward, finding out the truth of the situation and dealing with the rumours and counter-rumours. At this late stage in the life of the current Government and Oireachtas, there will not be a change of policy by the current Administration. This is disappointing because the worries and concerns of members of all parties still exist. The Government amendment to the motion and the recent statements by the Minister do not offer full and clear answers to the questions being posed.

As Members of the Oireachtas we in this House have a duty to continue with our efforts to inquire into the possibility or otherwise of rendition flights taking place and using Irish facilities. We must challenge this possibility at all levels.

The Garda Síochána and the civil authorities must be more proactive. It is not the job of this House or the Oireachtas to direct the Garda Síochána but we must send a strong signal that we expect the security forces in case of any doubt to investigate these flights and that on-the-spot checks will be carried out wherever and whenever possible. This would at least answer some of the questions and bring some degree of clarity.

Looking at the European Parliament report, which is quite conclusive, and the Council of Europe report, which is admittedly less conclusive, one cannot escape from the fact that issues remain to be addressed. We cannot as yet state with complete certainty that Ireland is not aiding and abetting in this extraordinary rendition system. Notwithstanding public cynicism, politics at times takes on a moral purpose. We must look at this issue from a moral perspective. Extraordinary rendition is as cruel and as wrong as any type of torture taking place. It is suspected that it leads to people being grossly mistreated. In both the long and the short term it is entirely counter-productive.

In the case of the Middle East, apparent tough action is being taken from the perspective of security. Human rights are being trampled upon and people's civil rights are being breached but

the policy has produced nothing but bad results. It has not reduced the incidence of violence but rather has caused further violence. It has not resulted in stability but rather has caused complete instability. Extraordinary rendition is part of that jigsaw of measures which has caused today's world to be a much more dangerous place, especially in the Middle East and even parts of western Europe.

Ireland is a democratic country with an independent voice which was heard loud and clear on many occasions both at the United Nations and the European Union. We should not be afraid to have a clear position on the issue of extraordinary rendition. There should be no reason to support it and no room for doubting our position. The Labour Party motion is quite balanced and it poses the questions we all wanted to ask 12 months ago and to which answers are still required.

Dr. Mansergh: I welcome the Minister of State and his officials to the House. I was quite interested in the Fine Gael contribution. Are we to conclude from it that a Fine Gael-led Government would forthwith ban the use of Shannon Airport by certain categories of US aircraft? It would be important to know the answer to this question.

I do not see any difference between the sides of the House on the substance of the question of extraordinary rendition and holding centres such as Guantanamo and the type of practices carried out at Abu Ghraib. The Government and the Members on this side of the House deplore those practices and look forward to actions that are strictly consistent with the international rule of law.

Senator Ryan in his contribution stated that nobody was alleging that rendition had taken place through Shannon Airport but this argument was rather weakened by his subsequent statements in which he referred to relying on unsubstantiated, unevidenced assurances. His colleague, Senator O'Meara stated that the Irish public neither trusted nor believed the assurances. The Minister for Foreign Affairs was given categorical assurances by the US Secretary of State and this side of the House accepts those assurances. It would be very dangerous to act on a basis which suggested that we were calling into question the good faith of the US Government at the highest level.

I note the motion proposes that we should bring in an immediate ban first and investigate afterwards. I am not sure what an investigation could achieve and what more information is likely to be available to a committee of the House. With all due respect to the European Parliament, it is up to this Parliament to order its business and not to be told by another assembly what committees we should or should not establish.

I note Senator O'Meara's confirmation of the very important role played by a former president

of the Labour Party and former leader of Democratic Left and The Workers' Party, Proinsias De Rossa. He is somebody I admire in many respects but whose career has certainly been marked by a very strong streak of anti-Americanism. It is clear there was an attempt to use the European Parliament in an effort to embarrass the Irish Government.

Reference was made to a discredited regime with reference to the Bush Administration. I noted with considerable interest a newsletter circulated recently and presumably for electoral purposes by the mover of this motion, Senator Ryan. It contained a photograph of himself and President Fidel Castro.

Mr. Norris: What is wrong with that?

An Leas-Chathaoirleach: Senator Mansergh without interruption.

Dr. Mansergh: I find it extraordinary that someone who is so concerned about empty aircraft going through Shannon Airport, does not seem to have the same concern for a 45-year old—

Ms White: It is a dictatorship.

Dr. Mansergh: —Communist dictatorship which carried out thousands of executions in the early years and executions in 2003 of people trying to flee to the United States—

Mr. Norris: What about those who placed bombs on a commercial airliner with the assistance of the CIA?

Dr. Mansergh: —which was condemned by Amnesty International and writers on Latin America.

Mr. Norris: Did the Senator prefer Batista and the barons of the drug cartels?

Dr. Mansergh: While I do not doubt the idealism of Senator Ryan, a strand in the European left is blind when it comes to the question of double standards. I am shocked the Senator would be pictured with the leader of a discredited regime which is holding back the country over which it rules. It is almost as if we would prefer a socialist dictator who offers no chance of democratic change to a capitalist democrat who will, without question, leave office in January 2009.

Mr. Norris: President Bush will probably be impeached before that date.

I welcome this debate and commend the Labour Party for tabling the motion; it has done the House a service. I have been involved in this area for some time, having proposed the establishment of a committee of inquiry into renditions. Although my proposal was agreed in the

[Mr. Norris.]

House, it was later sabotaged in a most astonishing and regrettable manner.

It is worth pointing out that it was I who reported matters to the Garda Commissioner. As a result, two senior officers were sent to meet me. I brought Deputy Michael D. Higgins of the Labour Party with me to the meeting as a witness. The officers flatly contradicted statements by the Minister for Foreign Affairs, Deputy Dermot Ahern, about the right to enter aircraft. It is precisely to investigate in this jurisdiction conflicts of evidence of this kind that such a committee should be established. It would also enable us to amend the law if necessary.

When it emerged that the Minister would appear before the committee of investigation established by the European Parliament I wrote a letter to its chairman enclosing correspondence between myself and the Department of the Foreign Affairs and reports of the House. I indicated that I hoped the documentation would enable the committee to prevent the Minister for Foreign Affairs from claiming he was unaware of what was taking place because I and Members of the Other House had ensured the Government was aware of what was taking place.

The Minister of State, Deputy Treacy, should note remarks I made on the Order of Business regarding the amendment, which I described as a disgrace. I also noted it was not written by the Leader, in whose name it had appeared on the Order Paper. I hope images of her nodding vigorously when I described it as a tissue of lies, evasion and hypocrisy will be shown on television. At least Senator O'Rourke has a few standards and some decency.

I will explain the reason I described the amendment in those terms. The second paragraph states that the Government responded urgently from the outset to allegations of extraordinary rendition. That is a downright lie. The Government equivocated and avoided answering questions. The fourth paragraph states the Government co-operated to the very fullest extent with the investigation carried by the European Parliament's temporary committee. It did not do so. For God's sake, on what planet are we living? Co-operation only occurs when both sides agree it occurred. The TDIP committee's report makes perfectly clear that the Minister did not co-operate, refused to answer questions and answered questions he was not asked. The Government engaged in a stalling exercise throughout, yet this lying motion blandly states it co-operated fully. Let us at least have the truth.

The fifth paragraph states that contrary to the apparent misconception of the TDIP committee, it is not for the Government to direct the work of the Oireachtas. Of course it is for the Government to do so. This debate is a classic of how this is done and I should not have to tell Ministers that the Government directs the Oireachtas. While the Houses may have an appearance of

independence, every vote is directed. It cannot be denied, for example, that the committee democratically instituted in this House was collapsed by a division directed by Government in which Senators voted against their consciences because they were whipped.

Dr. Mansergh: The House did not agree to the committee.

Mr. Norris: It is a disgrace to commend the Government for its full co-operation. The amendment also expresses serious concern about the "opaque manner" in which the TDIP committee reached an inflated figure of suspicious aircraft and commends the Government for its policy of early and proactive engagement with the US authorities. What rubbish.

Condoleeza Rice is a busted flush and liar, as is George Bush. I have never been stopped from describing them as such in the House. These words have also been used in the British Parliament and Congress in Washington, while American citizens have stood outside the White House in recent days with banners emblazoned with the same words. The reason is that Ms Rice and President Bush are liars, and with poll ratings of 28% President Bush is a busted flush. This is a man who wanted to legitimise torture. The reason his Administration regards torture as legal is that Ms Condoleeza Rice, if she is a woman, stated during the bloodbath in Lebanon that what we were witnessing was the birth pangs—

Dr. Mansergh: Could we avoid raising questions of sexual identity?

Mr. Norris: If the Senator is intelligent enough to listen, instead of smirking and giggling, I will explain. The reason I call into question Condoleeza Rice's intellectual or emotional gender identity was her description of the bloodbath unleashed by the Americans and Israelis in Lebanon as the birth pangs of democracy. I reserve the right to question the fundamental humanity and decency of a person who would use such a phrase to describe the catastrophe unleashed in Lebanon. If Senators believe Condoleeza Rice they are very foolish.

How are we anti-American when we are on the same side as the American people and Congress? The fools on the other side have aligned themselves with a discredited element in one of the worst governments the United States has ever had and its worst ever presidency. The introduction of the TDIP committee's report states that the prohibition of torture is a peremptory norm of international law — *jus cogens* — from which no derogation is possible. Again and again, the current United States Administration has defended torture and techniques such as waterboarding perfected by the Gestapo.

The Government's position is that there is no evidence that rendition took place through

Ireland. I would like the Minister and Senators on the other side to admit that it has been proved incontrovertibly that aeroplanes, which were known and numbered and whose records I have placed on the record of the House, passed through Irish airspace. These aircraft, for example, an aeroplane with the registration number N379P, were associated with rendition and nothing else. When we named and shamed it the registration was changed. These aeroplanes were refuelled in Shannon Airport as they returned directly from rendition. Is this not assistance? Are Senators on the other side speaking English? Are they capable of moral feeling? It disgusts me that the motion should be amended in such an insupportable and disgraceful manner.

The TDIP committee's findings as regards Ireland are very clear and attempts to turn the debate on them into some petty, parochial, cabbage patch row are disingenuous in the extreme. Do the Senators opposite seriously believe that Proinsias De Rossa is running the European Parliament? A majority was achieved in a democratic assembly and all the Government side can find is some obscure republican plot, which ill comes from the Senators opposite. The committee called on the Irish Government to institute a parliamentary inquiry. Such an inquiry was established but destroyed for the most petty and parochial of reasons.

We know torture is taking place and that the Americans approve of it. We also know the United States Supreme Court is blenching at this moral obliquity. We know of the appalling conditions in the Abu Ghraib and Guantanamo Bay prison camps. We now know, thanks to the investigative reporters of the BBC, the locations of the black sites — the denied torture camps — in Poland. I have a document detailing names, dates and places, which I will send to the Minister. It transpires that our own friendly, executive jet, N379P, turns up again at this named but unpronounceable airport in Poland. What does the Minister of State have to say about that? We know about torture. A report in *The Irish Times* today indicates that torture is endemic in Jordan. King Abdullah is a decent and honourable man. He has tried to get some of these prisons closed down but the situation is endemic. The Americans used us as an assistant in the outsourcing of torture, which is to our eternal shame. Part of the argument was that jobs at Shannon Airport were more important than standards. What a lamentable and stupid idea. I voted against the beef deals in Iraq and I was told from the Government side of the House that while I was saying the moral thing, we could not afford it. We did not do it but we got stung because we were still owed €100 million. We did the lousy thing and got stung, and we are doing it again now. We are also doing it with China because the smell of money is so rich in the nostrils in the people who are running this country. It is a profound disgrace.

There are decent people on the Government side of the House who share the same ideas, but they are whipped into line and that is why this report is right. The Government is running this House, telling people of conscience what to do and how to vote. It is a pity they do not have the guts to remember their own alleged republicanism.

Minister of State at the Department of Foreign Affairs (Mr. Treacy): I welcome the opportunity to address the Seanad once again on this issue and I encourage Senators to support the proposed amendment. As the House will recall, on two previous occasions last year, in March and again in June, I had the privilege of addressing Seanad Éireann on the subject of extraordinary rendition. The debate has progressed considerably since then to the extent that no credible voice is any longer suggesting that prisoners have been brought through Irish airports.

Mr. Norris: No one ever did.

Mr. Treacy: Yes, the Senator did.

Mr. Norris: That is more of the evasion and the lies.

An Leas-Chathaoirleach: The Minister of State without interruption.

Mr. Treacy: I am almost overcome by the ginormous verbosity of the Senator's pompous wisdom, describing us as fools smelling money in our nostrils.

Mr. Norris: The Minister of State should be writing *Finnegans Wake*.

Mr. Treacy: I have heard of nobody in this House who is not anxious to draw their monthly salary, or anybody on this island who is not anxious to be gainfully employed. Why should they not be? If the wisdom and leadership of this party in co-operation with our colleagues in the Progressive Democrats continue to allow the nation to grow an economy that creates an opportunity for our people's intellectual talent to be continuously engaged in developing the nation, then why should we not be interested in the wellbeing of our people? What is wrong with that? I take exception to——

Mr. Norris: Will the Leas-Chathaoirleach ask the Minister of State what question he is replying to because I do not have the faintest idea?

Mr. Treacy: I am replying to the insinuation by the Senator that he believes this side of the House does not have the ability to continue to lead this nation in the interests of all our people, for the common good and global welfare, including the European Union.

Mr. Norris: That is rubbish. I said he was selling out to torturers and that is what he has done.

Mr. Ryan: We know he is not up to the job.

Mr. Norris: He is a decent man but he has been stuck in like a patsy.

Mr. Treacy: God help the nation if those got the job.

The investigations carried out by the Council of Europe, the European Parliament and in special cases by An Garda Síochána, have uncovered absolutely no evidence to suggest prisoners might have been transferred, through Irish airports, in contravention of the categorical assurances, which we have received from the US authorities, in this area.

Mr. Norris: Having committed these appalling acts, the jets were refuelled with the connivance of the Irish authorities.

An Leas-Chathaoirleach: The Minister of State without interruption.

Mr. Treacy: Notwithstanding this, our Government has continued its proactive approach to this matter. I will begin by outlining the Government's position in this area. I will then address the recent report by the European Parliament's temporary committee investigating extraordinary rendition and, finally, I will describe to Senators some of the forward looking proposals that have been made by our Government in respect of this matter. At the outset, however, I wish to reiterate once again, the Government's complete opposition to the practice of extraordinary rendition.

Mr. Norris: While it facilitates it.

Mr. Treacy: This has been our Government's constant position since the existence of this practice was first revealed. This has been made clear to the US authorities on numerous occasions, including at the very highest levels. I welcome the finding implicit in the report of the TDIP committee that no prisoners were transferred through Irish territory, which thereby vindicates the Government's policy of early and proactive engagement with the US authorities on the matter, and full co-operation with the Europe-wide investigations of both the Council of Europe — to which Senator Mooney has already alluded — and the European Parliament. In furtherance of this policy, my colleague, the Minister for Foreign Affairs, Deputy Dermot Ahern, was one of only two foreign ministers of 27 member states, to agree to attend the European Parliament committee's proceedings. We welcome the warm acknowledgement of his presence contained in the European Parliament committee's report. The Minister was the first to raise the issue bilaterally with the US, and got a clear categorical assurance from it that no extraordinary rendition

had taken place through Ireland. He was the first to raise the matter at EU level, following which the President of the Council formally took up the issue with the US authorities. He was also the first to call for the reform of the Chicago convention.

From the outset, this Government's clear and consistent objective has been to ensure Irish territory is not used for the illegal transfer of prisoners in this manner. Since 2004 when the first allegations were made, thanks to the swift, decisive action of our Government, we have been in an unparalleled position with respect to the unqualified, categorical assurances that we have received from the US authorities on this matter, both in terms of their specificity and of the level at which they were given. Senators will recall that the United States authorities have not issued similar blanket assurances to most other member states.

Some have asked the reason the Government does not introduce a policy of random searches of aircraft through Irish territory, but this would be only a cosmetic exercise. In Ireland's case, I understand from our Department of Transport that, depending on the season, there are between 750 and 1,750 movements of private aircraft through Irish airports each month. Among these aircraft, those said to have been involved in extraordinary rendition missions, have been identified only months or even years after they have participated in these missions. Their registration numbers have often been changed.

Mr. Norris: That should tell the Minister of State something.

Mr. Treacy: Moreover, it seems they are chartered only temporarily by the CIA and are then returned to their owners for normal aviation purposes. Even if by chance, an aircraft involved in illegal activity elsewhere were to be searched, what would such a search reveal? I repeat that gardaí have all the powers they need to search aircraft which they suspect of being used for illegal purposes. There have been Garda investigations, none of which has uncovered any wrongdoing.

I wish to turn now to the European Parliament committee report that prompted the original motion for this debate. The Senators who moved the motion have picked out two of the report's suggestions, which I will address in a moment. Before doing so, however, I would like to speak briefly on the report in general. As I have already mentioned, we welcome the finding implicit in the report that prisoners have not been transferred through Irish territory, in keeping with the categorical assurances that we have received from the US authorities. However, it is a matter of profound regret that certain members of the European Parliament's committee, acting for partisan reasons, squandered the opportunity to produce a forward-looking document, which focused on the

changes that need to be made in future. These include the regulation of international civil aviation, as suggested by the Minister for Foreign Affairs during his exchange of views with the committee. They have instead used the report to score political points in a manner which undermines the credibility and accuracy of the final report. This is both disappointing and regrettable.

One can pick many holes in the report and I do not propose to go through a line-by-line rebuttal of each of its many questionable points. However, I will pick out a number of items which I cannot allow to go unanswered. The first of these is the inflated figure — to which colleagues have already referred — of 147 allegedly suspicious landings of aircraft in Ireland. As the amended motion records, the committee *rapporteur's* method of obtaining this figure is highly opaque. We do know that his analysis includes any aircraft said to have been used in any extraordinary rendition missions on different occasions, aircraft which have landed at airports in “suspicious” countries, and aircraft previously believed to have been suspicious and which have been re-registered. Notwithstanding the clear evidence unearthed by his own committee, which shows that the CIA operates aircraft for only a brief period before returning them to normal use, the *rapporteur* adopted a “once used, forever tainted” approach to identifying aircraft. This had the advantage from the *rapporteur's* perspective of delivering headline-grabbing figures, but its flaws undermine the credibility of the entire European Parliament process.

My last intervention on this matter in this House was made just after Senator Marty of the Council of Europe had published his report on the matter. It is worth quoting Senator Marty when he warns in that report, “We undermine our credibility and limit the possibility for serious discussion if we make allegations that are ambiguous, exaggerated or unsubstantiated.” Mr. Simon Coveney, MEP made this very point during the Minister for Foreign Affairs’s appearance. Regrettably, the report of European Parliament committee does just this.

In addition to our doubts about the report’s landing statistics, I would highlight its call for a ban on all CIA aircraft landing in Ireland, which we see echoed in tonight’s original motion. This proposed ban is extraordinary for two reasons. First, Ireland is the only country in the report in regard to which such a ban is called for, so that such aircraft could, according to the terms of the report, land in Scotland, England or elsewhere instead. This bizarre situation is explained by the fact the ban call results from an amendment tabled by an Irish MEP whose goal would appear to have been more to make political charges than to use his privileged position to examine ways of preventing this practice. Second and more seriously, the call for an absolute ban on landings by CIA-operated aircraft here is based on the illegitimate assumption that all CIA-operated

flights are inherently sinister. Again, in his findings last summer, Senator Marty emphasised that “not all flights of CIA aircraft participate in ‘renditions’”, and he has acknowledged on other occasions that only a tiny minority of such flights might be engaged in such a practice.

There are many legitimate reasons for international co-operation in intelligence matters. The report’s suggestion that all such co-operation by Ireland should be cancelled because of a risk of extraordinary rendition, which it in any event recognises does not occur through Ireland, is ludicrous. I urge Senators to think very carefully before supporting a motion which contains such a fundamentally flawed proposal.

The second of the report’s proposals that is picked up in tonight’s motion is the suggestion that the Oireachtas launch a parliamentary investigation into the use of Irish territory in this matter. In response, I recall that Seanad Éireann has twice voted not to establish such a committee. With all due respect to the European Parliament, Senators were not waiting for an invitation from that body to establish an investigation. Rather, having considered the matter twice in the past year, and having evaluated the paucity of evidence to support establishing such a committee, they decided not to do so.

Mr. Ryan: Rubbish.

Mr. Treacy: I would make one final point in regard to the report. Given the Minister’s preparedness to support the work of the European Parliament committee — as I said, only one other Minister attended — I find extraordinary the report’s erroneous suggestion that the Minister, Deputy Dermot Ahern, failed to answer questions put to him. The transcript of the Minister’s meeting with the European Parliament committee, which lasted almost two hours, is available on the European Parliament’s website. It is plain that the Minister was entirely open in his exchanges with the committee. The suggestion that he was not is both discourteous and inaccurate, and absolutely unfair to him as a representative of a sovereign Government.

As I stated at the beginning of my address, it is a matter of some regret that the report produced by the European Parliament’s committee expends so much effort on examining events in the past at the expense of suggesting concrete ways in which instances of extraordinary rendition can be prevented from occurring in the future. In the course of his meeting with the European Parliament, the Minister focused in particular on the potential benefits that might accrue from a review of the system of regulating international aviation. He suggested consideration be given to examining the Chicago Convention of 1944, in particular to considering the system of classification of flights for clearance and notification under the convention. Nowhere does this relatively straightforward but poten-

[Mr. Treacy.]

tially beneficial suggestion appear in the European Parliament committee's report. This is a pity because it is clear that for any future action in this area to be effective, it will need to be taken at a European level. The Government has decided to seek to encourage discussion in the Council framework and our permanent representation in Brussels will in the coming weeks raise the matter with our EU partners.

Another aspect of this matter is the Government's dialogue with the Irish Human Rights Commission, IHRC, on the issue of Ireland's human rights obligations. The Government is satisfied it is fully in compliance with its obligations under international law and has made this clear to the IHRC in the course of an extensive and detailed correspondence on the international law issues between the Minister for Foreign Affairs and the IHRC. In the most recent letter from the Minister for Foreign Affairs to the president of the IHRC, dated 25 July 2006, the Minister suggested the possibility of continuing the dialogue at official level. The IHRC last week signalled its openness to this suggestion and our Department has suggested a range of possible dates for these meetings.

To conclude, the Government's consistent and long-standing position on the issue of extraordinary rendition is absolutely clear. We condemn it, we do not facilitate it, and, looking to the future, we are willing to examine practicable and specific ways in which, with our partners, we can lessen the possibility that future cases of extraordinary rendition might occur anywhere. That the European Parliament committee's report as it relates to Ireland is so unbalanced is of course a matter for regret. So also is its lack of practical suggestions for ways of preventing future occurrences of extraordinary rendition. However, the very fact of the European Parliament's conducting an investigation has helped to raise the profile of this issue, which in itself is positive.

Turning to tonight's debate, the Seanad is faced with a flawed motion based on a flawed report. I cannot commend it to this House. Rather, I urge Senators to lend their support to the practical, balanced and forward-looking counter-motion and, for a third time in almost a year, to act in accordance with their proud tradition of rational, evidence-based analysis of the issues before them. I know I can depend on the House to do that.

Dr. Henry: I welcome the Minister of State to the House and was glad to hear his interesting speech. While no credible voice has been brought forward to suggest prisoners have been brought through Irish airports, there is considerable evidence that aeroplanes which were used for transporting such prisoners have been here, which is a problem because it means we are part of the process. We know torture has been carried out in Jordan, Syria and Egypt and possibly in other

countries where these planes have visited before or after landing in Ireland. Nobody has been in a position to state whether prisoners were on the flights because none of the planes was inspected, even though the authorities could inspect the planes if they wanted to. It is fine to be able to state we were given assurances at the highest level of authority that this is not happening but an open invitation to inspect the planes by these high authorities would have been extremely useful. That does not appear to have been forthcoming.

I first raised this matter in the House on 23 June 2004 when speaking on the Transfer of Execution of Sentences Bill 2003. I asked the Minister for Justice, Equality and Law Reform what would be the situation if untried and un-sentenced people were being brought through Shannon to goodness knows where. He replied:

We have our Constitution and the right of the freedom of the individual is not confined to citizens; it applies to all persons. Therefore, it would cause me grave concern if I thought people were being smuggled through Irish territory in circumstances that amounted to unlawful detention in Irish law or in international law for that matter.

I accept it has not been shown that prisoners are being brought through Shannon but, if we accept the flight numbers given and that the planes are involved in the process of extraordinary rendition, the logistics are being aided.

It is interesting that we do not have a greater sense of self-preservation in this regard. We know great anger is caused in the Muslim world by any idea that people may be associated with extraordinary rendition. I heard the Minister for Education and Science, when in Saudi Arabia, quite rightly welcome that the King Abdullah scholarships are to be extended to Ireland — we hope to have 500 Sunni students come here in the near future to study in our universities. We already have a considerable number of people from that part of the world and have had an extraordinarily good relationship with that region. This is not just through trade or selling beef to Saddam's army and so forth. For decades, people from that part of the world have come here to study medicine, engineering and in scientific areas. I would regret very much if we did not make plain to them that we understand their concerns about what is happening. We have not asked them what they think about the situation. I welcome the fact that the Minister for Foreign Affairs, Deputy Dermot Ahern, is currently on a tour of the area and I hope he asks both sides how they feel about the matter. I was glad the Minister attended the proceedings of the European Parliament committee. It was right to do so because we must show that we consider what we are doing correct.

On this issue, it seems it is on the views of one party, the United States of America, that we rely. It is not the Irish people alone who are interested

in the issue. I suggest people in the Middle East and in countries such as Sweden and Italy, from where people have been abducted to be brought to third countries for torture, are also interested. I would be glad to be informed of their views on the matter.

Mr. Dooley: I wish to share my time with Senator Ormonde.

I welcome the Minister of State and the information he has provided. I also welcome the publication of the report we are discussing today.

I have spoken on this issue many times in the House where there has been a certain level of rancour in the debate. However, the debate has been worthwhile. Everybody approaches the issue in terms of what is important to him or her, but there is commonality in the fact that people are agreed on their opposition to extraordinary rendition. Nobody has indicated differently in any of the debates.

One important issue missed in the report — it was touched on by the Minister of State — concerns how we should deal with the issue of rendition. The report appears to single out the Government for blame, but I will not take that route. I will not get into an argument about whether the blame lies with Proinsias de Rossa, MEP, the Labour Party or a certain left agenda in Europe. I presume anybody involved in producing these reports goes to the table with his or her own views on life and on how such issues should be thrashed out, but I am sure it is done in an upfront manner. It is important to move away from the blame game. It is more important to decide how we can deal with the issue of rendition, on the role of the CIA in the situation and how the rule of law can be protected.

The report suggests banning CIA flights through Ireland. I have no doubt the majority of CIA flights through Ireland have beneficial purposes. In debate on extraordinary rendition, we often lose sight of the fact that the CIA provides a service that benefits all of us. This does not mean I support all its actions, but I sleep easier in my bed at night, as do many citizens of the world, as a result of the intelligence gathering of the agency.

Another myth with regard to this issue is illustrated by the term “anti-Americanism”. I am not sure the sentiments expressed are always anti-American, but there is certainly an anti-Bush, anti-Administration or anti-Republican Party agenda. It is worth noting the change in the focus of the CIA took place in 1995 when there was a greater level of spend into the agency and greater recognition by the Administration of the time of the lack of quality information that would allow it make decisions that would protect not alone the United States, but also other countries in Europe. Strangely enough, it was the Democratic Clinton Administration that was in power at the time. The shift in CIA policy had its genesis then, which is something worth considering by those

who refer in derogatory terms to the Bush Administration as the author of this type of practice. They should note that it started in a previous Administration and has been continued by the Bush Administration. I do not wish to defend the Bush Administration, but just wish to make the point for this debate.

I am also concerned that every time we debate the issue, Shannon is drawn into the net. The Minister of State addressed that matter. The debate has moved from the point where people mentioned here that they had heard on the radio that prisoners in shackles were being brought through Shannon Airport. It is now accepted that was not the case. We should move to a higher level of debate and move away from mentioning specific airports. Let us leave the people of Shannon in peace.

We should also remove from the debate the suggestion that Fianna Fáil is only concerned with the protection of Shannon Airport. That is not the case. We are not prepared to sacrifice human rights for jobs at Shannon Airport and that has never been at the core of our debate.

Ms Ormonde: I welcome the Minister of State. Listening to this debate is like listening to a record player because it has been repeatedly pointed out by the Minister of State and other speakers that the Government is completely opposed to the practice of extraordinary rendition and would never allow it. The Government’s position stands as fact. We cannot deviate from the fact that the Government made its concerns known to the highest level of the US Government and we were reassured that no attempts were made to use Irish airports or territory for the purpose of transferring and transporting prisoners. The US has stated authoritatively that prisoners have not been transferred through Irish territory. I accept that assurance and will not try to dig holes in it. Comprehensive, factual assurances were given through the ambassador and they are not open to other interpretations.

Some questions were raised by the Secretary General of the Council of Europe, Mr. Terry Davis — I am a member of the Irish delegation to the Council. Mr. Davis stated that our response did not need further clarification. I will not challenge that statement; why would I? The Government’s response set out clearly the legal situation here with regard to illegal deprivation of liberty and the role of the Garda and other authorities in preventing such deprivation and investigating irrelevant allegations. The Garda Síochána has investigated six complaints by the public related to extraordinary rendition, but found no unlawful activity occurred. The Garda is ready to investigate any further allegations where there are grounds to suspect such activity.

I note the rapporteur’s report and the statement that aircraft associated with the CIA have passed through Ireland on 147 occasions. Were

[Ms Ormonde.]

not people busy counting to get the figure right? Despite investigation, political and media activity and NGO scrutiny, not a shred of evidence has shown extraordinary rendition took place through Irish airports and territory. The Government has made it clear that should any evidence of such activity on our territory be found, the legal remedies would be put in place immediately.

I will uphold human rights, and I would be the first to take issue with prisoners being transported in order to be subject to torture while deprived of their liberty. I could not stand by; nor would the Government do so. I do not know why we are wrangling about this issue, since we are all singing the same tune. I suspect that there is something else behind tonight's agenda. This has been brought up time and again, and I accept the Government's reply and the statement of the Minister for Foreign Affairs, Deputy Dermot Ahern. He travelled to Europe and took on the committee. I accept that he was ready and able to discuss this and provide reassurances.

I am happy to support the amendment, but that does not stop me from saying that we must be extremely vigilant to ensure that it not happen in future.

Mr. Daly: I too support the amendment and express our appreciation for the presence of the Minister of State. As he said, it is not the first occasion that he has attended the House to discuss this issue. When I was a Member of the Parliamentary Assembly of the Council of Europe, sitting on its legal affairs committee, the first reports of rendition appeared in *The New York Times*, giving rise to international comment. I believe that we made our views clear at the time. There is no need to repeat tonight what we have said on numerous occasions, namely, that we totally oppose anything of that nature. We will not stand for it, since it is against all our principles. It is hardly necessary for me to repeat that.

However, no number of emotional or hysterical speakers such as we have heard tonight can substitute for concrete evidence in this regard. We have been insulted many times by an individual speaker regarding our attitude to this issue. We have been abused and almost ridiculed by him, but like his fellow-travellers who visited Shannon and remained under the bushes with binoculars for several years plane-spotting, he has never produced a scintilla of evidence to support the allegations that he bandies around this House.

In Shannon, people protested not about rendition but about the use of the airport by certain American civilian aircraft to carry soldiers to and from various destinations, breaking down the perimeter fence and causing millions of euro of damage to the airport, attacking aeroplanes and causing millions of dollars of damage to extremely expensive aircraft, and attempting to invade them and put the lives of transit passen-

gers at risk. However, they never produced one scintilla of evidence to support their allegations.

It is also important to state that they have no local support in Shannon. I wish to refute a reference made to the volume of support in various areas. When several attempts were made to block and picket the airport, causing disruption around it, very few people attended. Only three of four turned up with banners for the last protest organised there, and it was obvious that there was no appreciable level of public support or evidence of sympathy for the carry-on that we witnessed at Shannon Airport when certain individuals, including Members of the Oireachtas, organised pickets against American involvement in wars and other activities.

We all condemn the war and wish it to be over as quickly as possible. However, no evidence of rendition has been produced at any stage. As Senator Ormonde said, investigations were carried out numerous times by local security personnel when allegations were made. They went to the authorities, and no evidence whatsoever was found to support them. Time and again we find ourselves dealing with this issue in the House, and it has also been discussed in the European Parliament.

Central to much of the discussion that has taken place recently in Europe was Proinsias de Rossa, MEP, who for a few years served as Minister for Social Welfare in a previous Government. I cannot recollect his making any comment through any medium or in the House about aircraft going through Shannon, and he was a member of the Government at the time, enjoying full access to information regarding such issues. I have consulted the records as far as possible, and to my knowledge he showed no interest in it in any public comments, other than the anti-American propaganda in which he has been engaged for years.

As a member of the Government as Minister for Social Welfare, Proinsias de Rossa, MEP, made no comment regarding American flights going through Shannon. He showed very little or no interest in the matter. It amazes me that he has new-found interests, and perhaps he might explain them. I have knowledge of the area and have not seen Mr. de Rossa in Shannon for many years; I am not even sure whether he has been there in the last ten or 15 years. He can carry on his activities in Europe, and we will pursue ours in Shannon.

I am satisfied that the authorities in Shannon, and the Garda authorities, have all the powers required. If they need legal backing, it is within their remit to investigate flights where there are allegations of wrongdoing. Such CIA flights are civilian rather than military. I believe there is a distinction between military and civilian flights, especially civilian aeroplanes chartered by the authorities to convey soldiers to and from European destinations, which regularly use Shannon.

Those staunchly opposed to the war in Iraq include the German authorities, who have recently been very quick to negotiate a deal for American carriers to pass through Leipzig. A sizeable amount of the business that went through Shannon now goes through that airport. Although they have very strongly criticised the United States' activities in Europe, the German authorities have been quick to seek out opportunities to do business with America where it means dollars for the German economy.

At this stage, perhaps we might invite those interested to come to Shannon, not for the purpose of confrontation, but to speak to the airport authorities, something that they did not do when they last went there to open up banners and placards and protest in front of the airport. They did not have the courtesy to talk to the airport security officers, the management of the airport, or any of the personnel in the development companies. They talked least of all to local people, preferring flying missions into Shannon to unfold banners as publicity stunts with their anti-American fellow-travellers. We do not know why they acted, but their activities certainly did no service to the country or to Shannon Airport.

Ms White: I welcome the Minister of State and thank him for his passionate speech. Senator Norris concurred on its worth and on the Minister of State's eloquence. As we all know, the term "extraordinary rendition" refers to the extrajudicial procedure used by the United States for transporting terrorist suspects from one country to another to interrogate or imprison them in circumstances that give rise to a risk of torture or other cruel or inhuman treatment. Last June the Parliamentary Assembly of the Council of Europe passed a resolution condemning what it termed the "spider's web" of CIA transfers and detention involving active or passive collusion by member states.

Extraordinary rendition represents what the UN High Commissioner for Human Rights termed a complete repudiation of the law and the justice system. The Taoiseach, Tánaiste and Minister for Foreign Affairs have made it clear that the Government is opposed to the practice of extraordinary rendition. At the meeting of the temporary committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners the Minister stated that Ireland is absolutely and vehemently against extraordinary rendition and that we will not allow it to take place in our country. Speaking on RTE on 23 January and on Today FM, the Minister reaffirmed the point.

Mr. Fava, author of the European Parliament report on CIA rendition, breached protocol by leaving the meeting after the Minister for Foreign Affairs had made his opening statement. The Minister, one of two Ministers who attended out of the 25 entitled to appear, had the courtesy to attend for over two hours. How dare Mr. Fava

treat our Minister for Foreign Affairs like that? He had to leave the meeting and did not have the manners to hear the response to his accusations. Mr. Fava has much for which to answer. There is collusion between him and Mr. Proinsias de Rossa, MEP. The American people have shown what they think of Mr. Bush, who is on the way out. The majority do not approve of the war on Iraq. When I came back from the US last year I predicted that Mr. Bush would not last long. There is extreme left-wing anti-American sentiment, which is totally stupid.

Mr. Ryan: Where is it?

Ms White: There is an alliance between Mr. Fava and Mr. Proinsias de Rossa, MEP, to put down our Government.

Mr. Ryan: Many people agree with them.

Ms White: Our Minister raised the matter first. His pressing on the matter of rendition led to Ms Rice visiting Brussels to discuss the matter, demonstrating Ireland's ambition to deny support for any form of extraordinary rendition.

It is time to update legislation on matters such as rendition to guard against such flights. As the Minister for Foreign Affairs stated on 30 November, the Chicago Convention should be reviewed. It was drawn up in 1944 and is out of date. Changes should be made to ensure information is available and suspicions can be addressed by countries through which planes are travelling. From an Irish perspective the optimal route for this legislation is the EU. All member states are concerned about extraordinary rendition and would be motivated to produce legislation to address matters of safety and sovereignty. This is an opportunity for a small country to produce legislation on the European stage to update the Chicago Convention and provide information on those travelling on flights.

Ms Tuffy: I have been reading a report published by Mr. Dick Marty in June 2006. He refers to the human dimension of rendition. He considers the human impact in two ways, the practice of preparing a detainee to be deported and the grave, long-lasting psychological damage inflicted by extraordinary rendition. He refers to many different types of victims of the process but the methodology of treatment is the same. As part of the European Convention on Human Rights we have signed up to the right not to be tortured or subjected to inhuman or degrading treatment or punishment. A member of the CIA describes rendition as involving shackling and restraining the prisoner. Those being transported are subjected to a 20-minute take out by being rendered immobile, deprived of sensory stimuli and having clothing cut from their bodies with knives or scissors. I can hardly bring myself to mention some of the material in the report. The person may be forced

[Ms Tuffy.]

to wear a nappy and will not know where he is going or his fate on arrival.

The impact on the people and their families is devastating. The symptoms include demoralisation, flashbacks, panic attacks and deep psychological scars that prevent re-engaging with society. The report includes specific examples of this.

As an Irish citizen I cannot stand over this behaviour being directly or indirectly facilitated by the State. I do not understand how the Government can stand over this behaviour. It is on the defensive but should consider a new approach and promise the House to follow the approach outlined by Senator White. The Government does not like what the Council of Europe or the European Parliament has stated but its only response is to describe it as a Labour Party plot within European institutions. The Government should address the problems highlighted by these institutions, as suggested by Senator White. This was the subject of the last Labour Party motion, in which we requested that a Seanad committee be set up to review laws to ensure rendition is not facilitated. Instead of going on the defensive, the Government will eventually have to act. It cannot continue to dismiss reports and argue that they are plots or untrue. There must be action on the issue.

From the beginning the Council of Europe, the European Parliament and bodies such as the Irish Human Rights Commission have indicated that accepting diplomatic assurances is not enough. In accepting diplomatic assurances we are not doing what we should be doing as a State to ensure human rights are protected. We must go further and examine our laws and practices in this respect. The Government should take this under consideration, and that is the purpose of the Labour Party motion and the highlighted issue as a whole.

It is time the Minister of State took the lead of his colleague, Senator White, and responded to these reports, putting in place measures to ensure we are not in any way complicit in the rendition process, as we are currently.

Mr. Ryan: I could have a great time if I had 20 minutes but as I have only five minutes I must be very selective. I will ignore all the vulgar abuse about myself and my associations with people in other countries, as well as other related matters. Instead I will concentrate on one or two points.

The first is the extraordinary position where every single speaker on the Government side has indicated they accept the word of the US Government. The same is true of the Department of Foreign Affairs. These people are quite sure on the matter. Everybody here has accepted that extraordinary rendition has occurred and not one person has spoken up on the Government side who did not believe it had occurred.

Condoleezza Rice has categorically denied it ever happened and that is the official public position of the US Government. Yet the report's contents on what happened in Italy, Sweden, Austria and the United Kingdom are unchallenged by anybody I know in Government. In each case the report names individuals abducted from those countries and in most cases brought to be tortured. The US Government denied that ever happened.

A representative of the US gave us, with hand on her heart, an assurance that nobody went through Shannon. How can our Government believe another government which lies on a grand scale and denied in every international forum that extraordinary rendition ever happened, despite overwhelming evidence? That is where we run into problems.

I do not agree with Senator Norris and did not particularly like the tone of his speech.

Mr. Mooney: Good.

Mr. Ryan: I do not think there are fools on the Government side, and I wish there were. It would then be easier to ignore the issue. I believe these are naive people who believe there is some benefit to Ireland from wobbling about fundamental issues when President George Bush wants us to wobble. Our Government has accepted the word of a government which has lied about the fundamental issue when it gives an assurance on a secondary and related issue. That is the basic problem.

The United States Government has lied over and over again.

Mr. Treacy: It has admitted it carries out extraordinary rendition

Mr. Ryan: It did not.

Mr. Mooney: It did.

Mr. Treacy: It did.

Mr. Ryan: The US Government has never done so. It admitted it transfers prisoners from one place to another but it has never accepted responsibility for any of the cases documented in this report. It has denied they ever happened. There is an innocence on the Government's part because it does not want to get itself into a position of conflict with an obnoxious government in Washington. It decided to ignore the evidence that extraordinary rendition was being carried out extensively. The Government chose to accept the word of the US.

Mr. Mooney: That is a distorted view.

An Cathaoirleach: Senator Ryan, without interruption.

Mr. Ryan: It is not extraordinary. There is a resonance between people such as myself and the citizens of the United States who feel exactly the same way I do about a discredited president who told them lies to start a war, who was elected illegally and who has led the country up a most dangerous and destructive cul-de-sac. That is what America represents and what I support. I am not anti-American; I am very proud of the American people as they have shown a willingness to face down their government in a way that foreign governments such as ours have failed to do.

Proinsias de Rossa, as the only Labour Party member of the European Parliament of 600-odd people, has extraordinary leverage. On thinking about it I remembered that he is a member of the Party of European Socialists, a very formidable, coherent and long-established group. I also remembered that the Government's major party is hanging around with the discredited leftovers of European fascism in an extraordinary *ad hoc* arrangement of parties because it cannot make up its mind whether it is a Socialist or Christian Democrat party. Therefore Fianna Fáil has no allies in the European Parliament and can find nobody to support it when it produces the sort of amendment to the report such as that put forward by Eoin Ryan. That is a fundamental fact.

Mr. Treacy: The Senator should check the record of the parliament over the past few months to see the performance of our leader.

Mr. Ryan: Proinsias de Rossa has a credibility in the European Parliament because he works with discipline with significant groups. Fianna Fáil has been afraid since the elections to become part of a group because it cannot make up its mind on what it stands for. Nobody knows what the party stands for and when it puts forward amendments, nobody votes with it.

Mr. Mooney: We wanted to join the Socialists but we were not allowed.

Mr. Ryan: I had not heard that. There are fundamental tests, the first of which is that the party does not take bribes from builders.

An Cathaoirleach: Is that relevant to this debate?

Mr. Treacy: We are not printing money, how does that go?

Mr. Ryan: I never printed any money.

An Cathaoirleach: Order.

Ms White: The Senator should look at the big picture.

Mr. Ryan: I wish to finish.

Mr. Mooney: The Senator is a great one.

Mr. Ryan: I wish to go back to the same issue. I have tolerated a fair level of abuse with a reasonable level of good humour.

Mr. Mooney: The Senator can throw it out himself.

Mr. Treacy: The Senator has been spraying all day.

Mr. Ryan: How can I be expected to believe a government which denies the fact of extraordinary rendition when we all know it happened? How can I be expected to accept an assurance about a subsidiary but related issue?

Mr. Treacy: It did not happen on the island of Ireland.

Mr. Ryan: So it tells us the truth and it tells everybody else lies, is that it?

Ms White: No.

Mr. Ryan: It lied about it, it has lied over and over again.

Ms Ormonde: Who lied?

Mr. Ryan: The US Government, it denied it ever happened.

An Cathaoirleach: Senator Ormonde, please allow Senator Ryan to finish.

Mr. Ryan: It denied it ever happened. I have no more to say on it. Although it denied it ever happened, every Member of this House knows what happened. People on the Government side accept the word of the US on a subsidiary but related issue because it is the easy option.

Amendment put.

The Seanad divided: Tá, 29; Níl, 17.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.

Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.

Tá—*continued*

Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.

O'Brien, Francis.
O'Rourke, Mary.
Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
White, Mary M.

Níl

Bradford, Paul.
Browne, Fergal.
Burke, Paddy.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.

Hayes, Brian.
Henry, Mary.
McDowell, Derek.
Norris, David.
O'Meara, Kathleen.
Phelan, John.
Ryan, Brendan.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators O'Meara and Ryan.

Amendment declared carried.

Motion, as amended, put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: At 10.30 a.m. tomorrow.

Adjournment Matters.

Pharmacy Regulations.

Mr. Norris: I wish to express my gratitude to my colleagues who allowed me to speak first because I have an engagement.

An Cathaoirleach: Senator Norris has five minutes

Mr. Norris: The matter I wish to raise is a question involving pharmacists and their right to be represented by a trade union in their wage or fee negotiations. This right is being denied, which is very regrettable. A legal precedent exists in this regard. This is by no means the first time I have come across this issue, which is the crazy notion of competition. Competition should benefit the citizen. It is perfectly clear in this case that it is not doing so, particularly in light of the pharmacists' case. The previous case involved actors who are the most poorly paid section of the community. Irish Actors Equity and the actors' trade union, SIPTU, got in touch with me because actors were being denied the right to be represented by their union in dealing with the moguls of the film industry in getting fees for voice-overs and such matters. What we are doing here tonight in the Seanad is representing the little man, woman and citizen against big interests and their right to a level playing field. Competition should underpin and not undermine that.

I have received a number of letters in this regard and I sure the Minister has also. One letter from a well-known chemist in Clontarf said that pharmacists' right to be negotiated for is being undermined. The letter stated:

This move comes on top of a series of attacks on the ability of a community pharmacist to make a living. The HSE has been avoiding entering talks on medical card payments for three years. Both the Department and the HSE have failed to implement a mediation process, as agreed, on the over 70's Agreement or to implement the Monitored Dosage System agreed in 2001, while I find myself undertaking a large amount of extra work and expense for patients who cannot manage their medication without blister packs, while I am only paid a ridiculous basic fee, and no mark up. Pharmacists feel under constant attack, and our only means of negotiation (when the HSE or Department bother to negotiate, or stand over agreements) is now being removed.

This is one letter. I will quote from a similar letter, which reads as follows:

Dear Senator David Norris,

I am extremely concerned that the Health Service Executive (HSE) is challenging my right as a pharmacist, to have my trade union (the Irish Pharmaceutical Union) negotiate on my behalf fees for services I provide under public [sic] funded Community Drug Schemes. This approach, I understand, has the support of the Department of Health and Children. This position is totally unacceptable to me and my colleagues and I am calling on you to have this decision reversed immediately.

It is rather flattering that this gentleman thinks I can have it reversed immediately. I cannot do so, but I can make some representations. Once again, it looks to me as if the Department or the HSE are trying to pick off people individually in order to place them in a weak situation. Once again,

one has a large enterprise, the HSE, refusing to deal with a representative group of similar size and power on the other side and picking off the easy targets one after the other.

The final letter I wish to put on the record comes from Sligo because I do not want it to appear to be a Dublin-centric matter. The writer of the letter stated that he was a pharmacist working in the community. The letter stated:

The HSE wish to reform the fee structure for these schemes as they have every right to do so. However, I am extremely angry at the way in which the HSE have chosen to approach this matter. I am an independent Pharmacy owner and am normally represented by my union — the Irish Pharmaceutical union in matters which affect the industry as a whole. The HSE is now challenging my right as a pharmacist to have my union negotiate on my behalf fees for the services I provide under the Community Drug Schemes.

The letter stated that this affects not only this pharmacist in question but also the employees. The letter from the HSE is fascinating and quotes the law. One paragraph of the letter states:

I wish to inform you that the HSE has been advised that Section 4(1) of the Competition Act 2002 (“the Act”) prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the restriction of competition, including in particular agreements to fix prices, unless the agreement, decision or concerted practice meets certain conditions.

That is supposed to be against cartels. It is not supposed to be against individual pharmacists and poor, unfortunate, out of work actors. There is something lousily wrong here. The Minister of State may well say the Government’s hands are tied and that this is what the Oireachtas passed. If so, the Oireachtas should re-examine the matter because it is absolutely indefensible.

The letter goes on to state that “it should be noted, in particular, that the entering into of an agreement, making of a decision or involvement in a concerted practice in contravention of Section 4(1) of the Act is a criminal offence”. We are actually threatening pharmacists, who are respectable and decent people, and out of work actors with criminality because they want to be represented by a union. This is a frightful situation and I can tell the Minister of State that I was here when this legislation was passed and that this was not in the mind of the Oireachtas. We did not think we were going to penalise the small person and have a skewed playing field. It is perfectly clear this is what we have here.

An Cathaoirleach: The Senator’s time is up.

Mr. Norris: That is fairly appropriate because I think I have made the principal points. I know the Minister of State’s script has been already prepared by civil servants for him to regurgitate.

This is the way with everybody. The Minister of State is a decent man, but I ask him to take on board the arguments and see if we can have an amelioration on this issue because it is the small person who is being affected.

Minister of State at the Department of Communications, Marine and Natural Resources

(Mr. J. Browne): I thank Senator Norris for raising the issue and apologise for the absence of the Minister for Health and Children, Deputy Harney.

In 2005, against a background of rapidly rising drugs costs in the general medical services scheme and community drugs schemes, a process was put in place by the Cabinet committee on health. This process aimed to examine all aspects of the drugs supply chain and achieve greater value for money in the pricing and supply of drugs and medicines to the health services, consistent with patient safety and continuity of supply. A HSE-led negotiating team, with representation from the Department of Health and Children, was set up to advance this process.

In mid-2006, the negotiating team reached agreement with the Irish Pharmaceutical Healthcare Association, IPHA, and the Association of Pharmaceutical Manufacturers of Ireland, APMI. As part of the process, the team then began discussions with the wholesaler representative body, the Pharmaceutical Distributors’ Federation of Ireland, PDF. However, PDF advised the State that a legal issue prevented it from negotiating a new margin for supply to community pharmacies.

The HSE sought legal advice, which showed that the legal issue was wider than the PDF position and had implications under competition law and for negotiations with community pharmacists. Legal advice obtained by the Department of Health and Children confirmed the HSE advice on this issue.

The position is as follows. Section 4(1) of the Competition Act 2002 prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the restriction or distortion of competition. Those conditions are not met in this case. Wholesalers and pharmacy contractors are undertakings. PDF and the Irish Pharmaceutical Union, IPU, are associations of undertakings and come under section 4(1) of the Act. The coming together of wholesalers under the PDF or pharmacy contractors under the IPU to negotiate prices would be a breach of section 4(1). Acting in contravention of section 4(1) is a criminal offence and would expose those parties, their directors, managers and officers to the risk of criminal prosecution. In light of this advice, it is not possible for the HSE to negotiate with the PDF or the IPU on fees or margins.

In the interim, in order to determine new arrangements for wholesale services that comply with competition law, the negotiating team has begun a public consultation process, including an invitation to make submissions, coupled with an independent economic analysis of the Irish and

[Mr. J. Browne.]

EU markets. This process assumes continuation of current service levels. In view of the implications of the legal advice, the HSE wrote to all community pharmacy contractors, setting out the position in detail and indicating that the HSE is constrained from negotiating fees with the IPU, for the reasons outlined. The union has been fully briefed on the legal position.

The negotiating team will consider, following the wholesale sector review, how best to address this issue for pharmacy contractor services. Meanwhile, the negotiating team has been engaging with the IPU in an open and constructive dialogue. Both the Department of Health and Children and the HSE recognise the IPU as the collective representative body for its members. However, negotiations with the union must comply with the law. All contractual matters other than fees may be negotiated. The negotiating team is considering proposals from the IPU for resolution of this issue, with a view to agreeing a process for contract review that would comply fully with competition law.

Accordingly, the Minister is satisfied there is, and will continue to be, ongoing dialogue with the IPU as the representative body for pharmacists, within the constraints of the legal advice received. I assure the House the Minister wishes to see that dialogue proceeding in a constructive manner.

Mr. Norris: I thank the Minister of State for his constructive reply. I have no brief for pharmaceutical combines. I am all in favour of the consumer, as I am one myself. I am currently taking pills. It was stated the recognised union can negotiate for everything except fees. That is nonsense. In light of what I said, I appeal to the Minister of State to urge the Minister for Health and Children to address this anomaly. I thank the House for its indulgence.

Inland Fisheries.

Mr. P. Burke: I thank the Cathaoirleach for allowing me to put this matter on the clár. I welcome the Minister of State, Deputy John Browne. This matter was raised with me by Councillor Michelle Mulhern in conjunction with FISTA and the Ballina Salmon Anglers. Both bodies expressed great concern about this matter. On numerous occasions they sought meetings with the Minister for Communications, Marine and Natural Resources to resolve the situation. These groups are worried about a number of issues. Of prime concern is the fact that only one salmon can be caught per person before 12 May. This is having a detrimental effect on fishing in the region, especially in the Moy basin area. This stipulation means no fishermen come to the area prior to 12 May. This is farcical when one considers draft net fishermen can go down the river after 12 May and catch salmon almost at will at the mouth of the river.

Another issue of concern to the groups is what they see as the inadequate level of protection provided on rivers. Perhaps the issue that is of most

concern to them is that of leases for salmon fishing clubs. As the Minister of State is well aware, salmon fishing clubs have licences to fish which are renewed on a yearly basis. This is not acceptable to fishing organisations like the Ballina Salmon Anglers Association. This organisation is in place for 47 years. FISTA is affiliated to 70 clubs nationwide. Together, the two bodies constitute a strong lobby.

It is high time for the North Western Regional Fisheries Board and the Government to give those fishing clubs long leases of seven to ten years. Currently, the clubs operate on a one-year renewable licence for sections of rivers controlled by the State. I urge the Minister to consider issuing long renewable leases to salmon fishing clubs like the Ballina Salmon Anglers Association. It has put a strong case and is providing a great service to the Ballina area which attracts many fishermen. This helps the local economy in terms of bed and breakfasts, restaurants, hotels, bars etc. I hope the Minister of State will accede to the requests by FISTA and the Ballina Salmon Anglers Association to meet with them to resolve the issues I have raised.

Mr. J. Browne: I thank Senator Paddy Burke for raising this issue. As Members of the House will be aware, the Government's primary motivation in its decision to align future management of the wild salmon fishery with the scientific advice and introduce the appropriate regulations to cease mixed stock fishing, is the conservation of the wild salmon species, which has long been regarded as one of Ireland's most prized fish, valued as a cultural, recreational and economic resource.

It is vital to afford every protection to remaining salmon stocks and to clearly prioritise conservation over catch. Under the Fisheries Acts, primary responsibility for the conservation, protection, management, development and improvement of inland fisheries rests with the regional fisheries boards. Under the Fisheries Acts the regional fisheries boards have the statutory function of ensuring any fishery in their possession, or that is placed under their care and management by the Central Fisheries Board, is managed, conserved, protected and developed in accordance with development plans for inland fisheries. The boards are also statutorily obliged to have regard to the particular role and contribution of angling clubs and associations in the sustainable management and development to the public benefit of State, public and other inland fisheries in their fisheries regime.

While I am not aware of the specific case to which the Senator referred concerning Ballina, I am aware of demands by anglers for access to public fisheries managed by State bodies, including the fisheries boards and the National Parks and Wildlife Service and the efforts that were being undertaken to agree the requisite legal agreements. Under the Government's guidelines on the disposal of State assets, Departments and State agencies are obliged to provide certain safeguards in the State's interest in the property

rights which are to be transferred to the management of the angling clubs. It is necessary to follow the advice of the Chief State Solicitor's Office in preparing the detailed agreement and to include conditions requiring the application of proper fishery management practices commensurate with the management of the fishery, in particular in those fisheries located in a special area of conservation. To comply with competition guidelines, the same conditions are included in all agreements for the management of the beats on the river.

Draft leases drawn up by the Chief State Solicitor are based on best legal practice and reflect the management requirements arising from the State bodies' responsibilities to protect State assets. I am advised the draft leases are no more stringent than any other leases that issue in respect of State properties, including fisheries, throughout the country and are in keeping with current inland fisheries management policy.

I am also aware of the proposals prepared by the Northern Regional Fisheries Board for the management and development of State fisheries in County Donegal. This plan was the subject of a discussion document, Outline Proposal for Development and Management of Angling in Donegal, prepared in support of the Donegal County Council County Tourism Plan on which there have been ongoing negotiations.

The efforts of the Central Fisheries Board are aimed at facilitating local and visiting anglers and to guarantee the long-term health and sustainability of the fisheries.

I understand that discussions take place based on river catchment areas with a view to reaching agreement with the recognised local angling clubs for each catchment. The management agreement under discussion provides for shared access for local and visiting anglers, allowing the fishery to be run on a sustainable basis into the future. Residents living within the catchment area cannot, I understand, be refused membership of the local club.

It is my understanding that the protests by anglers in County Kerry in the past relate to demands for access to public fisheries which are managed by the National Parks and Wildlife Service on behalf of the Minister for the Environment, Heritage and Local Government. I am informed that the local salmon anglers are allowed to continue to manage the fishery on an ad hoc basis pending the completion of the requisite legal agreement and are not, therefore, excluded from using the fishery.

It is the Government's strongly held view that our wild salmon stock is a national asset, which must be conserved and protected, as well as being exploited as a resource by us all on a sustainable basis.

I will be happy to meet the Ballina anglers during the next couple of weeks. I will talk to the Senator with a view to agreeing a date for the meeting.

Mr. P. Burke: I thank the Minister of State for acceding to my request to meet the Ballina

salmon anglers. While I know the fishermen can fish, the licence is renewed annually. I ask the Minister of State to examine this issue prior to his meeting with the deputation.

Mr. Browne: I will meet the deputation and have a discussion.

Schools Building Projects.

Mr. Kitt: I thank you, a Chathaoirleach, for allowing me raise this matter and the Minister of State for coming in to reply. I wish to share time with Senator Ulick Burke.

An Cathaoirleach: Is that agreed? Agreed.

Mr. Kitt: With other public representatives, including Senator Ulick Burke, I attended a meeting last Monday in St. Catherine's Hall, Aughrim, Ballinasloe, County Galway, concerning St. Catherine's national school. The condition of the school, as outlined at the meeting, is appalling. The school which is 59 years old this year has an enrolment of 120 pupils. Parents and teachers say the school is a health and safety hazard.

A headline in the *Connaught Tribune* last week read, "School needs a Pied Piper to keep the mice at bay". That is one issue that is causing major concern. Other issues are weeping walls, inadequate ventilation and insulation, overused toilets and sewage coming up in the school yard. For that reason there is great concern that there is not a decision to have a new school in Aughrim.

If the original route of the new N6 motorway had come through Aughrim it would have necessitated demolishing the school. However the route was changed following which the Department said it would repair the school and offered €300,000 under the pilot scheme. That amount would not be adequate to provide what was needed in terms of additional classrooms.

What we need is a new school. I understand the Department will agree to an eight-teacher school. However, as the Department has not asked a technical team to visit the school I hope it will do so in the new few weeks. No decision will be made on progress until there is a visit from the technical team. It is not too much to ask that the technical team visits the school as soon as possible. I realise the Department officials in Tullamore are busy but conditions at this school are the worst any inspector has reported on recently.

Six years ago the school had an enrolment of 60 or 70 pupils. Since then many new houses have been built in Ballinasloe and south Roscommon and many new pupils have enrolled in the school. Little money has been spent by the Department on the school since it was built in 1948. As explained at the meeting, there is great difficulty in providing services for special needs children in the classrooms. The school has three classrooms, three Portakabins to accommodate five mainstream teachers. When I was teaching I never saw

[Mr. Kitt.]

a school with such small over-crowded classrooms which is a health and safety hazard.

I hope the Minister of State can report progress on this school and that conditions will improve for students and teachers. A very active parents committee succeeded in getting 200 people into St. Catherine's hall last Monday to complain about the way in which the school has been neglected and the need for a resolution. I hope the Minister of State has some good news.

Mr. U. Burke: I thank Senator Kitt for sharing time. Nobody can emphasise sufficiently well the conditions at this school. On the issue of health and safety and the requirement for a standard school size, the school is one-third of the size of the school required.

Senator Kitt referred to special needs children. When we were shown a slide of a special needs student in a small classroom with 28 other children with special assistants as well as the class teacher we realised the total neglect and lack of concern by the Minister and the Department if they allow this situation to continue. There have been delays.

The history of planning in this project is unbelievable as are the Department's reasons for postponing, changing, and dillydallying. What has happened is on the record. None of the new aids and support materials available to schools for teaching can be used in St. Catherine's national school in Aughrim because there is no storage space. Teachers take them away and store them in their homes, garages or wherever. They cannot use them because of the inadequacy of space. There is one computer in a classroom and the students queue to access it. It is like queuing to get into for Croke Park.

The request is for a new six to eight classroom school which the Minister will decide. There is the clear advantage in that there is a site on which to build the school. There should be no delay on that score. Building and construction could take place without any disruption. As Senator Kitt has done, I ask that immediate steps be taken to proceed with whatever other planning procedure has to take place in regard to the provision of a new school.

Mr. Browne: I thank the Senators for raising the issue as it affords me the opportunity to outline to the House the Government's strategy for capital investment in education projects and the position regarding the development of education provision in St. Catherine's national school, Aughrim.

I apologise for the absence of the Minister, Deputy Hanafin.

Modernising facilities in our 3,200 primary and 750 post primary schools as well as responding to emerging needs in areas of rapid population growth is a major priority for the Government. Since taking office, this Government has shown focused determination to improve the condition of our school buildings and to ensure the appropriate facilities are in place to enable the implementation of a broad and balanced curriculum.

St. Catherine's national school in Aughrim is a co-educational primary school. Enrolments at the school have increased from 90 in 2002 to 119 currently. The school was selected as one which appeared to be suitable for delivery of its building project under the permanent accommodation scheme 2005 and the school authority was offered funding of €300,000 to build two mainstream classrooms and two resource rooms. The school authority accepted this offer and proceeded with the planning of this project while, at the same time appealing the allocation under the scheme.

Subsequently, having considered its options under the scheme, the school authority notified the Department that it had decided to withdraw from the scheme and requested that it be considered for inclusion in the main programme for delivery by the traditional method, in line with the project's priority band rating.

Before progressing the project further and to ensure any capital funding being provided is appropriate to meet the school's long-term accommodation needs, it was necessary to review the long-term projected staffing figure on which the school's accommodation needs will be based.

Officials in the Department of Education and Science have just recently completed a re-assessment of projected enrolments and have determined that the long-term projected staffing for St. Catherine's national school, Aughrim will be for a principal plus eight mainstream teachers and this has been notified to the school authorities. The project will be progressed in the context of the school building and modernisation programme.

I thank the Senators once again for raising this matter and allowing me to outline the progress being made under the school building and modernisation programme and the position of St. Catherine's national school. I will bring to the attention of the Minister the views of both Senators regarding the technical team becoming actively involved in progressing the school.

Mr. Kitt: I thank the Minister for confirming there will be a principal and eight mainstream teachers in the new school. I urge him to send the technical team to Aughrim in the next few weeks. We cannot wait any longer.

The Seanad adjourned at 7.40 p.m. until 10.30 a.m. on Thursday, 1 February 2007.