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DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

# SEANAD ÉIREANN

TU AIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

*Thursday, 1 February 2007.*

[illegible]

## SEANAD ÉIREANN

*Déardaoín, 1 Feabhra 2007.  
Thursday, 1 February 2007.*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Paidir.  
Prayer.*

### Business of Seanad.

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

The need for the Minister for Arts, Sport and Tourism to provide funding to be allocated to New Oak boys' soccer club, Burrin Road, Carlow, under the national lottery sports club fund.

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

### Order of Business.

**Ms O'Rourke:** The Order of Business is No. 1, Broadcasting (Amendment) Bill 2006 — Second Stage (resumed), to be taken on the conclusion of the Order of Business until 1.20 p.m. with the contributions of spokespersons not to exceed 15 minutes and those of other Senators not to exceed ten minutes and the Minister to be called upon to reply not later than ten minutes before the conclusion of Second Stage; and No. 2, Health (Nursing Homes)(Amendment) Bill 2006 — Committee Stage, to be taken at 2 p.m. and to conclude not later than 4 p.m. There will be a sos from 1.20 p.m. until 2 p.m.

**Mr. B. Hayes:** Last weekend the country heard from a Mrs. Lynch, the mother of a murder victim. This followed the controversy concerning the Minister of State, Deputy Killeen. The country owes a debt of gratitude to Mrs. Lynch for speaking so eloquently and articulately on the need to

do something for victims who find themselves in this appalling situation.

Does the Leader of the House agree that it may well be a useful exercise for this House to establish a select committee to report to the House on how it may help victims who find themselves in this situation, with specific reference to the point made by Mrs. Lynch, namely, the right in law for victims to have prior notice of the temporary or permanent release of the person who has been convicted of the murder or manslaughter of the victim? The House should consider this matter and Mrs. Lynch has requested legislators on all sides to do so. She has also requested legislators to ensure that other victim supports are put in place. It is horrendous that such a situation can be visited on a family with all the appalling consequences yet no one contacts the family, supports the family or offers counselling. It is not just the case of Mrs. Lynch's family. Countless other cases exist where this set of circumstances has arisen. It would be useful if a select committee of the House could make a report to Government on legislative changes so that a new charter for victims could be put in place. Will the Leader consider this proposal in discussion with other colleagues in the next few days to see if this House can lead the way on this issue?

The news that BUPA is to be bought is very good news in terms of saving jobs in County Cork and for the continuance of competition in the Irish health care market. The claim by Mr. Quinn that he will be offered or given a three-year exemption on risk equalisation needs to be clarified. This is a matter for the regulator but I ask the Government to make statements on this matter to the House as early as possible to bring clarity to the issues which have been raised in the past 24 hours.

**Mr. Norris:** I agree with Senator Brian Hayes about the contribution made by Mrs. Lynch when referring to her murdered son and the inappropriate writing of letters. The Minister of State, Deputy Killeen, is a very decent and responsible man. We should not target any individual because the practice is endemic. There is something wrong with the system. Every Government, not only Fianna Fáil Governments, provide staff to Ministers to nurture the constituency. This results in letters being sent out without the knowledge or approval of the Minister. This practice is idiotic and a corruption of the system. In my post this morning I received a document notifying me of the launch of a book entitled "Performance" or something similar. This is about show politics, veneer and appearing to do something. It is populism which must be rooted out of the system.

I was extremely impressed by Mrs. Lynch and the way in which she presented her case. She mentioned that she had prayed at her son's funeral for the family of the man who murdered him. In her dignified way she showed an extra-

[Mr. Norris.]

ordinary degree of Christian charity. The reopening of this case in this manner brought back all the trauma and devastation that was visited on the extended members of the family. While I agree with Senator Brian Hayes's comments, I believe it is in all our interests to examine the system.

I also partly agree with Senator Hayes on developments in the case of BUPA. I am not ideologically committed to the notion of competition. Its elevation to a kind of totem has damaged the interests of ordinary people in many areas. It is perfectly clear that BUPA was not open about what it was doing in the Irish market. It was a hit and run company which entered the market and made a considerable profit which it repatriated to subsidise the British health service. It is not up to us to subsidise the national health service in Britain, much as I admire it.

I am worried by a comment made on a radio programme this morning and hope it is not true. It was stated that Mr. Quinn expected favourable treatment because he was a crony of the Taoiseach. If that is the case, it would be a great shame because the interests of patients should be the main consideration in this matter.

Mr. Quinn is entering the market with what is supposed to be a new company when it is perfectly obvious it is not new. In the old days in Dublin this approach used to be called the Phoenix syndrome and was particularly common in the entertainment business and nightclubs, discos and so on. I was involved in this area and whereas we paid all our tax, others set up companies which they collapsed the minute they received a tax bill. They then created a new paper company and never paid any tax. This approach is wrong and the loophole should be plugged.

On the issue of the CAO, this is another example of the system triumphing over the individual. Young people trying to make their applications were told that with new technology they would be able to log on to the CAO website and make their applications via the Internet. A CAO spokesperson took a very cavalier attitude on the wireless this morning and did not appear to have any compassion for the young people concerned. He said the system was great and running perfectly and the CAO could manage easily. What about those who have not been able to access the applications facility? They are expected to pay an extra €10.

The system is not more important than the individuals it is supposed to serve, namely, young people at the beginning of their careers who are under pressure because they are about to take mock examinations. It should be possible to extend the deadline for receipt of completed applications. When the CAO spokesman was asked whether there was a legal impediment to doing so, he failed to answer the question and repeated a great deal of garbage about computers. Let us hear it for the small people, the

students and those who are vulnerable in terms of their health. Let us not elevate competition and technology above the rights of the individual citizen.

**Mr. Ryan:** I thought Mrs. Lynch was an extraordinarily warm and Christian woman. Her family's circumstances and the way in which she dealt with a terrible trauma in her life has been an example to everybody. She stated she had no problem regarding the prisoner in question receiving whatever he needed if he was suffering in any way. She said she was not seeking vengeance and spoke solely about the understandable fear victims of such an individual would experience if he was released suddenly without preparation or warning. This valid point, which was raised with great dignity by a courageous woman, needs to be addressed.

All Members should learn a careful lesson from this case, namely, that irrespective of how efficient one's office staff are, one must still take responsibility for writing letters. I do not want to turn a dignified woman's case into a political football but it is time the political system addressed the issue of representations. No representation should be entertained until after a case has been dealt with by the Ombudsman. For this reason, we should resource the Ombudsman to deal efficiently with all delays and complaints and only those cases which cannot be resolved should be the subject of political representations. I have held this view for 25 years.

There is something fundamentally wrong with the attitude of the CAO. Having worked in the third level system, I have been aware of the CAO since it was established and I note a change in its attitude. The office was always focused on students and initially provided a service that most public bodies were incapable of delivering. It was a model of how to deliver a service to the public because it was efficient, accessible, user friendly and tried hard to ensure it produced a large volume of information. Its focus, even as a single body, was on providing a service.

The tone of comments made by representatives of the CAO in the past 48 hours is the reverse of that approach. Apart from the banks — we know what we think of them — service providers do not ask their customers to hold on and be patient. Senator Quinn would have been out of business after six months if he had told his customers he would get around to dealing with them in a minute. Essentially, this is what the CSO has told students for the past 48 hours. A public body which offers one a financial incentive to apply online because it saves it money should not tell customers to be patient or else pay a tenner. It is not good enough. The CAO's attitude appears to have changed. While I accept it is an independent body, the Minister for Education and Science has a responsibility to ensure this problem never occurs again.

In the course of yesterday's interesting debate on rendition and Ireland's complicity or tolerance of it——

**An Cathaoirleach:** The Senator should be careful as we do not want to have another debate on the matter.

**Mr. Ryan:** —— references were made to human rights, including one to my involvement with certain individuals.

**Dr. Mansergh:** The Senator is referring to Fidel Castro.

**Mr. Ryan:** I ask the Leader to arrange statements on the most recent report of Amnesty International, an organisation held in high esteem across the political spectrum. Individual governments have individual issues with it but Amnesty International's independence means its report is effectively an independent review of human rights across the world. I invite the Leader to hold a debate in which those of us who have different views on human rights in different countries can express them. It would be interesting to hear those who were critical of me mount a defence of Saudi Arabia, a country in which half the members of the Government consorted last week and perhaps the most totalitarian state in the world.

**An Cathaoirleach:** That issue is not relevant.

**Ms O'Rourke:** I rather like Fidel Castro.

**Mr. B. Hayes:** We have all supped with him.

**An Cathaoirleach:** Order, please.

**Dr. Mansergh:** Another group, namely, the subscribers who were facing steep increases in their health insurance, will be very happy with this morning's announcement relating to Fermoy.

On a separate issue, the Minister for the Environment, Heritage and Local Government, Deputy Roche, was reported yesterday as expressing a concern — one which Senators would share — about the financial costs arising from the Kyoto Agreement and Ireland's failure to remain within the limits set down. He said the steady increase in car transport was making fulfilment of the NO<sub>2</sub> obligations very difficult. This week, however, we read that rail freight declined last year by 24%. Would Senators agree with me that there is some connection between these two facts? The Minister for the Environment, Heritage and Local Government, the Minister for Transport and possibly the Minister for Finance should get together to see how we use our grossly under-utilised rail system outside peak times.

**Mr. Norris:** Absolutely.

**Dr. Mansergh:** The Ministers might also discuss whether the penalty points system could be used to stop the gross littering of our roadsides, particularly in the countryside. This proposal should be considered seriously. Anybody who throws non-biodegradable litter from their car should get two penalty points, with a five-point penalty for anyone who dumps a sack.

**Mr. Norris:** Bravo.

**Dr. Mansergh:** If somebody dumps two sacks of litter, they should be disqualified from driving. It would be proper order because they are simply abusing road transport for that purpose.

**Mr. Norris:** It is not just in the countryside; it is in the cities, too.

**Mr. Coonan:** Young and less well off people have often been accused of being cynical about politics and politicians. Is it any wonder, given the way young people have been treated concerning their CAO applications? I support the comments by previous speakers about this matter. The individual who was wheeled out this morning sounded like a former Soviet bureaucrat laying down the law. Who is in charge of this country? The Minister for Education and Science should direct the CAO to deal with students in an appropriate manner. One could say that the students are getting a huge concession in that they will be allowed to post their applications today but they will pay €10 extra. I wonder if the €10 includes the price of the stamp. On top of that, students will also get the privilege of paying another €10 if their applications are a day late.

This is not the first time the CAO's technology has collapsed. The Government has some record when it comes to technology, when one considers electronic voting, PPARS and the CAO. It is not good enough. Who is in charge? Where does the Minister for Education and Science stand on this matter?

Last Tuesday morning, two gardaí came knocking on a woman's door. She was a mother of five children — the youngest is three, while the eldest is 12 — and was taken away. Arrangements were made to put her in prison because she had not paid a €500 fine. There is no provision for people to pay fines in instalments. In this day and age, is it good enough for this to happen in this so-called caring society with a caring Government? The Leader should initiate a debate on fines and other penalties.

**Mr. Fitzgerald:** The situation concerning the CAO is a serious one. The CAO spokesperson's attitude should be condemned as being anti-student because it was insensitive to students' needs. Given that the spokesperson was unable to acknowledge that there was a problem, he should seriously consider his position. It must be acknowledged that there is a separation between



[Mr. Fitzgerald.]

the functions of the CAO and those of the Minister for Education and Science. Earlier this morning, I contacted the Minister's office about this matter. I have been assured that the Minister sought an extension of the CAO application deadline. She formally requested the CAO, which is an independent statutory body, to extend the deadline.

We cannot have it both ways. The Minister was formally advised that there are legal difficulties. I have spoken to the Minister's office three times this morning about this and have been assured that there is a legal difficulty involved. However, the Minister's officials assured me that once CAO hard-copy applications are posted today, with today's date on the certificate of posting, everybody will be secure, notwithstanding Opposition concerns about the €10 fee. I accept that there is an issue of apparent insensitivity within certain elements of the CAO towards the legitimate worries of students and their parents. This needs to be addressed and I know the Minister is determined to do so for next year's round of applications.

**Dr. Henry:** I welcome the fact that BUPA Ireland has been bought by another insurer. However, there are plenty of grey heads around the House and we should be anxious that community rating may disappear if any new entrant buying another company does not have to pay any financial recompense to established companies. The Minister for Health and Children has made this clear over the last few years and I am sure she is right.

The Statute Law (Revision) Bill was enacted in 2005. Another such Bill has just been published to remove from the Statute Book, Acts that are no longer relevant. Recently, the Law Reform Commission produced a report on vulnerable adults and the law. Vulnerable adults are dealt with shabbily and are referred to in much legislation as "imbeciles" or "morons". These terms are of no relevance in this day and age. In fact, in the last session, I objected to legislation which referred to people as "being of unsound mind". Such terms have no medical or legal definition. The explanation I received as to why such terms were included in the legislation was because they were contained in a further 157 pieces of legislation. I thought that was a ridiculous explanation.

The Law Reform Commission brought forward a draft Bill on mental capacity and guardianship. Will the Leader ascertain if the Minister can consider adding that short Bill to the legislative schedule? At the stroke of a pen we could thus rectify these peculiar definitions within our legislation.

**Ms O'Rourke:** What is the name of that Bill?

**Dr. Henry:** The report by the Law Reform Commission is entitled "Vulnerable Adults and the Law". The suggested legislation is entitled the scheme of mental capacity and guardianship Bill. It would bring us into a more decent and modern age if we included descriptions which were considered relevant, rather than the offensive terms used in a considerable body of current legislation.

**Ms Ormonde:** I also support Senator Brian Hayes in seeking a system that could be used when we are trying to make representations on behalf of families of prisoners, taking into account the sensitivities surrounding such issues. I compliment Mrs. Lynch on the way she handled the situation. I studied her comments and she had a holistic approach to the issue. She was hurt, yet she was able to manage that hurt in an intelligent manner. She treated the Minister of State, Deputy Killeen, with sensitivity. I know him well and he still hurting very much. The way it happened was unfortunate. There, but for the grace of God, go any of us. All of us could be in that position without realising the implications in those circumstances.

**Mr. Norris:** Yes but I would not send a letter I had not read.

**Ms Ormonde:** I was appalled when I heard the attitude of the CAO representative in Galway this morning. It is not the first time this has occurred. I have experience of this, having dealt with applications for third level courses. One often finds that students can be treated as issues or numbers by the CAO. The old-fashioned system whereby a guidance counsellor handled the applications in a school and ensured they were all processed well before the deadline, seems to have gone out the window. That is due to new technology which has failed students in this case. Students should come first, particularly at this vulnerable time when they are trying to make up their minds about third-level courses. Students and their families are worried about applications being processed properly. There is this attitude among clinical people who have no interest in students apart from the business of numbers. We will experience this again in September when the results are released and the system will be again clogged in such a way that students will not know whether they have points or places. It is not the first time the Central Applications Office in Galway has let down the system and us all, particularly educationalists. Perhaps we should ask the CAO to employ educationalists not business people.

**Mr. Cummins:** Last year the Minister for Health and Children banned the sale of so-called magic mushrooms, rightly so. I understand a number of other synthetic and herbal drugs are now on sale that are equally if not more dangerous. I ask that a review be carried out of the list

of banned substances as a matter of urgency because the last thing we want is to have people die as a result of taking these drugs. It is imperative the Minister would act on this as speedily as she did on the issue of magic mushrooms.

**Mr. Glynn:** I ask the Leader to invite the Minister for the Environment, Heritage and Local Government to debate the Landlord and Tenants Act. I have received a number of complaints from neighbours of tenants who, to put it mildly, are neighbours from hell. One such complaint came from a lady who lives alone. Her next-door neighbours made her life a living hell. When she complained to the landlord, he said he would take up the matter with the chairman of the residents' association. If ever there was an example of a Pontius Pilate on an issue, he was it. Meanwhile, this lady's home is made a hell, day and night. Issues of parental control arise, although not so much how the parents control the children, as they seem to have no control, but how the children control the parents.

I would welcome an early debate on the matter. It is an issue that is raised with my office on a regular basis and I would like to think something can be done. It is certain the landlord is not discharging his responsibilities to the neighbour of his tenants, and the tenants are not discharging their responsibilities to their fellow man, in this case their fellow woman.

**Mr. Quinn:** The use of the English language is interesting. The Central Applications Office this morning stated that the Minister yesterday asked whether it "could" extend. The CAO answered that, legally, it cannot. It then claimed it was not asked by the Minister "to" extend. Talk about being customer friendly. Students are being failed at probably the most stressful time they have experienced, namely, when deciding on their careers and futures. It seems sympathy is needed in this area. The words I heard today seemed to be a play on the English language. I believe the Minister will by now have asked the CAO "to" extend rather than asking "could" it extend.

We complain often in this House but not always. Yesterday was the first time I took the road home from Leinster House this year. Traveling at 6 p.m. I found the traffic worked well due to the opening of the new tunnel since the House last sat in December. It also worked well this morning as there were no trucks on the road. I want to offer my congratulations for all of the effort that went into creating the tunnel. It took a long time and much hassle but we set our minds to do something, and we have achieved our aim of taking trucks off the streets of Dublin and having traffic run smoothly.

May we have the same application with regard to making Leinster House paperless. I was stunned yesterday and today to note the huge amount of paper used. There is no longer a need

for this. I spoke to a person in Brussels yesterday who said their office has become a paperless office. It is now possible to have an office where people no longer have paper at their desks and come to work solely with their laptops, and sit wherever it suits. That is achievable. It must be possible to take the first small steps towards it. I cannot believe the amount of waste paper we receive in the Houses, knowing the majority of it goes into the bin because the information is already available on the Internet.

**Mr. Mooney:** I am sure the House will join with me in congratulating the board of Ireland West Airport on securing a scheduled service direct from the west of Ireland to New York and Boston from this summer. In that context, I ask the Leader, as a former Minister in this area, to give support to the application from Ireland West Airport for a share of the €75 million that has been allocated by the European Union to the Department of Transport for the development of regional airports. The application from Ireland West Airport is currently with the Department and the funding would go a long way towards upgrading facilities at the airport in the context of the expansion of the services. I am sure the House will agree this has been an extraordinary success story. It is a marvellous psychological boost for the west that a concept that was once described — I will be kind and not reveal who said it — as an airport on a soggy, boggy mountain top has proven one of the great economic success stories of the west.

I ask the Leader to pass on the good wishes of the House to the Minister for Foreign Affairs, who is currently in Palestine and the Middle East, on his overnight announcement of a significant increase in the contribution from Ireland to the United Nations Relief Works Agency. I know Senator Norris also has a particular interest in this area, and we have often discussed it in the House. To see the photograph in this morning's national newspapers of the Minister with Palestinian officials greeting young children in what is a war-ravaged part of the world, and to see the smile on their faces, was heartwarming. It is a great credit to the Government in general and to the Minister, Deputy Dermot Ahern, that this significant increase of in excess of €16 million will go towards providing much-needed schooling and medical services in an area where, as those of us who have been there can assure the House, they are badly needed.

**Mr. Bradford:** I welcome the fact Quinn Group has purchased the BUPA office in Fermoy. This matter has been raised in the House on many previous occasions. I hope the purchase is successful and will result not just in the retention of jobs but also in competition in the health insurance market, which is the most important factor. It is necessary that the Minister for Health and Children would, at the earliest opportunity, come to

[Mr. Bradford.]

the House to discuss the issue of health insurance, risk equalisation and competition. We cannot pretend that what she and the Government said in the past three or four weeks was not said. It is only a fortnight since the Minister, when another company expressed an intention to purchase BUPA, said that if it did so, the risk equalisation trigger would apply. She is now suggesting it is a matter for the Health Insurance Authority. We need clarification in this regard.

I was advised twice if not three times in the House before Christmas that a joint report on competition in the health insurance market by the Competition Authority and the Health Insurance Authority was ready for publication. It has not been published but it must be published and debated in the House. Prior to Christmas the Minister said she was not for turning on risk equalisation, and the Taoiseach in his memorable performance in Brussels said likewise, yet within a week or two of Christmas the Minister set up another committee to consider the subject. There is an acknowledgement, even at Government level, that risk equalisation is the fundamental issue, not just with regard to community rating but also with regard to encouraging or stopping companies entering the market.

We need to discuss these issues in detail. I ask the Leader to arrange a debate at an early date. I hope what was announced yesterday for Fermoy in north Cork and for 500,000 health insurance customers will transpire to be long-term good news. We need to get answers from the Minister, who is responsible, on the broader issue of her policy — whether it is revised or otherwise — on risk equalisation. There have been varied signals in the past six weeks and we need clarification.

**Ms O'Rourke:** Senator Brian Hayes raised the issue of Mrs. Lynch. I thought her a particularly fine woman when I saw her on television. The Senator said the families of the victims of crimes should be told when the perpetrators stand to be released early, or released on compassionate grounds or for health reasons, in order that they can prepare themselves psychologically for the release, which is a fair point. He suggested we examine this idea in select committee in order that legislation to deal with the issue can be prepared if necessary. We could raise that matter at the next meeting of the Committee on Procedure and Privileges. The Deputy also suggested a charter for victims. I understand that point and feel the Deputy made it well. Mrs. Lynch impressed everyone so much by her dignity in her loss that people have been asking others whether they saw her on television.

The Deputy also mentioned the Quinn bid for BUPA Ireland, on which the Attorney General and the Irish Insurance Federation will report. I was amused by the fact that the chief executive of the “other” company made what I thought was a smart remark on television last night. I will not

say his name for fear he would knock me off his VHI list. We will have to wait and see the result of the investigation on that issue.

Senator Norris also praised Mrs. Lynch. On the issue of the takeover of BUPA Ireland, the Deputy mentioned the newspapers named Mr. Quinn as a “crony” of the Taoiseach. The Taoiseach is an approachable, agreeable and attractive person and, therefore, it is natural he would have many friends in all walks of life. We cannot be responsible for what the papers print about who is or is not his friend.

**Mr. Norris:** It was right to raise the issue as a matter of public interest.

**Ms O'Rourke:** The understandable admiration Mrs. Lynch evoked in us takes away somewhat from the debate on clientelism. I will come to this again when dealing with Senator Ryan's contribution. Whether we like it or not, we live with multi-seat constituencies and on two occasions the people have refused to change this. Therefore, we are all susceptible to people who approach us. Leaving aside the issue of criminals, the situation has been muddled up by suggesting it is a waste of our time to write letters for people. My experience over a significant number of years has been that people need us to stand up for them to break through bureaucracy and have their rights aired. They need us to represent them——

**Mr. Norris:** It is a foolish practice to allowing letters that one has not even read to be issued in one's name.

**Ms O'Rourke:** That is another matter and not what I am talking about. I am saying the debate has got wrapped up in the issue of clientelism and it appears we should spend seven days a week beavering about legislation and not entertain people who approach us. Let Senator Norris try to work through the bureaucracy of a county council without the assistance of someone who knows what approach to take. Councils proudly proclaim their customer care, but I do not know about that. The customer care aspect needs tweaking and I am always proud to represent and assist people.

**Mr. Norris:** At least the Leader reads the letters she sends.

**Ms O'Rourke:** We are not discussing letters I send. My letters are my business and I deal properly with them.

**Mr. Norris:** It is the principle——

**An Cathaoirleach:** The Leader, without interruption.

**Ms O'Rourke:** Perhaps I have moved ahead, because what I have said reflects on the point made by Senator Ryan. I feel strongly that the



whole debate has got mixed up the issue of clientelism. It seems to suggest we should we should not have clientelism or have Deputies, Senators or councillors clogging up the bureaucratic system. One paper suggested our job is to persecute civil servants. I agree. We need to persecute them, to make many approaches and to do much banging on doors. I apologise, I do not mean the lovely staff here.

Senator Ryan also praised Mrs. Lynch. He suggested we concentrate on properly staffing the Office of the Ombudsman and that only when clients' cases go to that office should other people step in. He also raised the issue of the CAO, as did Senator Norris, and the person who spoke on radio this morning. I do not know if the person who spoke was the CEO of the CAO, but I have been told by everyone he was cold and clinical and his response bore no relation to the heart-break going on right now in homes throughout the country. Imagine the persecution facing parents who must deal with the situation and with the trauma of their adolescents who do not know whether their application is on time.

I take the points made by Senator Ormonde regarding the CAO applications. When she was a career guidance teacher, it was guidance teachers who had the responsibility of getting applications in on time. Now the application process is technological, cold and clinical. I know many people with sons and daughters due to apply this year and they must be riven by trauma.

Senator Ryan suggested we debate the latest Amnesty International report. I will consider that when we get through our legislative backlog. We had an altercation with regard to a particular gentleman, Fidel Castro, who is someone for whom we all have some affection, no matter what he did.

**Mr. Norris:** Hear, hear.

**Ms O'Rourke:** When one sees pictures of him now and remembers him as he was, it is difficult not to feel sorry for him.

Senator Mansergh said BUPA subscribers would be pleased with Quinn Direct's application. I agree with his suggestion that rail transport should be used for freight. He commented also on the CAO matter.

Senator Coonan spoke about gardaí knocking on the door of a woman with five children who had not paid a fine and suggested there should be a better way of dealing with unpaid fines. Senator Brian Hayes raised the same issue before Christmas. I agree we should find a better way. Perhaps staggered fine payments would be a way of dealing with the issue. The Senator also suggested it is no wonder young people are cynical when they have to face situations like the CAO applications process. He asked who was in charge. The CAO was set up by legislation as an independent body. If the Minister decided to run it in an *ultra vires* manner, she would be declared

*ultra vires*. One cannot set up an independent body and then decide to run it oneself or that the Government should run it. No matter what merit is in that suggestion, it is not possible.

**Mr. Coonan:** When such a body does something stupid as the CAO has done, it should be called to order.

**Ms O'Rourke:** Senator Fitzgerald seems to have taken a constructive approach to the problem with CAO applications and telephoned the Minister's office several times. The play on words was interesting. The Minister did not "order" the CAO to extend the deadline because she knew she could not because that would have been *ultra vires*. However, she asked it politely whether it "could" be done. The CAO played on that by saying she had not asked it to do it.

Senator Henry raised the issue of BUPA Ireland and community rating. She also asked about the Statute Law Revision Bill. We expect to have that next week. She mentioned that in some legislation vulnerable adults are referred to in very unseemly terms and asked whether the scheme of mental capacity and guardianship could be worked into the new legislation. We will see what the Minister of State in the Department of the Taoiseach, Deputy Kitt, has to say on that.

I referred already to Senator Ormonde's contribution which referred to Mrs. Lynch's holistic approach. Senator Ormonde also mentioned the technological system of applications to the CAO and the vulnerability of students. Her input is valuable because it comes as a result of the Senator's background and knowledge.

Senator Cummins is glad the sale of magic mushrooms is banned. However, many herbal drugs for sale are harmful and the Senator would like a review of the issue. Some people place great faith in those drugs.

Senator Glynn asked for a debate on the Landlord and Tenant Act. We will have debate on that issue, but will not have general statements in the next few weeks as we have too much legislation to process. We will deal with the issue when we have dealt with the legislative backlog. We are not to blame for the backlog; the problem is rather that we are having more Bills.

Senator Quinn raised the difference between "could" and "would" regarding extension of the CAO deadline, but he praised the port tunnel, for which I thank him. It is making a great difference, and it will do the same where he lives. He also spoke of a paperless Leinster House, something to which Senator MacSharry alluded yesterday when he raised the number of reports that land on our desks only to be thrown out.

Senator Mooney correctly desires a share of EU moneys for the upgrading of regional airports. Ireland already receives them, but he wants some of it given to Knock International Airport, a sentiment with which I concur. Knock has been a great success story after being born in fraught



[Ms O'Rourke.]

times and dismissed out of hand by the Opposition of the day. However, that is life. Best wishes have been expressed to the Minister for Foreign Affairs, Deputy Dermot Ahern, and the increase in funding——

**Dr. Mansergh:** Knock was established by the then Government.

**Ms O'Rourke:** I forgot that Fianna Fáil was in Opposition at the time.

**Dr. Mansergh:** Under the former Taoiseach, Charles Haughey.

**Mr. B. Hayes:** That person is now dead.

**Ms O'Rourke:** Yes, but I did not say his name.

**Mr. Ryan:** I have to admit that he is very much alive.

**Mr. B. Hayes:** Someone will bask in this, thanks to Mayor Bloomberg.

**An Cathaoirleach:** Order.

**Ms O'Rourke:** They are getting frisky.

**An Cathaoirleach:** Please allow the Leader to continue without interruption.

**Ms O'Rourke:** Senator Bradford, who comes from Fermoy, raised BUPA's decision to quit Ireland on several occasions last term, and I fully understand his great desire for clarity regarding whether Quinn Direct will be able to proceed and whether there will be community rating. He wants to know the view of the Health Insurance Authority. We should have that clarity now, since I hope the felicitations and joy are not short-lived and that those insured with BUPA will retain their rights, with Quinn Direct authorised to proceed, no matter who is Mr. Quinn's friend.

Order of Business agreed to.

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

Question again proposed: "That the Bill be now read a second time."

**Mr. Kenneally:** I welcome the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, back to the House to continue the debate. Like the previous speakers, I welcome this Bill, which makes further provision for the upgrade and extension of television and general broadcasting services. Any measure that will ease the transmission to digital broadcasting and reception and make services to the people of Ireland more flexible and accessible is positive. The proposed transition to digital-only broadcasting and the elimination over time of the

present analogue system will take some people by surprise. Rather than ultimately leave them without a picture on their screens, in conjunction with the broadcasting organisations we should make it clear what is about to happen.

Perhaps the first benefit of this debate is that those people who take an interest in politics and the business of the Houses of the Oireachtas will learn early on what changes are in the offing, even if they do not yet understand the Bill's detail. For instance, we must make people aware, particularly those like me who are not electronically minded, that in the not too distant future they will find their televisions no longer suitable to receive a signal, leaving them without programming. For some, that would mean the loss of their only source of enjoyment and window on the world, and we would certainly not wish that.

To put the matter in a simpler context that the older generation will understand, it will be like the transition from the original 405-line black-and-white television sets to what were then the top-of-the-range 625s from the late 1960s, or the transition from medium wave to FM radio in the 1980s. It is evidence of the ongoing evolution of broadcasting in this country, particularly television, and we will probably see it complete in Britain before here. The debate and publicity surrounding the change will alert people in Ireland to what is going on and give them time to modernise and update their television sets. While I realise it will mean upset for people, the changes will herald a new era in broadcasting.

Unfortunately, I cannot say it will bring better programmes or a reduction in the nonsense channels that transmit material that might charitably be referred to as "mush". However, it will be a step forward technically and generally benefit the viewer. Given the number of people who depend to a great extent on television, it would be a sensible decision, and it is only five years away. There still will be a good many television sets at that stage that could serve into the future but they will have to be dumped owing to the lack of an analogue signal. However, most television sets have a relatively short life nowadays in any case, and there is a view that a built-in obsolescence in sets gives them a fairly definite lifespan.

I note that the UK plans to finish its closedown of analogue services by 2012, and it has been suggested that we should hold to the same time line. However, it is ultimately a matter for the Minister under section 12. Switzerland has been implementing the change since 2002, and hopes to finish by 2009, while Finland started only last year. I am pleased to see the Government maintain, as a core principle, the availability of free-to-air channels. The digital system, by its very nature, does not provide for that, but the Government is committed to keeping those traditional free-to-air channels available after these changes have taken place.

At present the digital system is still in its infancy, and in a similar manner to the way in which it enhanced picture quality on television and sound quality on a range of electronic equipment, it will expand beyond our present understanding of the range of services eventually available. For instance, many will be already familiar with interactive services, with five or six mini-screens showing different matches at once. Those of us of a certain age will remember how, in our youth, when we wanted Philip Greene's commentary on a soccer international, we had to tune into the second-grade Cork wavelength to hear him between the whistles and whines of the medium-wave broadcast.

We have made great progress, not only in our having live pictures and impeccable sound from any location in the world but in the quality of our performances, which has also improved. We advanced from there to black-and-white television, then a second radio channel and colour television, followed by Irish-language radio and television, as well as local and regional radio stations. Our progress has been on a par with that of anywhere else in the world, and our programmes could rival those of any other country, particularly in view of our relatively small population and limited budgets. We have now entered the computer age, and ever more older people are finding it has not passed them by, beginning instead to enjoy all the benefits and freedoms the Internet, instant communication and the availability of information at the touch of a button can bring.

The computer and broadband have many uses, something also true of digital television, as people have discovered. It can be the platform for a wide range of services and other benefits. We are all aware of the copier, printer, scanner and fax machine, which many people use in their individual forms. Nowadays all those come as a single package, "bundled together", to use the current telephone marketing phrase. Likewise, the television set can be a source of many services.

For many, a new word is about to enter the digital debate. The Bill allows for RTE to provide several multiplexes, which are not multi-screen cinemas in town centres but the technology by which the various channels will be allocated and used. In addition to their own use of the available frequencies, they must also provide for other television stations that broadcast to the nation, for example, TG4, TV3, and a possible future station from Northern Ireland. I note that RTE, as is proper for a national broadcaster, will be responsible for providing and maintaining one of the multiplexes that will serve its own and independent stations. Although I do not understand the technical details, this will avoid an unseemly row such as that regarding use of RTE masts by independent television stations.

I compliment RTE on the strides it has made, often in difficult circumstances and under necessary constraints imposed by Government. It has

done a good job but has let standards slip in recent years with frequent use of bad language and inappropriate material before the watershed. We are familiar with coarse language but it has no place on the national broadcasting channels. I was pleased to read a newspaper report last week that "The Late Late Show" was instructed to raise standards on behaviour and language that many people find upsetting when in company. Before anyone cries "censorship" I refer to good taste and basic manners. I feel sympathy for the older generation, many of whom have no choice apart from Irish channels. They are entitled to weekend entertainment without language and behaviour at which they cringe in embarrassment. Some may respond that such people can switch off the television but that should not be the only remedy. They are entitled to expect reasonable standards, especially from the national broadcaster.

Such slackness reminds me of a broadcaster from the other end of the spectrum, who passed away in the past fortnight. Mr. Seán Mac Réamoinn earned the respect of his colleagues and the listening public alike. He was steeped in learning, Irish culture, our language and history. He was the epitome of professional broadcasting, revered in the broadcasting business in many countries and his passing drew tributes from people throughout Europe. He was a fine ambassador for the country, of whom we can be proud.

I am pleased this Bill will establish and maintain a television service for Irish communities outside Ireland. Many emigrants are served by internet streaming and podcasts but live programming on television is preferable in terms of sound and picture quality. This service will reach emigrants in the United Kingdom but I encourage RTE to continue its webcast service to those further afield. The Minister could consider the request that live programming be extended to radio. The BBC was successful at this through the BBC World Service, which was later developed as a television service.

I am pleased the national stations will be numbered 1 upwards on all receivers sold in the country. The stations will maintain status in this country and make it easier to access local stations for those unfamiliar with tuning systems. The legislation also sets out the roles and functions of the Broadcasting Commission of Ireland and the Commission for Communication Regulation, ComReg, which guarantees all broadcasting parties a fair deal and an authority to which they may complain if aggrieved.

Broadcasting has made much progress in 75 years and the days of narrow influence are long gone. The days of Government control of the medium are in the past. However, it is incumbent on the Government to maintain fair play and oversee the process.

Section 6 provides for local and regional radio to be developed to a wider audience. These

[Mr. Kenneally.]

stations have been a success story in Ireland. Stations such as WLR FM fulfil an important function and have taken this responsibility seriously. I acknowledge the contribution to the social, educational and cultural fabric of my area. The same goes for Beat 102-103 in a more informal context, which serves the younger generation. Local stations have a good mix that can compete with national broadcasters and emerge with a considerable share of the audience.

Ireland has kept apace with technology in many areas of endeavour and must do the same with radio and television, even if these are perceived as leisure activities. We now see the beginning of the digital phase of broadcasting, with potential of which we can only dream. Developments in the future will match the first hesitant broadcasts from 2 RN in the 1930s. I commend the Bill to the House.

**Mr. Norris:** I wish to share my time with Senator Henry.

I welcome this Bill and agree with my colleague on the Government side in the glowing but well-merited tribute paid to Mr. Seán Mac Réamoinn. He was an old friend of mine, an extraordinarily professional broadcaster, an accomplished scholar and a good comrade. He was also a loyal critic of the church, which is necessary in establishments. It was important to have that dissenting voice and make these views available to the Irish public through the broadcasting service.

The last time I saw him was six months ago at the publication of a *festschrift* for Mr. Seán Fagan, a dissenting Catholic theologian. Mr. Mac Réamoinn was in a wheelchair and was not well. When somebody said something he did not agree with he put his hand up to reply. Even when mortally ill, he continued to make a contribution. The spirit was triumphant. He was also involved in the Merriman summer school. Although I do not wish to distort the emphasis of the debate I am glad the matter was raised and wish to pay tribute.

The last speaker referred to vulgarity, about which we can do very little. The airwaves in Ireland are penetrated by broadcasting from all over the world. In Cyprus I have more than 1,000 stations and they are almost all rubbish. I have a bee in my bonnet about competition, which is becoming a god. We see the damaging aspects of unfettered competition in broadcasting because it drives down standards. Consider Channel 4, which began as an investigative, imaginative, risk-taking channel. Now, its schedule consists of "Big Brother", celebrities and gameshows. It is twaddle. We must be careful about uncritically elevating competition to the status of a god, particularly in a world where we suffer the presence of Mr. Rupert Murdoch, even if it is only temporarily, because we are all mortal.

I am pleased the Minister referred to public service with regard to broadcasting. We must

maintain this. RTE provides an excellent public broadcasting service, notwithstanding my occasional criticisms. The quality of its programming is high and it provides an opportunity for citizens to discuss the important issues of the day. This Bill extends the discussion to Irish citizens outside the country, a valuable measure.

Ireland did not have a mandate to extend this service until now and was restricted from doing so because section 28(8) prevents us using taxpayers' money in this manner. I note the collapse of Tara Television and our attempts to parachute onto it, which was not appropriate. It is better that the State involves itself directly.

I am sure my colleague, Senator Henry, will make the following point in her contribution also. Why are we stopping at television with the Bill, and would it be possible to include radio? I propose to table amendments to this end. I have a certain selfish interest as I am fortunate enough to have a little house in the mountains of Cyprus where I listen to the BBC World Service on the radio. It is very good and better than television because the constraints of television time mean political issues, such as global warming, for example, are often treated in quite a nugatory way, bounced on with a soundbite. The wireless can provide a really extensive discussion in which one may participate if the facilities are available.

I would like to see Irish broadcasting services joining this area and I would like to put on the record lobbying we probably have all received from various sources. These include those who are hard of hearing from the National Association for Deaf People, the elderly, etc. and they are all pleading for Radio Éireann.

In his speech the Minister spoke about people who will be disadvantaged when the changeover comes into effect, as they will not have access to this new digital television. What about the people who as a result of disability do not have comfortable access to television because they cannot see it? We should make provisions for such people.

The National Council for the Blind of Ireland welcomes the Bill heartily but it argues that it does not go far enough and will not meet the needs of blind people. The radio is widely recognised as the most accessible form of media, and people living with diminished sight or loss of sight find that if they do not have access to radio, they will be deprived of this unique service. The Irish Senior Citizens Parliament has indicated that as a First World country we must now provide for the introduction of digital short wave radio to Europe. The provision of a service which is easy to hear and access is of the utmost importance for older people at home and abroad.

These are very important groups and there are even more, including Age Action Ireland, the Consumers Association of Ireland, the Federation of Irish Societies and those representing Irish overseas and broadcast and research. Other interested groups include the RTE Pensioners' Association, the Irish Senior Citizens Parliament



and *The Senior Times*. Many people who left here in the 1950s and 1960s would remember Micheál O'Hehir or Din Joe and would have tremendous sentimental and nostalgic connections with Radio Éireann. They would very much appreciate an extension to radio.

One of the submissions I received suggested a particular format. I am not well-versed in technology and I am unsure of some of the technical terms. I was very happy to receive a submission from Cathal Goan, the director general of RTE. One of the best parts of the submission was a glossary at the back where he asked simple questions on behalf of the ignorant like me and explained terms. That was really helpful.

There was a plea from various groups for the use of Digital Radio Mondiale, which seems to be a technically excellent format. With it a greater audience can be reached with a stronger signal and clearer sound. In other words, there is less interference from other stations, buzzing and so on. As the technology uses less energy, it is more environmentally friendly. RTE's new long wave transmitter will be compatible with this system and the format is already being used by 32 European broadcasters.

RTE also recognises the considerable importance of the Bill, particularly the important technical dimensions relating to new digital terrestrial television technology. The point is made that there are inequalities and that people will be excluded as technology moves forward. A considerable number of people in Ireland will be disadvantaged unless we pass this kind of Bill. For example, more than 250,000 families will only have free access to the Irish channels as they are outside the areas in which free multichannel television reception is available or because their houses cannot be cabled, etc.

This Bill can assure that free to air multichannel television will not just remain a viable option for those who have chosen it already but can be extended to people who do not have it. I mentioned the placing of people at a disadvantage and an example is the 88,000 families in the Leinster area who currently receive free multichannel television showing Irish and UK stations. They will be cut off immediately when the UK services in the west of England and Wales go digital. Another 115,000 in this category will lose free multichannel reception in a staged process as the other UK areas are switched off.

It is very important we continue to reach these people and those who are abroad. I mentioned the programmes — numbering more than 1,000 — I can receive in Cyprus. We must get in there with the Irish point of view, with the national interest being served in debates on world issues. I have stated I am not great with technology, but it should be the servant of the national interest. This Bill goes a long way towards ensuring this will be the case in future.

I mentioned Rupert Murdoch, who is a *bête noire* of mine, and his organisations and organis-

ations like them are fully commercial, not being a bit bothered by Irish national interest. We have already seen this with sports programming. Although I am not that desperate to watch sports programmes, I know many people who are. We must pay through the nose because rights have been bought and there are copyright issues. The BBC and ITV must pay Murdoch for some of this sports programming. New technology allows limitation on the range of broadcasts so a stipulation can be laid down that one will not receive a broadcast unless it is paid for.

Some of this may be outside the scope of the Bill but I would like the Minister to give a commitment that he will examine these issues in the context of the general schemes of the Broadcasting (Amendment) Bill 2006. There are great advantages to the new technology. I am not surprised this Minister, who has nearly always been forward-thinking in these matters as well as being courageous and prepared to take a leap into the future in the interests of the Irish people, has done a good job.

I question the reason the Bill is limited to television and ask if radio could be included. This would not just be for old fuddy-duddies like myself who often prefer radio to television, but also for people who may have a sight impairment and cannot access television. Many other people and I will appreciate the fact that when abroad, it is important to keep in touch with home. I am only a very partial exile as I spend some weeks here and there, but an increasing number of Irish people live abroad, in Spain or Portugal for example, for their retirement. We owe it to them to keep them in touch with their culture.

**Dr. Henry:** I thank Senator Norris for sharing his time with me. I welcome the Minister to the House and I also welcome the Bill. It must be a great change for him, a Minister charged with dangerous issues, to be getting such a welcome for a Bill on all sides.

As with Senator Norris, I hope the Minister will see a way to extend the Bill to cover radio and I will certainly support the amendment tabled by my colleague. We must ensure there is a digital short wave service as this would go to the European Union and down to north Africa. This should not just be for the Irish diaspora as a considerable number of people would welcome another English-speaking radio service. The BBC World Service is excellent but other voices are also welcome. I suspect many people would tune into such a service.

It was unfortunate that the long wave transmitter in Meath was sold off some years ago. Teamtalk bought it at that stage but it was later bought back, so it was sold as a result of some very short-sighted economy measure. I am glad we have it back again. However, long wave reaches only as far as the UK.

The quality of what we send out will be extraordinarily important. We managed to maintain



[Dr. Henry.]

quality on radio better than we did on television, even though the quality on our television channels is maintained at a higher level than channels such as Channel 4 which, as Senator Norris stated, has descended into the depths. Like Senator Norris, I query how one gauges what is competition. I recall being in the United States approximately 30 years ago with my children. One of them, who was tuning in and out of television stations as children do, said, "40 channels and nothing on any of them". We must be careful not to end up with nothing worthwhile on any station.

Apparently advertisers have deserted television. They have put their money into the Internet, which is a serious problem for raising money to make good programmes. As RTE is a public service, which the Minister recognises at the beginning of the Bill, it is most important we examine this. TG4 manages to hold its own with programmes of incredible interest. If it can manage to do so on the budget it has, I am quite sure RTE 1 and RTE 2 should be able to do more.

I always try to get RTE to take actions, such as buying the Russian version of *The Master and Margarita*, which apparently the Russians do not like. However, the Russians never seem to like any adaptation of *The Master and Margarita*. We could have it with Irish and English subtitles. This jurisdiction has people with excellent subtitling skills and I am sure if we broadcast it to the rest of Europe many people would want to see developments from other non-English speaking countries.

Radio programmes have held up well, although I regret bitterly the removal of "Rattlebag" from the middle of the day to the middle of the night.

**Mr. Norris:** Hear, hear.

**Dr. Henry:** It is a most interesting programme on the arts and I now do not get an opportunity to hear it. I once told a doctor I was worried because I went to sleep in front of the television at 10 p.m. He stated, "For heaven's sake, so do I". That was the end of that conversation. A large number of people miss programmes broadcast late at night.

I once thought Lyric FM was as good as BBC 3. Why did it get rid of "The Full Score" in the afternoon? One rarely gets to hear the full score of any piece of music. On most afternoons now, one hears the scores of films.

**Mr. Norris:** What about Val Joyce?

**Dr. Henry:** One could give numerous other examples. In general, our broadcasters have steered away from these nauseating reality TV shows which appear to specialise in the denigration of the person. It does not matter who the person is. A recent outcry about racism occurred with regard to a programme I do not watch,

namely, "Celebrity Big Brother". I do not know whether it was racism. I think it was just downright bullying. If advertisers feel what they put on television influences people to buy their wares we must assume shows such as this also have an influence on people.

**Mr. Mooney:** I welcome the Minister to the House and acknowledge the speed and efficiency with which he and his Department move to bring Ireland rapidly into the digital broadcasting age. I wholeheartedly welcome the broad thrust of the Bill. I hope its contents will be implemented as soon as possible.

I suggest we are slightly off the pace, particularly regarding our counterparts in the UK, who seem to be moving rapidly ahead and will begin the analogue shutdown as early as within the next 12 to 18 months. Like Senator Norris, I thank the director general of RTE for circulating a briefing note to all Members of the House in advance of this debate. It was extremely helpful not only in terms of the explanation of the various technical terms which we will confront in the Bill, but it also broadly presents RTE's public service broadcasting position on rolling out digital services. The Minister and his officials will be in regular dialogue with RTE as this process develops.

I strongly agree with the views expressed that in these developments radio is once again in the secondary place. I fully appreciate the focus is and must be on the development of digital television. Over the next three or four years we must reach a point when the architecture will be in place for creating a new broadcasting authority and rolling out the multiplex in order that we are not left behind. The Minister is aware that when debate commenced on this issue three years ago, concerns were expressed that Ireland did not seem to have any mechanism in place to address it. That is why I compliment the Minister on moving so rapidly on the matter.

The issue raised by Senator Norris may refer to section 6 of the Bill which relates to the duty of commission for communications regulation in respect of digital terrestrial sound broadcasting multiplexes. Will the Minister address this seeming deficiency in the Bill? I appreciate the Bill makes several references to it, particularly in sections 14 and 15. However, they refer to amendments to a plethora of broadcasting Acts, and the explanatory memorandum does not provide more than the most general interpretation of what is intended. Will the Minister clarify in layman's terms exactly what will be amended?

My constituency falls within this context. This issue is not only about maintaining public service broadcasting but also about broadcasting to Irish communities abroad. Like most of my colleagues I travel to and from the UK regularly. If one issue animates the Irish diaspora in the UK it is the provision, as they see it, of RTE television services. They are like children who were halfway through an apple pie when it was taken away by

an awful relative. Tara Television, a privately owned commercial cable company, operated on the Sky digital platform until 2001. It failed commercially. Irish people living in Britain do not fully understand or wish to be involved in the complexities of commercialism. As far as they are concerned they received an Irish service and then it was gone.

The reality is that while Tara Television did its best it had basic flaws. The main criticism made was that the programming schedule was extremely dated. People want current affairs and news programmes. In this age of instant communication when Irish people living in Britain can hop on an aeroplane and return home at a moment's notice, they want to feel they can also access the same sense of being Irish as those living in Ireland. I hope RTE bears this in mind and I hope it will be the provider of the new service for Irish emigrants in the UK and beyond.

I have every confidence that RTE, in consultation with the Department, will ensure that once the platform is up and running, the Irish in

12 o'clock Britain will be provided with a valuable up-to-the-minute service which will take account of the various complexities surrounding the transmission of programmes outside of Ireland. I am sure the Minister is aware of the serious copyright issues involved. It will not be a simple matter of rebroadcasting RTE television services. The main reason is that if one takes two of the most popular soap programmes currently transmitted on RTE, "Coronation Street" and "Eastenders"——

**Mr. Ryan:** TV3.

**Mr. Mooney:** The Senator is right. I meant programmes transmitted on Irish television. What I am trying to illustrate is that with any imported television programme currently running on RTE or TV3, the copyright relates to transmission within this country. The fee paid by television companies is based on the number of television sets in the country. We in Ireland can perhaps get many of these programmes more quickly than the British because we have good negotiators and are operating at a lower price level. This option will not be available because of the copyright problems so, therefore, it will be a challenge for all concerned to ensure the mix of programmes provided to the Irish community in Great Britain or elsewhere outside this country will be fresh and current and convey a sense of what it is to be living in Ireland as we go forward.

I wish to return briefly to the area of sound broadcasting. Specifically, I ask the Minister if this Bill is essentially a mandate to RTE to provide broadcasting services to the Irish abroad, and not just exclusively in the area of television simply because of the various references made about the amendment to the Broadcasting Authority Act 1960 and the fact that in one section of the Bill there is a reference to the obligations of

the new authority. The section provides that the authority will be required, "as soon as may be after the end of each financial year, make a report to the Minister of the use it has made with regard to, respectively, the television broadcasting service and the sound broadcasting service referred to in subsection (1)".

In view of this I suggest — I would appreciate clarification from the Minister on this — that the Broadcasting Authority of Ireland will have an obligation to, in turn, request from the suppliers a balance sheet or account of their stewardship in terms of what they will provide in the relevant financial year. In that context, and if that is the case, it is incumbent and should be an obligation on RTE to provide sound broadcasting services into the UK.

I wish to declare an interest at this stage. I am employed on a freelance basis by RTE. I was employed on a contract basis for approximately 20 years to the late 1990s and still work intermittently on special radio projects for RTE radio. Some of these programmes which were produced in recent years were concerned with the Irish in Great Britain. Most recently, I completed a series before Christmas called "The Irish Experience". I make this declaration because in arguing for an expansion of sound radio services to the diaspora in Great Britain, I do not wish my remarks to be interpreted as making a job application.

I am totally and passionately committed to the Irish community in Great Britain and beyond. I am a former emigrant and make no apologies for highlighting emigrant issues in this House and outside. It is in this wider context and because of my personal experience of the overwhelming desire of the Irish in Great Britain to have both radio and television services that I make this case. I would be the happiest person in the world if there was a legal obligation on RTE to regularly provide sound broadcasting services for the Irish in Great Britain. Irrespective of who presents them or how they are structured, I am essentially seeking to establish the principle here. From my correspondence with the Minister, I know his thinking is similar to mine. However, we are all constrained by legal obligations in terms of legislation and it would be helpful if I was made aware of this.

Overall, this is timely legislation. It brings us rapidly to the cutting edge of technology. I acknowledge the submissions made by the Emigrant Advice Network, which has made a similar case to that which I modestly attempted to make here today in terms of using modern technology to provide an efficient, technologically modern radio service, not just for the Irish in Great Britain but for any Irish people who travel across Europe. When we travel across the continent of Europe, all of us, including the Minister and several of his colleagues, with whom we have discussed this matter, will at some time or another automatically attempt to tune in to RTE to find out what is going on. It is not always possible to

[Mr. Mooney.]

get this service, although I welcome the fact that, according to the briefing, the new long wave transmitter will be Digital Radio Mondiale-capable. This is the format currently being used by 32 broadcasters across Europe and as far afield as Radio New Zealand International.

All of us will encourage DRM to be developed as a major communications tool to reach Irish audiences throughout Europe. It is not simply that the technological development is a good thing; Ireland's national interests are also a factor. It is about putting forward the image of Ireland as a modern, dynamic society. What better way of doing so than through the medium of radio, which is still a hugely popular medium and one that given the encouragement from the Minister's Department, can develop and advance in linking in to the modern technological options now available for the free and easy transmission of radio.

I pay tribute to my colleague, Senator Kenneally, for his very informative contribution to this debate. I also wish to put on record my appreciation of the work of the Chairman of the Oireachtas Joint Committee on Communications, Marine and Natural Resources, Deputy Noel O'Flynn, who, alongside the Minister, developed the initiative called e-Consultation, which was created by the Minister some months back. I believe the Minister's Department was the first to do this. There is now general and public access to the consultative process relating to communications legislation and public hearings held by the joint committee used the most modern technology, namely, webcasting, to get the message across in January. The Minister greatly encouraged this approach and I pay compliment to the Chairman and the members of the committee for taking this initiative.

**Mr. Ryan:** I apologise to the Minister if my remarks are slightly more disorganised than usual as I am standing in for my colleague, Senator O'Meara. I am a technophile and all these matters fascinate me. As an engineer, I have some belief that I can understand at least some of the technology. Ós rud é gur luadh a ainm, ba mhaith liom a rá, agus muid ag plé cúrsaí craola-cháin, gur mhór an chailliúint é Seán Mac Réamoinn, fear iontach, den toadhcháí i gcónaí, cé go raibh a chuid fréamhacha sa tseanaimsir. Ba fhear é a bhí ag féachaint i dtreo na toadhcháí i gcónaí, agus is mór an chailliúint dúinn é.

I share some of Senator Kenneally's concerns about coarseness. I would like the Minister to throw this around some time. One age group that is of huge interest to the radio broadcast medium is the 15-25 age group. All my children have passed beyond the age of 15 and are into their twenties. We were, and still are, a far from puritanical family. However, I have always had a significant reservation about the appropriateness of the same radio stations targeting both 15 year olds and 25 year olds. There is an enormous dif-

ference in outlook, maturity, life experience and everything else between a 15 year old and a 25 year old. Yet, every commercial radio station, including, I believe, RTE on its commercial mandate, stampede each other to get at that market.

This is an issue for the regulatory authorities. It affects simple as matters like alcohol advertising, but it is also as complex as the value system implicit in the approaches used, such as attitudes to sexuality and also appropriate models of behaviour in terms of the use of language and such like. This is nothing to do with censorship. I do not care what is broadcast as long as it is not broadcast under one guise and aimed at more than one sector. What is appropriate for a 25-year old who is out at work, living away from home, probably sexually experienced and drinking for seven or eight years can hardly be appropriate for a 15-year old barely beyond junior certificate. This is not a beat the Government session, I simply refer to the way broadcasting has evolved not just here but all over Europe. If we are in favour of giving our children the space to be children, which is something about which I feel strongly, that issue needs to be considered. Otherwise, we accept a 15-year old is a fully functioning adult in which case we give them votes, lower the age of consent to 15 and do many other things. We should not make policy in one area and do the opposite in another area.

On the topic of coarseness, the late and wonderful Seán Mac Réamoinn, whom I mentioned earlier, was one of the founders of the Merriman School dedicated to the memory of the author of *Cúirt an Mheán-Oíche* which until about 40 years ago was talked about in academic circles as a wonderful example of Irish from 200 years ago but the content, theme and colourful and earthy language was not regarded as a topic of conversation for decent people. We must be careful about words like "coarseness". Culture changes but even as one whose language is not something to boast about, I sometimes wince at the ease with which language that is more appropriate to a pub at 11 o'clock at night is used. All of us public servants and public officials have obligations in that regard.

Cuirim fáilte roimh pé neamhspleáchas atá á chur ar fáil do TG4. Tá ag éirí go maith leis, cé go bhfuil figiúirí don lucht féachana le sé mhí anuas beagáinín níos ísle ná a bhíodar bliain ó shin. Níl mé iomlán cinnte cad ina thaobh go bhfuil a leithéid tar éis tarlúint. Nevertheless, TG4 has a 5% or 6% audience share. I am tired of commentators talking about it. That is the rate Channel 5 and Channel 4 in Britain have always struggled to reach. TG4 is successful and its Irish language programmes are among those achieving high viewer numbers. "No Béarla", for example, was a wonderfully provocative series of programmes that had quite an impact on viewers generally. It sent reverberations through society about attitudes to our first official language. Everybody says TG4 has been a great success.



I could make a great speech about lateness. The fact is we are very late with digital terrestrial television. The world will live without digital terrestrial television. As a number of people stated, the idea that there is an endless new world because we have more television channels is not true. However, our nearest neighbour is about to switch off analogue television and that will have a direct and immediate effect on anybody in Ireland who is not using a satellite dish or who does not have a cable or MMDS service. That is a fact and therefore there is an immediacy about the issue.

There is a particular irony about a country that masquerades as being technologically advanced, where terms like e-technology and e-government are bandied about even though we are second last on the list according to the National Competitiveness Council. I have a mountain of paper around me and no screen in front of me. Half the parliaments of the world have a built-in computer system on their desks where information is readily available. Senator Mooney referred to existing legislation being available at the push of a button in order that one can see at a glance the context. We are so far behind. We make wonderful token gestures but that is all. We have not yet converted. In this House——

**Mr. N. Dempsey:** We cannot even get electronic voting working.

**Mr. Ryan:** The Minister was well warned about that one.

**Mr. Cummins:** I am glad the Minister said the Government cannot get it working.

**Dr. Mansergh:** Fair point.

**Mr. Ryan:** The fact that two members of the Labour Party who happened to be computer specialists were able to identify all of the flaws identified subsequently by the commission ought to teach the Government humility at the least. It is worthwhile to listen to other people.

**Mr. N. Dempsey:** It is a pity the Opposition did not listen to the Government.

**Mr. Ryan:** The Government turned out to be wrong. We listened extremely carefully.

**Mr. N. Dempsey:** The commission clearly stated the voting system was quite robust.

**Mr. Ryan:** It is a bit like last night's amendment.

**An Leas-Chathaoirleach:** Senator Ryan should be allowed to speak without interruption.

**Mr. Ryan:** At least I know the Minister is listening to me now. I wondered what he was doing.

**Mr. N. Dempsey:** I can multi-task.

**Mr. Ryan:** I read the Minister's script twice and I listened to what other speakers said on the matter but I am none the wiser. What will be the position of the 29% of the population who currently have free-to-air access to a range of channels, including the British channels because of their geographical location? It is not clear from the Minister's script whether they will have that access from 2009. It would be great if the Minister were to at least tell us what he thinks will happen.

Is it not misleading people to pretend that if our digital multiplexes are going to retransmit British channels that they can ever be provided free? The only reason people in the Border counties and on the east coast can watch British television channels is that they happen to overspill. Will they have to buy a set-top box? As the range of a digital signal is shorter than the current system the overspill will drop dramatically. We should at least know what the Government thinks will happen. If commercial agencies are to operate four of the six multiplexes they will have to make money. That is not an attack on them; it is a fact. Who will operate them? The current cable service providers will not want to operate them because that would undermine their entire capital investment. RTE cannot operate them. I hope there will be providers.

It appears the inevitable consequence of digital terrestrial television in this country and in our neighbouring island is that people who currently have free access, particularly to the British analogue channels, will have to find an alternative. Unless the Minister has a wonderful trick up his sleeve they will end up paying for their television viewing. Governments have been threatened with losing their positions over lesser issues. A total of 29% of the population will be affected. I am glad attention is being paid to electronic programming guides. I would hate the programming guide for public service broadcasting to be determined by Senator Norris's *bête noire*, whose name I will avoid mentioning. I do not think one should bother with such matters. Nevertheless, I hope it happens.

ComReg is involved. In terms of consumers of services, ComReg must be the least consumer friendly of all the regulatory bodies in comparison to the Director of Corporate Enforcement who fights consistently and with considerable vigour on behalf of consumers. ComReg appears to be totally transfixed with the joys of technological changes and so on. I cannot get a straight answer to a simple question from ComReg. Why is it that NTL in Dublin, which is owned by the same company that owns Chorus in Cork, charges less for a greater number of digital channels in Dublin than for a smaller number of digital channels in Cork? I do not necessarily want it to beat NTL into agreement but I cannot get a rationale from ComReg. If the regulator does not have a rationale, I must assume none exists.



[Mr. Ryan.]

Essentially that is what consumer protection is about. It is about finding information for and informing the consumer. Handing over the regulation of this to an agency that sees itself far more significant in the area of technology than in the area of mere consumers is not the most wonderful idea, unless ComReg gets its act together and begins to see that its primary function, like that of all regulators, is to look after consumers. Related to that primary function is the need to move beyond a blind belief that as long as we can get plenty competition, the consumer will be looked after.

The terrifying views of the Competition Authority about the health service in the face of the evidence of the United States, that somehow we should have more competition in the health service, are enough to scare anybody about the stupidity of a blind belief. Blind belief in any kind of ideological position is always daft because what works is what works and sometimes things work.

The move to digital terrestrial television is overdue but I would like to hear the Minister elaborate on the position of the 29% of people who may end up discovering they have only three or four channels in two or three years' time. I am glad to see a passing reference to high definition television but I am not sure it makes an enormous difference. I have walked around television shops in my home city inspecting televisions. I am fairly technophilic but I cannot see the difference between the images on high definition television and the current system.

Technology does not end with digital terrestrial broadcasting, it is moving on and the great buzz word, as the Minister is aware, is convergence. In the rest of the world there is much talk about convergence between high speed broadband, high speed wireless Internet and current television broadcasting. That will not be a problem in Ireland given the state of our broadband system. Assuming that sooner or later we catch up with the world, there are all sorts of interesting issues about what digital terrestrial television broadcasters will be broadcasting in 25 years' time if every house has high speed wireless Internet access capable of handling images of the quality of high density television without ever having a television. There are all kinds of issues there and I would like to believe somebody is thinking about them but I have no evidence of that.

I am glad the Minister mentioned radio broadcasting but I am not concerned about it. In our new confident self, I suggest we follow the French example of TV5 and consider a worldwide, deliberately publicly funded, television service. A huge number of people around the world have a passing interest in Ireland. Instead of tokenism and attempts to get commercial platforms, let us be like the French and assert ourselves and say we believe there are enough people in the world who are moderately interested in what is taking place.

It is a great pity that in the interests of education, the regulator does not require all cable operators to carry a few channels in other European languages. In Cork, despite the presence of 65 channels on digital TV, it has dropped TV5 and there is no channel in either Spanish, French, Italian or German. That is a dreadfully isolationist and insulationist way to proceed. I refuse to believe that Animal Planet or one or other of the subordinate channels available have a broader interest base than channels such as that. I have no idea of the reason for this. TV5 does not charge a great deal, is free-to-air and is not scrambled. There are areas where effective regulation is not simply a matter of leaving it to competition but is a matter of kicking the asses of people who are a little dim about what may be of interest to the public.

The basic contents of the Bill are welcome and we will support it. However, I would like to hear about the 29% of people who may well end up discovering they have only three or four channels in two or three years' time.

**Dr. Mansergh:** That is all I have in Tipperary and I am quite happy with it.

**Mr. Ryan:** That is saying a lot.

**Dr. Mansergh:** I welcome the Minister and the Bill. I endorse Senator Ryan's last point. It is a great pity there are not packages which carry, say, Spanish, French or German options. About 20 years ago I remember calling on the late Fr. Faul. One of his few pleasures in life was that he had a satellite dish and a package which gave him access to European channels. We are a member of the European Union and we cannot live in what the French would call an Anglo-Saxon world. That is the vision of Mr. Rupert Murdoch but it is not mine and it should not be that of this country.

The national broadcasting station is a major symbol these days and has been for the past 50 years of national sovereignty and identity. If, and God forbid, in these democratic days anyone was contemplating a coup or a rising in the State, they would not descend first on Leinster House, Government Buildings or Dublin Castle but on RTE in Donnybrook. I am strongly committed to the concept of public service broadcasting. I accept that is a concept which originated across the water with Lord Reith but it is equally applicable and, by and large, works well. I am proud of our national broadcaster.

I have two criticisms, however, one of which is of a technical nature. There are too many technical breakdowns and there could be tightening up. I accept some breakdowns may be unavoidable.

The other, which is a general political one, is that some broadcasters produce what one might describe as polemical programmes with which one may or may not agree. That is not my point and I am not suggesting they should be sup-

pressed or censored, but those type of programmes would merit some format for discussion afterwards from different points of view. I am thinking, for example, of Cathal O'Shannon's programme about wartime immigration. There are points of view other than the one expressed in the programme and there is other information. For programmes such as that there should be some forum live on air to discuss them.

The Minister is concerned that there should continue to be access to public service broadcasting of the main Irish channels free of charge. That is proper. It would be dreadful if the RTE channels, TG4 and so forth could only be transmitted courtesy of Mr. R. Murdoch or his equivalents. While travelling on the DART this morning I noticed an advertisement in the newspaper for RTE 2. It states that there is no connection fee, no subscription paid and no upgrade required, but that it is just the ticket for sport. I thoroughly approve of the advertisement.

The degree to which there is comprehensive coverage for the RTE stations in Northern Ireland has been an ongoing issue for a long number of years. One of the Minister's predecessors, the Leader of the House, Senator O'Rourke, was heavily involved in dealing with this when she was a Minister. There was an agreement in the last year or two that it was desirable, in principle, that there should be all-island coverage. Perhaps the Minister would update us on the position.

Equally, it would also be valuable for Irish communities abroad to have access to the stations. There are Irish communities in Australia and America as well as in Europe and so forth, and these people should have access to them. There is access via the Internet but that is not the same as being able to turn on the television and relax in an armchair to watch it.

A multiplicity of channels will be available. Speaking as a member of the Houses of the Oireachtas Commission, I believe we should take this opportunity to deal with the direct broadcasting of proceedings of the Oireachtas. In the United States, for example, there is direct access to the debates in Congress and in congressional committees. There are two models. One is a dedicated parliamentary channel which would be edited; the alternative is that people would have free and unimpeded access to parliamentary proceedings.

More people watch "Oireachtas Report" than one might expect. It is not just dedicated political followers who do so. I believe people would be interested in having an ability to tune into debates, sometimes at random. Advances in technology would enable them to do that. It would raise the quality of democracy and might even occasionally raise the quality of debate. I welcome the Bill.

**Mr. Cummins:** I welcome the main objective of the Bill, which is to establish a more flexible and

market responsive model for licensing DTT in Ireland and to allow for progress to be made towards analogue switch-off. The development of a DTT platform will allow broadcasters to offer more in terms of content and services to Irish viewers. The Bill will also amend the remit of RTE to allow it to utilise public funding in the provision of a broadcasting service to Irish emigrant communities abroad.

This is welcome but why are radio services not included in the Bill? Many people and organisations called for the inclusion of radio in postings to the e-consultation process, which has now terminated. The Emigrant Advice Network, Age Action Ireland, the Consumers Association of Ireland, the Federation of Irish Societies, the Irish overseas, broadcasting research, RTE Pensioners' Association, Senior Citizens Parliament and Senior Times are among those who support the inclusion of radio in the Bill. The Emigrant Advice Network stresses the importance of a radio service as a medium particularly well suited to the needs of older people and more marginalised emigrants, as well as the visually impaired. Many of those emigrants have strong and fond memories of Radio Éireann, now a rich repository of archive material from the early days.

Radio is valuable as an inexpensive way of reaching large numbers of people easily through common technology. While a service that would serve Britain and beyond would be a great service to emigrants, it would also be of benefit to Irish licence holders who might be among the 140,000 Irish people on average who are outside the State per day, travelling abroad on holiday or business, or who might be among the 200,000 Irish people who own holiday homes abroad.

There is overwhelming support for the use of digital radio mondial or DRM. This new technology would allow RTE to reach a greater audience with a stronger signal and a clearer sound at a lower cost than other radio technologies. As it requires less energy, the technology is more environmentally friendly and will have minimal impact on global warming. While it is a new technology requiring the use of special DRM receivers, the receivers, which are currently priced at approximately €200, will become cheaper and more widely available as the service becomes more widespread, which it undoubtedly will. I am pleased to note that RTE's new long wave transmitter will be DRM compatible. The format is currently being used by 32 broadcasters, including the BBC, Radio Luxemburg, Radio Canada Int., Radio France, Radio New Zealand Int., and Deutsch Welle, to mention a few.

Now is the time to legislate for radio as well as television. I pay tribute to Mr. Enda O'Kane, a former long-standing and devoted RTE worker, who has researched this subject for a lifetime, as a labour of love. The research that has been undertaken on this subject should be acted on

[Mr. Cummins.]

now. I urge the Minister to give due consideration to this matter before Committee Stage.

The National Council for the Blind Ireland, NCBI, says in a statement that it is supportive of the Bill, which will provide for the provision of television broadcasting services to Irish communities outside Ireland. The council considers it a positive, progressive and welcome move. However, the NCBI believes the Bill should go further as it will not meet the needs and rights of members of Irish communities outside Ireland who are also blind or vision impaired. The council urges that radio be included in the Bill. The Irish Senior Citizens Parliament also says in its statement that a DRM radio service should be available to emigrants.

A number of speakers have proposed the inclusion of radio in the Bill. I urge the Minister to introduce amendments on Committee Stage to take account of the wishes of speakers from all sides of the House on this subject.

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** I thank the Senators for their contributions. I am glad the debate has demonstrated a degree of unanimity in support of the Bill and in suggesting possible amendments to it. I am willing to be flexible, without delaying its passage too long. Some of the suggestions are worthy of consideration and I hope to look favourably on some of them. As Senators have agreed, the Bill is vital to ensure that Irish citizens can continue to enjoy an access to a quality, free-to-air broadcasting service and this is very important to all of us. It is especially important to have public service broadcasting. It is of concern to Government and to Members of this House that we take care to consider the needs of Irish communities living abroad with regard to public service broadcasting and this is provided for in the Bill.

I will deal with a number of the points raised by Senators during the debate. Some Senators, including Senator Finucane and Senator Ryan, raised the question of timescales for digital terrestrial television, DTT, roll-out. As I stated in my opening contribution, the EU has put forward the date of 2012 for analogue switch off and we intend to meet that date. Last year at a regional radio conference, Ireland agreed that analogue television will not continue to be protected after 2015. It is a case of a drop dead date of 2015 after which no analogue television will be available in Ireland. The European-wide switch off date is 2012. I have indicated on more than one occasion that I intend to try to beat that date by at least a couple of years. However, I want to give the trials and tests being undertaken an opportunity to play out more before the Government decides which way to go and the timescale to be followed. One way or another, we must ensure a viable alternative to free-to-air television by 2012 at the very

latest. This means that DTT must be rolled out as quickly as possible.

As I indicated to Members, this trial was commenced in August 2006 and it is due to last until 2008. During the timescale of the trial it is planned to meet a number of objectives, including the enactment of this legislation. It was originally planned to be part of the larger broadcasting Bill but because of the other issue of extending coverage and attempting to reach out to the Irish communities, we decided to bring this forward.

This new legislation will provide for RTE to be directly licensed by ComReg to provide DTT. Interested commercial operators will be given contracts by the Broadcasting Commission of Ireland, BCI, and there seems to be a fair amount of interest. Such operators will also be contracted to provide DTT, by which time it is hoped the DTT network roll-out will have commenced. This is what is envisaged over that two-year period and we will endeavour to accelerate the process, if possible. When the trial period ends in August 2008, it is hoped the DTT services will be offered at that stage by RTE and by commercial operators nationwide. I expect that during 2009, full consideration can be given to the planning of analogue switch-off in light of the extent of the DTT roll-out already achieved. Those timescales will be revised if progress is achieved at a faster rate.

Senator Ryan, Senator Finucane and others raised the issue of the possible loss of UK spill-over services from many households in the Leinster area once the UK analogue switch-off begins in 2008. I acknowledge there will be a loss of such services. Many Irish households have benefited in the past from free-to-air UK analogue television services. However, it should be remembered that this spill-over was just an accidental, albeit positive, benefit which occurred as a side-effect of analogue transmission and there is no right or entitlement to it. One of the consequences of the regional conference held in 2006 is that international spectrum usage will now be bound by those international agreements and DTT spill-over will be less likely as digital service is more controllable. The UK spill-over cannot be relied upon in the future as a method of providing television services to Irish households. With the advent of the national DTT roll-out, it is likely that UK television services will be offered on one of the DTT platforms. Households will continue to have a choice between satellite, cable or MMDS offerings through which they can receive UK channels.

On the questions raised by Senator Kenneally and others about the physical infrastructure, the possible need for a new infrastructure and the length of time such a roll-out would take, no new infrastructure such as the provision of masts is required. The analogue terrestrial system entails transmission on channels from key mountain tops, the names of which are familiar to us all, and they are generally removed from centres of



population. The DTT system will piggy-back on top of this existing system and can use the same masts and transmission sites with the addition of some new equipment. It is expected that the usual key mountain sites, such as Kippure, Claremont Cairn, Truskmore, Mount Leinster and so on, will be used.

Some Members questioned whether a roll-out of DTT can be guaranteed once this legislation is passed. I wish to underline that the proposed legislation obliges RTE to provide a multiplex with public service broadcast channels across the country. It is guaranteed that RTE 1, RTE 2, TG4 and perhaps one or two others which are currently available will be provided on that multiplex. Senator Mansergh will still be able to get his four channels.

**Dr. Mansergh:** I might have upgraded by then.

**Mr. N. Dempsey:** The BCI will then offer to the market further multiplexes to be filled with content. The extent to which various commercial broadcasters come forward to avail of this service will be a matter for the market. We cannot predict how many channels will be available but those free-to-air channels will certainly be available.

Some Senators have asked about the technical aspects of the analogue switch-off. Households currently availing of free-to-air terrestrial broadcasting only require a television set and a rooftop or portable aerial but a set-top box will be required for DTT viewing. A range of set-top boxes will be available, many of which are retailing in other jurisdictions for under €50 compared with costs of €200 or €150 last year. The coming of DTT availability throughout Europe has considerably lowered the cost of the set-top boxes. This will be the main expense of the service where viewers migrate to DTT.

People will be given sufficient warning about the arrival of digital terrestrial television to enable them to shop around. The timing and implementation of the analogue switch-off must also be publicised in order that it is understood. The Government must ensure it gives adequate notice of the switch-off and will have a key role in co-ordinating with broadcasters, equipment manufacturers and others to ensure good quality information is available.

Senators welcomed the move towards broadcasting to Irish communities abroad, a key recommendation of the report of the task force on policy regarding emigrants. As Senators noted, the report contained detailed recommendations, many of which are being implemented. At the time, general agreement was reached with the appropriate organisations that the recommendations were best implemented on a phased basis.

The Government continues to prioritise the need to support the most vulnerable and marginalised Irish communities abroad, for example,

older Irish people in Britain and many of the undocumented Irish people in the United States. We have increased funding in this area, particularly since 2004, on foot of the report. As a result, it has been possible to fund the highest ever number of emigrant organisations and widen the scope of the projects receiving support.

A sum of more than €15 million has been allocated for emigrant services this year. This is an increase of 26% on last year's allocation and 15 times greater than the 1997 allocation for such organisations. The ongoing implementation of the task force report's recommendations is a clear reflection of the Government's firm commitment to the emigrant community. This commitment is also a fair reflection of the strength of the belief on all sides of the political system and among the wider population that we should not forget our emigrant community. Additional funding and the establishment and operation of the Irish abroad unit in the Department of Foreign Affairs are welcome developments which have also been warmly welcomed by organisations in the voluntary sector.

Having visited the recent 2006 ITU world telecom conference in Hong Kong, I must disagree with Senator Ryan's view on high definition television. The event featured comparisons between high definition and conventional television, including a demonstration of how one could read the writing on the nib of a fountain pen on a high definition television screen. I usually need glasses or a magnifying glass to read this lettering and the demonstration brought home to me how much sharper high definition television is than ordinary television. This form of television will add to the enjoyment of viewers in future.

Senator Ryan raised a more serious point when he argued that ComReg has failed to protect the interests of consumers. His criticism is unfair because ComReg, of all the regulators, has one of the best websites for consumers, including information on and analyses of prices being charged. The Senator also faulted the regulator for not forcing a reduction in prices in retail broadcasting. Under European Union directives, ComReg does not have powers to regulate prices of companies such as NTL and Chorus which operate in this market.

Senators Norris and Ryan raised the possibility of introducing the digital radio mondiale — DRM — standard for radio broadcasters. The standard under consideration by the Department and RTE is digital audio broadcasting or DAB. While the legislation does not specify a standard for radio broadcasters, opinions differ on which of them is the best. The Department will seek to ensure the best standard is applied. RTE is running a DAB pilot project and further information will become available once the scheme is completed.

A number of Senators raised the issue of blindness and disability in old age. One of the benefits technical experts tend not to discuss in detail when describing digital terrestrial television is



[Mr. N. Dempsey.]

that its enhanced functionality will make it easier to provide services such as subtitling and audio description and will allow much greater interactive participation, all of which should be of assistance to people with disabilities.

Senators referred to the decision to exclude radio broadcasting from the provisions of the Bill. The reason it was not specifically included is that RTE radio broadcasts are available internationally via satellite and on long wave. I will consider Senators' requests that I specifically include references to radio broadcasting in the Bill and will amend the legislation accordingly on Committee Stage if it transpires that to do so would not cause technical or legal difficulties. I must also check whether such amendments would delay the legislation. I assure the House that if radio broadcasting is not included in this Bill, it will be included in the larger broadcasting Bill to be introduced at a later date.

Senator Mooney sought clarification on sections 14 and 15 which are technical and, as such, may give rise to confusion. The sections are simple if one refers back to the relevant sections of the principal Act.

*1 o'clock*  
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 purpose of providing the proposed new television services to Irish communities abroad and developing the RTE Authority's proposed national digital terrestrial television. As these developments have not been possible heretofore, the Bill provides for a specific power allowing RTE to use the funds in the manner proposed. The section also amends section 28(10) to require that the RTE authority report to the Minister on the use of public funding for such a purpose. Senator Mooney's concern was to ensure this procedure takes place in a transparent manner. This is precisely what the provision requires.

**Mr. Mooney:** Rather than merely providing a facility, the section places an obligation on RTE.

**Mr. N. Dempsey:** Yes. Section 15 is even more explicit in this regard in that it amends section 32 of the 2001 Act to empower the Minister to direct the RTE Authority, in the interests of transparency, to maintain a special account of its use of public funding in relation to the provision of the new television services for Irish communities abroad. In other words, RTE cannot simply indicate it is spending a certain amount on such services.

**Mr. Mooney:** It is for this reason that radio will be an important element in achieving the Minister's objectives.

**Mr. N. Dempsey:** Yes. We can go back to Tara and so on, but one of the difficulties that will have to be faced by RTE in all this concerns rights and

how that problem will be overcome. I know RTE is exercising its mind on this issue. Everybody is aware and I have made RTE aware, although I did not need to as it was very alert to this matter, that a purely archive-based service will not be acceptable. We must go further than that.

**Mr. Mooney:** That is why Tara disappeared.

**Mr. N. Dempsey:** Yes. Reference was made to advertising for children with regard to age differences. There are advertising codes in place. The advertising code for children generally defines a child as a person younger than 18 years and it sets further standards for children under 15 and under six. That partly answers Senator Ryan's point, although he also referred to the differences in programming.

Senator Mansergh asked about RTE television reception in Northern Ireland. RTE 1 and RTE 2 are available in Northern Ireland, largely through spill-over, and TG4 is available there terrestrially, as agreed under the Good Friday Agreement. I launched the operation of a mast for that area some years ago.

**Dr. Mansergh:** RTE 1 is still patchy.

**Mr. N. Dempsey:** Yes. At every available opportunity, the issue of full coverage in Northern Ireland is raised frequently by my colleagues at a technical and political level, which will be welcomed by Members. In the talks about the different multiplexes, digital terrestrial television might allow for arrangements that are not currently possible. We will try to ensure all the channels will be available in both directions, which would foster better relations. I hope something will come of that.

I thank Members once again for their interest in the Bill. I will certainly take some of their suggestions on board and I look forward to working with Members on Committee Stage.

Question put and agreed to.

Committee Stage ordered for Wednesday, 7 February 2007.

*Sitting suspended at 1.05 p.m. and resumed at 2 p.m.*

### **Health (Nursing Homes) (Amendment) Bill 2006 [Dáil]: Committee Stage.**

Sections 1 and 2 agreed to.

#### **SECTION 3.**

**An Cathaoirleach:** Amendments Nos. 1, 11, 15 and 19 are related and will be discussed together. Is that agreed? Agreed.

**Mr. Browne:** I move amendment No. 1:

In page 5, between lines 24 and 25, to insert the following:

“(5) (a) A person applying for a subvention, or a person acting on his or her behalf, may appeal, to an appeals officer designated by the Minister, on the grounds of—

(i) his or her means and circumstances, or

(ii) any abatement of the rate of subvention to that person of the maximum rate appropriate to that person’s level of dependency, against a decision of the Executive—

(I) not to pay a subvention, to pay a lower amount of subvention than the maximum rate,

(II) to withdraw a subvention, or

(III) to reduce a subvention, within 28 days of the date on which the Executive notified the person of its decision and the grounds for its decision.

(b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.

(c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.

(d) A decision of an appeals officer shall be final and conclusive.

(e) Where the Executive has determined that a person does not qualify for a subvention, or qualifies for less than the maximum rate of subvention, it shall inform the applicant of his or her right to appeal the decision under this subsection.”.

Amendment No. 3 relates to prescribed subvention and the appeals mechanism. I understand there is currently no appeals mechanism to query the issue of subvention not being awarded. We feel it is important this provision is made in the Bill.

**Minister of State at the Department of Health and Children (Mr. S. Power):** These amendments were raised on Committee and Report Stages in the Dáil and none was accepted because the Bill provides for a single appeals process. It is not considered necessary to include a separate appeals provision under each section of the Bill.

The appeals provision at section 7E of the Bill provides for a more robust and transparent appeals procedure in accordance with legal advice received and in compliance with Article 6 of the European Convention on Human Rights. The appeals process provides that a person can

appeal any decision made by the HSE on subvention, under sections 7A (3), 7C (1) and (4) and 7D (2). Under the appeals section 7E, the person appointed by the HSE to consider the appeal must comply with the HSE’s guidelines in respect of procedure.

The HSE has advised that a new appeals process and associated guidelines will be in place before the Bill has been enacted. There is not likely to be a significant change in the current appeals process on foot of this Bill. The HSE has advised that current appeals officers will continue to consider appeals under the new system. It has also advised that a single appeals process will be in place throughout the country, which was not previously the case. This will bring clarity and transparency to the process.

Individuals now have 60 days to make an appeal, as opposed to 28 under the current system. A person’s right to make an appeal to the Supreme Court on a specified question of law is also now enshrined in legislation. It is considered that the provisions currently contained in the Bill provide for a fair, transparent and robust national appeals system. Therefore, it is not considered necessary to make any amendment to them and I do not propose to accept these amendments.

Amendment put and declared lost.

**An Cathaoirleach:** Amendment No. 2 is a Government amendment. Amendments Nos. 2, 3, 16, 17 and 18 are related. Amendments Nos. 17 and 18 are consequential on amendment No. 16. These amendments will be discussed together. Is that agreed? Agreed.

Government amendment No. 2:

In page 5, lines 36 and 37, to delete “degree of dependency of the applicant” and substitute the following:

“need for the applicant to be maintained in a nursing home”.

**Mr. S. Power:** These amendments relate to a change introduced on 1 January 2007, which replaced the three levels of dependency previously used, namely, medium, high and maximum, and their corresponding subvention rates with a single maximum rate of €300. Levels of dependency no longer exist. A person now is deemed to be either dependent or not dependent. In simple terms, a person either does or does not need to be maintained in a nursing home.

Amendment No. 16 provides that a review of a person’s dependency may still be carried out. However, whereas previously such a review would have been to see whether a person’s level of dependency had changed, the amendment provides that the purpose of such a review will be to ascertain whether the person still needs to be maintained in a nursing home. This flows from the fact that there are no longer three distinct lev-

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els of dependency. The abolition of the three levels of dependency and the creation of a single maximum rate of dependency were part of a number of measures that took effect on 1 January 2007 as provided for in the Nursing Homes Subvention (Amendment) Regulations 2006. The provisions of these regulations are now being included in the primary legislation and the regulations will fall on the enactment of the Bill.

Before Christmas, the Minister for Health and Children announced a new nursing home care support scheme, which will be introduced on 1 January 2008. The purpose of the changes being introduced for 2007 is to pave the way for the new scheme and render an increased number of people eligible for subvention in the short term. Some €85 million has been provided to fund these measures for 2007 and it is expected that some 2,000 people will benefit from the changes.

Amendment agreed to.

Government amendment No. 3:

In page 5, lines 49 and 50, to delete “degree of dependency” and substitute “need to be maintained in a nursing home”.

Amendment agreed to.

**An Cathaoirleach:** Amendment No. 4 is a Government amendment. Amendments Nos. 4, 6, 8, and 9 are consequential on amendment No. 10. Amendments Nos. 4, 6, 8, 9, and 10 will be discussed together. Is that agreed? Agreed.

Government amendment No. 4:

In page 7, line 20, before “the” where it firstly occurs to insert “subject to subparagraph (vi).”.

**Mr. S. Power:** These amendments provide that where 5% of an individual’s property is taken into account as part of the financial assessment for subvention, it will be taken into account only for the first three years the person is paid subvention. These amendments are intended to benefit many of those in private nursing homes in the immediate term. On foot of the amendments, the HSE will assess applicants for subvention and will ensure that if income has been imputed from the principal private residence for three or more years, no further income will be imputed under the financial means assessment process. It is consistent with the new nursing home support scheme, A Fair Deal, whereby the maximum rate of depletion of the principal private residence is capped at 15%, or three years. This limit of three years is being provided for in the Bill as part of the range of measures being introduced in 2007 in advance of the new scheme taking effect next year. As already mentioned, these measures have been provided for by way of regulations made

before Christmas. Therefore, the measure is already in force and is now being transposed into primary legislation.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 5 and 7 are related and will therefore be taken together by agreement. Is that agreed? Agreed.

Government amendment No. 5:

In page 7, to delete lines 29 to 39 and substitute the following:

“(IV) a relative of the applicant in receipt of—

(A) disability or similar allowance,

(B) blind person’s pension,

(C) illness benefit,

(D) invalidity pension,

(E) state pension (contributory) in any case where, before 28 September 2006, the relative would have been entitled to invalidity pension,

(F) state pension (non-contributory),

(G) any successor to an allowance, pension or benefit referred to in this subclause in any case where that allowance, pension or benefit, as the case may be, ceases to be provided, or

(H) any European Union equivalent to an allowance, pension or benefit, or any successor thereto, referred to in this subclause,

or

(V) a relative of the applicant in receipt of—

(A) state pension (contributory),

(B) any successor to a pension referred to in this subclause in any case where that pension ceases to be provided, or

(C) any European Union equivalent to a pension, or any successor thereto, referred to in this subclause, which is the relative’s sole income.”.

**Mr. S. Power:** These amendments are largely technical and the main reason for them is to update the names of certain social welfare benefits and pensions referred to in the legislation. Some of those names changed recently owing to the Social Welfare Law Reform and Pensions Act 2006.

The amendments also do two other related things. First, they provide that if the names of any of the social welfare payments or benefits referred to in the Bill change in future, they will continue to be covered by the appropriate pro-

visions without our having to make any further legislative amendments. Second, they specifically provide that persons receiving EU benefits equivalent to the domestic benefits outlined in the Bill will also be covered by the appropriate provisions. That is in line with EU Regulation 1408/71, to which Ireland is bound. The purpose of the regulation is to ensure that European Economic Area nationals who move around the EEA have their social security entitlements protected as if they had remained in one EEA state throughout the course of their working lives.

Amendment agreed to.

Government amendment No. 6:

In page 7, line 40, to delete “subparagraph (v)” and substitute “subparagraphs (v) and (vi)”.

Amendment agreed to.

Government amendment No. 7:

In page 8, to delete lines 1 to 5 and substitute the following:

“(iii) one-fifth of the weekly rate of—

(I) subject to clause (II), state pension (non-contributory),

(II) any successor to that pension in any case where that pension ceases to be provided, and whether or not the applicant is in receipt of that pension or any successor thereto.”.

Amendment agreed to.

Government amendment No. 8:

In page 8, line 8, to delete “and”.

Amendment agreed to.

Government amendment No. 9:

In page 8, line 20, to delete “made.” and substitute “made, and”.

Amendment agreed to.

Government amendment No. 10:

In page 8, between lines 20 and 21, to insert the following:

“(vi) without prejudice to the generality of subparagraph (i), the principal residence of the applicant in any case where the applicant has been paid in accordance with this Act a relevant subvention for not less than 3 consecutive years at any time following the commencement of this subsection.”.

Amendment agreed to.

**Mr. Browne:** I move amendment No. 11:

In page 9, between lines 1 and 2, to insert the following:

“(8)(a) A person whose degree of dependency or means are assessed by a person, or a person acting on behalf of that dependent person, may appeal, to an appeals officer designated by the Minister on the grounds that he or she is not satisfied that his or her means and circumstances were adequately, properly or correctly assessed.

(b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.

(c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.

(d) A decision of an appeals officer shall be final and conclusive.

(e) Where a report is produced as to the means or degree of dependency of a person, and such report is provided to the Executive, the Executive shall inform the applicant of his or her right to appeal the contents of that report under this subsection.”.

Amendment put and declared lost.

**An Cathaoirleach:** Amendment No. 12 is a Government amendment. Amendments Nos. 23 and 24 are related, and amendment No. 23 is consequential to amendment No. 24. We will therefore take amendments Nos. 12, 23 and 24 together, by agreement. Is that agreed? Agreed.

Government amendment No. 12:

In page 9, line 2, after “subsection (4)” to insert “and section 7K”.

**Mr. S. Power:** Amendment No. 24 adds a provision to the Bill whereby the Health Service Executive, HSE, may refuse to pay a subvention where the nursing home in question is not tax compliant. Under normal circumstances, the HSE will seek a tax clearance certificate from companies to which more than €6,500 of public money has been given in payment over a 12-month period. That is to ensure that the tax affairs of such companies are in order.

However, although a tax clearance certificate may be sought in respect of a home when an official agreement is being signed, such certificates are generally not subsequently sought in the case of nursing homes in receipt of subvention payments. That is because such tax clearance has



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not been provided for in primary legislation to date.

There is some concern regarding the issue given that the level of funding being provided to such homes, most of which were registered many years ago on an annual basis, can be very high. This amendment provides specifically that the HSE may now refuse to make subvention payments in respect of a home where a tax clearance certificate is not in force. Amendments Nos. 12 and 23 are technical amendments consequential to amendment No. 24.

**Mr. Browne:** I accept the idea behind the amendment but how do we safeguard patients who might otherwise be caught in the crossfire? If they are in a nursing home, their first choice may well be a public bed, but the reality is that they would be hard-pressed even to get a private one. If they are in such a private nursing home and apply for a subvention, it is difficult to do so successfully and now they may be caught in the middle of a row with the HSE and the tax authorities regarding clearance certificates.

Have we thought through how we ensure the patient does not get caught in the crossfire? I can envisage this becoming problematic. Although the patients pay money to a private nursing home, the nursing home management might blame the tax authorities and say that they have requested a tax clearance certificate but not been given one. The Minister is aware that there can be difficulties with accountancy. It may not be a question for today, but I would hate to see a scenario where patients in a nursing home, despite their paying, do not receive a subvention because of a row over a tax clearance certificate. I appreciate that, in an ideal world, the nursing home should have a tax clearance certificate, and everything should be fine, but I am also aware that the world is not ideal.

**Mr. Ryan:** Are we discussing amendment No. 12 and two others?

**An Cathaoirleach:** Yes.

**Mr. Ryan:** I am not trying to be troublesome; it is too late on a Thursday for that.

**An Cathaoirleach:** The Senator is never troublesome.

**Mr. Ryan:** I thank the Cathaoirleach, although I am sure he would not allow me to be so, even if I wished.

I am not trying to be smart, but amendment No. 23 effectively states that we should delete "website" and insert the same word. I am obviously missing something, but I cannot work out what. In my version of the Bill, line 52 contains the single word "website", with what looks to me like an erroneous set of inverted commas

behind it. Is the proposal to replace it with "website" with inverted commas beside it?

**Mr. S. Power:** It is a simple punctuation change.

**Mr. Ryan:** It is exactly the same as what is there. That is what intrigued me.

**Mr. S. Power:** I take Senator Browne's point, but we are living in changed times, and if one is doing business with the Government in any shape or form, it is expected that one be tax compliant and that a tax clearance certificate be capable of being provided if requested. The homes will very much be in line with every other industry doing business with the Government. One may rest assured that the HSE will address this in a very pragmatic manner and deal with individual situations as they arise.

From 2008, we will be in a completely different situation. We will ensure that patients are not put at any disadvantage as a result of our introducing this measure, but it is important that we do so. It should have happened some time ago and we are now rectifying matters.

**Mr. Browne:** I see a potential difficulty in the case of nursing homes changing hands. The patient might be there during the tenures of both owners and be caught in the crossfire. Perhaps the HSE might give special consideration to that scenario. In the case of a nursing home being taken over, there might be a delay in eliciting a tax clearance certificate from the new owners. The bottom line is that patients should not be caught in the crossfire. I envisage a problem since businesses changing hands can be quite traumatic and cumbersome.

**An Cathaoirleach:** I am advised that the purpose of amendment No. 23 is to remove the inverted commas. I do not think that it interferes with the website.

**Mr. Ryan:** It was my pedantry. That is all.

**Ms Feeney:** I would like to address Senator Browne's point regarding tax compliance. I can understand his standpoint and perhaps the new rule might be formulated to avoid that problem. When one sells a home, one must ensure that all local authority charges are paid before one closes the sale. In the case of a nursing home, a tax clearance certificate could be required before the sale is complete.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 13 and 14 are related and may be discussed together.

Government amendment No. 13:

In page 10, line 15, to delete “€300,000” and substitute “€365,000”.

**Mr. S. Power:** From 1 January the basic rate of subvention was increased to €300 per week. The increase in the basic rate necessitates an increase in the property threshold for areas outside Dublin from €300,000 to €365,000 where a person has an average annual income greater than €10,400, increased from €9,000. Under the terms of the financial means assessment, a person with income equivalent to the State non-contributory pension and a house worth €364,000 and no other income or assets would qualify for basic subvention at the increased rate. The amendment to the threshold acknowledges this fact and renders the provision compatible with the increased rate of subvention.

**Mr. Browne:** The greatest difficulty with the Bill is plotting the Dublin area against non-Dublin areas. The Minister of State is from County Kildare and does not need a lecture from me. Carlow belongs more in the greater Dublin area than in the south east. Our colleagues in Waterford could not give a damn about us except when it suits them to include us in the south east. Otherwise we are completely ignored.

I am not sure what the solution is but people could live in a house worth €1 million while living in poverty. Does the Minister of State recommend people sell their houses to raise cash? People can find themselves asset rich but cash poor. In every county property prices are higher in urban areas than rural areas. Perhaps it is foolish to refer to a fixed amount. Why not insert an index-linked figure? Although €365,000 may seem a large amount today, by 2010 it could be obsolete. An index-linked figure keeps pace with reality rather than going out of date. Will the Minister of State be forced to return, making new regulations annually? Is the €10,400 linked to the annual amount of the State pension?

**Mr. Ryan:** There is eternal optimism in Government circles that house price inflation will decline but there is no market evidence that it will do so. The sum of €365,000 will diminish relative to the value of a house within five years. This is a way to reduce the number of people who will have access to the services. The Minister of State will deny any such intent. There is no logical reason to separate south Dublin and north Wicklow, one of the most desirable areas in the country. It is illogical to suggest that because one lives in Enniskerry, County Wicklow, rather than Dalkey, County Dublin, the house price to be considered will vary by a factor of 25%. This measure was inserted in a hurry because people realised that house prices are higher in Dublin. In fact, Dublin is the cause of house price inflation in circles reaching as far as Carlow. What is the logic in choosing Dublin? There may be logic for banding house prices depending on the region. There is no simple solution because the only way

one can establish the price of a house is through the market, the amount a willing seller is prepared to accept from a willing buyer where both are acting freely. The current solution is attractive as a bureaucratic solution but makes no logical sense.

**Mr. S. Power:** It may not make sense to some people but this tool has also been used by the Department of the Environment, Heritage and Local Government for some time. One cannot deny that a major difference exists in regard to house prices in Dublin and the rest of the country. The further one goes, the greater the difference. If Wicklow and Kildare were included in the Dublin region, Laois could argue for inclusion. The line must be drawn somewhere. The 5% imputation in the means assessment is what really counts. Where there is a limit to the money provided for a scheme, one must establish qualifying criteria. An extra 2,000 people will benefit as a result of this measure during 2007.

**Mr. Browne:** What about index-linking the payments?

**Mr. Ryan:** I do not care if Dick Roche has decided to undertake the same measure. That confirms my view that it is illogical.

**An Cathaoirleach:** Is Senator Ryan referring to the Minister for the Environment, Heritage and Local Government?

**Mr. Ryan:** Yes, I apologise. That another Department has done it proves that it is a bureaucratic simplicity rather than a sensible measure. Something was needed in a hurry and people thought that prices in Dublin were higher. The Dublin region is where house prices are higher, not Dublin. Perhaps there is a plan to extend boundaries of Dublin to include north Kildare, north Wicklow, south Louth and east Meath. For planning reasons this may be a good idea but there is no reason two houses next door to each other should be evaluated for eligibility differently. If it is not logical, it will not work. We will be back with this Government or another remedying an anomaly that went unnoticed in the Health (Nursing Homes)(Amendment) Bill. There will be an implication that it slipped through unnoticed, although it did not. It is a profound mistake.

All these means tests are appalling, but that is a separate issue. If such tests are operated, the first requirement is that it should be simple and transparent, but this stipulation is neither. Senator Browne has already mentioned the reason, the lack of index-linking. As a result of this we will require amending legislation every year or the number of eligible people will be affected. This issue revolves around simplicity and a calculation of what level it should be

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pitched at to have an appropriate number of eligible people.

**Mr. Browne:** I wish to return to the issue of index-linking, which puzzles me. If a pensioner lives in Dublin in a house worth more than €500,000, or outside Dublin in a house worth €366,000, is the Government indicating that there is no entitlement to subvention? What is such a person meant to do instead?

**Mr. Ryan:** Sell the house.

**Mr. Browne:** A person may have lived in an area all their life and there could be some family relations in the vicinity. Is that person meant to sell the house and move to a different part of the country which may be affordable but has no family or friend support? What if the person is in their 80s or 90s? It is a difficulty and I am puzzled by it.

The €10,400 is equal to the State pension. Am I correct in thinking the Minister for Social and Family Affairs recently announced that people were entitled to earn a certain amount of money per week in addition to the State pension without affecting it?

**Ms White:** It is €100.

**Mr. Browne:** Has that amount been taken into account? If, for example, a person in receipt of a State pension did some work during the week, he or she might have almost €300 per week between the pension and the extra income. Such a person would then be outside the subvention rate if the person were in a nursing home because the income would breach the €10,400 limit. This figure should be increased immediately to take into account the €100 per week, approximately €5,000 over the year, to leave a figure of approximately €16,000.

**Mr. S. Power:** When the subvention scheme was introduced in 1993, the intention was to assist people with the cost of care. At that stage the property threshold was £75,000, which remained unchanged for a good few years. We have made some changes but a system will never be brought in that will satisfy everybody. The Senator would have to acknowledge there is a serious difference in house prices once one leaves Dublin.

**Mr. Ryan:** I would not.

**Ms Feeney:** Of course there is a difference.

**Mr. S. Power:** I have admitted on a number of occasions that the subvention scheme in place is far from ideal, and if we started from scratch we would never arrive at the current position. This has been acknowledged. As today is 1 February, we will have a completely new scheme in operation in 11 months' time which will be much more

equitable and which I am sure Senator Ryan and Senator Browne will find favourable.

**Mr. Ryan:** I might not be a Member of this House.

**Ms Feeney:** Is that a wish?

**Mr. Glynn:** The Senator is not throwing in the towel already.

**Mr. S. Power:** I clearly have more confidence in the Senator than he has himself.

**Mr. Browne:** I wish to ask the Minister of State to reply on the €16,000. Is it the case that people who receive the State pension and earn a few euro extra per week, as they are allowed to and are encouraged by the State to do, will find themselves outside the loop? That is a serious mistake if it is the case.

**Mr. S. Power:** There is a difference between the income and value of property. I made the point that a person could be in receipt of a pension, have a house valued at €364,000 and still qualify for subvention.

**Mr. Browne:** I am still confused. A pensioner may earn €100 per week along with their State pension, which is allowed, leaving a total sum of approximately €15,000 per year. We are discussing an amendment stipulating that a person cannot have an income of more than €10,400, but the income of some pensioners will be above this. The State will on one hand indicate that such people can work away, and although €100 will not make a major difference, it will have a significant impact if such people cannot obtain subvention for a nursing home during the year.

**Ms Feeney:** I take the point made by the Senator. I believe the people allowed to earn up to €100 per week are people younger than those in receipt of the State pension. These people would be in receipt of a widow's or widowers' pension, although these have new names. I did not believe it applied to people in receipt of the State pension. Perhaps the difference is that if they are earning €100 per week, they are unlikely to find themselves looking for subvention for nursing homes.

**Mr. Browne:** My understanding is pensioners can earn €100 but perhaps I am wrong.

Amendment agreed to.

Government amendment No. 14:

In page 10, line 22, to delete "€9,000" and substitute "€10,400".

Amendment agreed to.

**Mr. Browne:** I move amendment No. 15:

In page 10, between lines 35 and 36, to insert the following:

“(6) (a) A person applying for a subvention, or a person acting on his or her behalf, may appeal, to an appeals officer designated by the Minister, on the grounds of—

(i) his or her means and circumstances, or

(ii) any abatement of the proposed rate of subvention to that person from the maximum rate appropriate to that person's level of dependency, against a decision of the Executive—

(I) not to pay a subvention, to pay a lower amount of subvention than the maximum rate,

(II) to withdraw a subvention, or

(III) to reduce a subvention, within 28 days of the date on which the Executive notified the person of its decision and the grounds for its decision.

(b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.

(c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.

(d) A decision of an appeals officer shall be final and conclusive.

(e) Where the Executive has determined that a person does not qualify for a subvention, or qualifies for less than the maximum rate of subvention, it shall inform the applicant of his or her right to appeal the decision under this subsection.”.

Amendment put and declared lost.

Government amendment No. 16:

In page 10, to delete lines 43 to 48 and substitute the following:

“(i) of—

(I) the need for a dependent person to whom a relevant subvention is paid to continue to be maintained in a nursing home, or

(II) the means of the dependent person, on the same bases as are specified in section 7B(2) and (3).”.

Amendment agreed to.

Government amendment No. 17:

In page 11, to delete line 2 and substitute the following:

“(I) where subparagraph (i)(I) is applicable, a”.

Amendment agreed to.

Government amendment No. 18:

In page 11, to delete line 8 and substitute the following:

“(II) where subparagraph (i)(II) is applicable, an”.

Amendment agreed to.

**Mr. Browne:** I move amendment No. 19:

In page 12, between lines 8 and 9, to insert the following:

“(5) (a) A person who is in receipt of a subvention and who is deemed by the Executive under subsection (2) either to be no longer qualified for the payment of a relevant subvention, or qualifies for the payment of a different relevant subvention than that currently being paid to the person, or a person acting on his or her behalf, may appeal, to an appeals officer designated by the Minister, on the grounds—

(i) of his or her means and circumstances,

(ii) that the review conducted under subsection (1) was inadequate, improper or incorrect, or

(iii) of any abatement of the maximum rate appropriate to that person's level of dependency,

against the decision of the Executive under subsection (2).

(b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.

(c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.

(d) A decision of an appeals officer shall be final and conclusive.

(e) Where the Executive makes a determination under subsection (2), it shall inform the dependent person to whom a relevant subvention is paid, of his or her right to appeal the decision under this subsection.”.



Amendment put and declared lost.

**An Cathaoirleach:** Amendments Nos. 20 and 22 are consequential to amendment No. 21. The amendments will be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 20:

In page 14, to delete line 28 and substitute “(4).”.

**Mr. S. Power:** Amendment No. 21 replaces the three previous rates of subvention, namely, €114.30, €152.40 and €190.50 per week for medium, high and maximum dependency, respectively, with one single rate of €300. This measure is one of those already introduced from 1 January this year by way of the Nursing Homes (Subvention)(Amendment) Regulations 2006. This is now simply being transposed into primary legislation.

The second part of amendment No. 21 is technical and serves purely to reflect the fact that there is now a single rate of subvention, as well as the change of name from old age non-contributory pension to State pension (non-contributory). Amendments Nos. 20 and 22 are technical amendments necessary on foot of amendment No. 21.

Amendment agreed to.

Government amendment No. 21:

In page 14, between lines 38 and 39, to insert the following:

“(4) Subject to subsection (5), the amount of subvention which may be paid under section 7C(1)(a) is a weekly maximum rate of €300 or the prescribed amount, whichever is the greater.

(5) Without prejudice to the generality of section 7C(1)(b) or 7D, the amount of the prescribed subvention that is applicable to a dependent person shall, by virtue of this section, be reduced by the amount by which such person's means, as determined in the assessment referred to in section 7B(3) or review under section 7D, as the case requires, made in respect of such person, exceeds the weekly rate of—

(a) subject to paragraph (b), state pension (non-contributory),

(b) any successor to that pension in any case where that pension ceases to be provided,

payable at the time of assessment.”.

Amendment agreed to.

Government amendment No. 22:

In page 14, to delete lines 39 to 48, to delete page 15 and in page 16 to delete lines 1 to 7.

Amendment agreed to.

Government amendment No. 23:

In page 16, to delete line 52 and substitute “website.”.

**Mr. Ryan:** I am tempted to oppose this but I will not.

Amendment agreed to.

Government amendment No. 24:

In page 16, after line 52, to insert the following:

“7K.—(1) In this section, ‘tax clearance certificate’ means a certificate under section 1095 (as substituted by section 127(b) of the Finance Act 2002) of the Taxes Consolidation Act 1997.

(2) The Executive may refuse to effect the payment of a relevant subvention in any case where the Executive is satisfied that a tax clearance certificate is not in force in respect of the proprietor of the nursing home in which the dependent person concerned is or intends to be maintained.”.

Amendment agreed to.

Question proposed: “That section 3, as amended, stand part of the Bill.”

**Mr. Ryan:** I am well aware that some of what is contained in section 3 was introduced when my party was in Government because that is the usual defence, but I believe it to be the wrong way to go. We are showing a level of defensiveness that will create the equivalent of a moral panic over the population gradually and gently getting older. I invite someone to explain why this rigmarole must be introduced. Does it mean if we have a sudden explosion in the birthrate we will charge people for the use of maternity hospitals? The fundamental issue is universalism. Effectively, this states most of our old people must pay for their nursing homes and the Government intends they should. It may have been necessary in days of hardship. However, this decision is based on an unwillingness and not an inability to resource.

I will not call a vote on this but I want to put on the record it is ungenerous to a degree which Irish society will come to regret. It imposes a complicated process on people at the latter end of their lives who, by definition, need support. It is a complicated bureaucratic process full of pitfalls. It assumes people on the margins of requiring nursing home care will be able to fill in forms.

It is not worthy of a country as well-off as ours. I am not particularly concerned about who originated it or from where it came. It is unworthy of us.

Question put and agreed to.

Sections 4 to 10, inclusive, agreed to.

#### NEW SECTION.

**An Cathaoirleach:** Amendments Nos. 26 and 27 are consequential on amendment No. 25 and will be taken together by agreement. Is that agreed? Agreed.

Government amendment No. 25:

In page 17, before section 11, to insert the following new section:

“11.—The Health Act 1970 is amended by inserting the following immediately after section 61:

“61A.—(1) A home care provider shall give notice in writing to the Health Service Executive, as soon as it is practicable for the provider to do so, of—

(a) the name and address of the provider,

(b) the name and address of each person to whom the provider provides home care services,

(c) the nature of such services so provided, and

(d) particulars of any change to information previously given by the provider to the Executive under any paragraph (including this paragraph) of this subsection.

(2) The Health Service Executive may, for statistical purposes, retain and process information given to it under subsection (1) provided that such information is not publicly disclosed except in the form of a summary so compiled as to prevent particulars relating to the identity of any home care provider, or of any person for whom any home care provider provides home care services, being ascertained from it.

(3) In this section—

‘home care provider’ means a natural or legal person who, whether or not pursuant to arrangements referred to in section 61 (1), provides, at a charge, home care services;

‘home care service’ means a service made available in a private dwelling for a person who, by reason of illness, frailty or disability, is unable to provide the service for himself or herself without assistance;

‘private dwelling’, in relation to a person referred to in the definition of ‘home care service’, means a permanent dwelling that is not open to the general public to visit unless invited and where that person habitually resides.”.

**Mr. S. Power:** The effect of amendment No. 25 will be to facilitate the VAT exemption on privately provided home care. Under the current system, home care services provided by health boards or voluntary bodies do not generally come within the scope of VAT. However, services provided by private home care providers, whether through the HSE or directly to the client, are subject to VAT. This amendment has been tabled due to the focus on encouraging measures to allow older people to remain in their homes and communities for as long as possible.

Irish VAT law must comply with requirements of EU VAT law under which such services cannot be zero rated. To allow for the VAT exemption the home care sector must become one which can be regulated by a Minister, which this amendment effectively does. This year’s Finance Act will contain a provision referring to this new section on exempting private home care providers from VAT.

This amendment means private home care providers must supply certain information to the HSE on their services, namely, the name and address of the provider, the nature of the services being provided and the names and addresses of all persons to whom such services are provided. The amendment allows for a clearer picture to be built up of privately provided home care services as it also allows for the retention of such information by the HSE.

The amendment also defines “home care service”, “home care provider” and “private dwelling”. The definition of “home care service” is not limited to people over the age of 65. Rather, it focuses on persons who cannot provide the particular service in question for themselves because of illness, frailty or disability.

Although this Bill has a general commencement order, amendment No. 26 will give legal effect to the new section 11 immediately following its enactment. This will allow the VAT exemption for home care providers to come in to force as soon as the Finance Bill 2007 is enacted. Amendment No. 27 is a technical amendment which inserts the name of the Health Act 1970 into the title of the Bill.

**Mr. Ryan:** Why should the name and address of a commercial home care provider be regarded as confidential? I understand fully why the name and address of the service recipient should be confidential. Why should the public not know who the HSE contracts to provide home care services? How will we conduct checks on the probity, reliability and truthfulness of home care providers if we do not know who they are?

[Mr. Ryan.]

This will not involve private addresses as these will not be individuals. They will be commercial organisations. The amendment states, “‘home care provider’ means a natural or legal person who, whether or not pursuant to arrangements referred to in section 61(1), provides, at a charge, home care services”. Home care providers could be companies. However, we will not know who they are or the location of their offices or accounts. Why?

**Mr. S. Power:** Senator Ryan has read too much into it. Nothing will prevent one from obtaining the information which he states the HSE will hide.

**Mr. Ryan:** The new subsection (2) will state:

The Health Service Executive may, for statistical purposes, retain and process information given to it under subsection (1) provided that such information is not publicly disclosed except in the form of a summary so compiled as to prevent particulars relating to the identity of any home care provider, or of any person for whom any home care provider provides home care services, being ascertained from it.

Subsection (1) referred to states:

A home care provider shall give notice in writing to the Health Service Executive, as soon as it is practicable for the provider to do so, of—

- (a) the name and address of the provider,
- (b) the name and address of each person to whom the provider provides home care services,
- (c) the nature of such services so provided, and
- (d) particulars of any change to information previously given by the provider to the Executive under any paragraph (including this paragraph) of this subsection.

Either the information can be easily found elsewhere, in which case this provision is meaningless, or the provision means the public will not know who are the companies providing home care services. I believe it slipped in by accident. I have considerable experience of finding accidental errors in legislation. It is a fact of life and is not a comment on anybody. It is the way life is.

Why should the public not know who the HSE contracts to provide this intimate service? These companies will provide services in people's homes on a one-to-one basis. People should know who are the service providers.

**Mr. S. Power:** At present, the HSE supplies a list of providers in particular areas and this will not change.

**Mr. Ryan:** This discussion should not take two minutes. All the Minister of State should do is remove the provision, particularly if it means nothing, and keep this cranky fellow here happy. No reason exists for a prohibition. Is this a classic act of making something secret and seeing whether the public will find out about it? It should be dropped. What was intended was that the names of those receiving services would not be revealed nor would the nature of the service received. That is quite right and we all support it. The Freedom of Information Act covers this because it would be regarded as an intrusion on personal privacy.

The Minister of State has not given an explanation for this amendment. He stated the information is published. However, if it is published this amendment is meaningless. Once this Bill is formalised one will no longer be able to publish the information. A major corporation which wants to keep information quieter than it otherwise would be will insist it be kept private which is wrong.

**Mr. S. Power:** This is not intended to hide or protect the names of care providers. It is the practice of the HSE to publish the information and to provide it when requested because naturally enough people seek the names of care providers on a regular basis and that practice will continue.

**Mr. Ryan:** I apologise for holding up the House and I do not want to keep us here all day. The legislation states, “provided that such information is not publicly disclosed except in the form of a summary so compiled as to prevent particulars relating to the identity of any home care provider, or of any person for whom any home care provider provides home care services, being ascertained from it.”. Therefore, we are preventing the publication of particulars relating to the identity of any home care provider. This is what the Bill provides. What is the purpose of this? Somewhere in the future, some judge will ask how the Oireachtas could have passed this legislation. The Bill is going back to the Dáil so there is no problem here. If this is as innocuous as the Minister of State says it is, the simplest thing to do is remove it.

I am now in situation where I must introduce an amendment on Report Stage because I cannot see what purpose this serves. I thought I was just picking up something and that there was a deliberate policy. The Minister of State says there is no such policy, but the Government is including a prohibition on it happening even though there is no such policy. I am not confused, but I am sufficiently annoyed to notify the House that I must introduce an amendment on this matter on Report Stage.

**Ms White:** It is important that there be no ambiguity in the public arena in respect of owners of individual nursing homes. It is important that

the matter be clarified. Members of this House believe that amendments from whatever side of the House should get recognition and that we play a role. It is not clear from the amendment's language what is meant. I know it is not intended that the public would not know who are the providers because we know those providing services. The language seems to be unnecessarily complicated.

Amendment agreed to.

Government amendment No. 26:

In page 17, subsection (3), line 33, to delete "*section 10*" and substitute "*sections 10 and 11*".

Amendment agreed to.

Section 11 agreed to.

#### TITLE.

Government amendment No. 27:

In page 3, lines 11 to 13, to delete all words from and including "AND" in line 11 down to and including "2006" in line 13 and substitute the following:

“, AMEND SECTION 2 OF THE HEALTH (REPAYMENT SCHEME) ACT 2006 AND AMEND THE HEALTH ACT 1970”.

Amendment agreed to.

Title, as amended, agreed to.

Bill reported with amendments.

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

**Ms Feeney:** Now.

**Mr. Ryan:** I was quite happy to agree to take Report Stage today, but the Minister of State was most unhelpful and I want time to introduce an amendment on Report Stage.

**An Cathaoirleach:** Is it agreed to take Report Stage now?

**Mr. Ryan:** No.

**Mr. Browne:** I had no difficulty with taking Report Stage today, but I am unhappy with the explanation I received about the figure of €10,400. Is it possible for us to adjourn for 30 minutes to seek clarification on that point and return? I am not sure what is the view of the House on this.

**An Cathaoirleach:** Committee Stage has concluded.

**Mr. Browne:** Can we reconvene in 30 minutes to get clarification on the points raised by Senator Ryan and I? We could then proceed to Report Stage.

**An Cathaoirleach:** I am in the hands of the House, but I wish to point out that on the Order of Business it was only agreed to take Committee Stage today so I do not think we can take Report Stage today. When is it proposed to take Report Stage?

**Ms Feeney:** Next Tuesday.

**An Cathaoirleach:** When is it proposed to sit again?

**Mr. Glynn:** At 2.30 p.m. on Tuesday 6 February 2007.

#### Adjournment Matters.

#### National Lottery Funding.

**Mr. Browne:** As the Minister of State is aware, the Minister for Arts, Sport and Tourism has the joyful task of making many sports clubs happy in allocating national lottery funding in the next few weeks. New Oak Boys Soccer Club in Carlow is one club that has made an application. This club is in a unique situation because it has the club house and pitches but requires fencing in order to be fully operational.

I will explain the background to the case. The Minister of State might be aware of matters in Carlow. New Oak Boys Soccer Club previously leased a small piece of green field — I would not call it a pitch — off Carlow Town Council that was adjacent to the former cattle mart site in Carlow. This site was bought by Gerard O'Hare, a developer, and is the site of the new Tesco shop in Carlow, along with other shops. It is a big shopping centre. The piece of land owned by the council and leased to New Oak Boys Soccer Club was used to put a road into the new shopping centre. As part of the deal, the developer in question relocated the pitch to Burrin Road, which is only a few hundred yards away, and put in a proper pitch, training area and dressing rooms with showers and changing facilities for both teams and referees.

The club is slightly unusual in so far as it has the most important things. Unfortunately, one thing it does not have is security fencing. It is regrettable that it needs it. I cannot understand the mentality of people who vandalise such a facility when areas are crying out for sports facilities. Unfortunately, a small minority goes out of its way to cause trouble. The new club house and



[Mr. Browne.]

pitch have been the scene of many spates of vandalism. As a keen sportsperson the Minister knows this cannot be allowed to happen. The danger is that one could have glass or needles on the pitch so it is vital to get the security fencing.

The grant from the national lottery covers security fencing but in the past, the national lottery has tended to ignore this aspect and concentrate more on buildings, dressing rooms and pitches. This case is the opposite to the norm and I hope the Minister ensures that the New Oak Boys Soccer Club gets a grant which will hopefully be approximately €60,000. Such grant could allow the club to finish the fencing and have a state of the art soccer facility in the heart of Carlow town which will benefit boys, teenagers and adults in the town.

This club has a fantastic record. It has played in South America and taken teams to Manchester and other places. It provides a significant resource for the town and provides facilities for visiting teams in which to play. I hope the Minister of State passes my words to the Department and that it looks sympathetically at this case.

**Minister of State at the Department of Health and Children (Mr. S. Power):** I will take this Adjournment matter on behalf of my colleague the Minister for Arts Sports and Tourism, Deputy O'Donoghue. I thank Senator Browne for raising the matter. The Department's sports capital programme is a very important element in ensuring that the country is adequately provided with high quality sports facilities to cater for the various requirements of governing bodies, clubs and local community sports organisations.

Under the sports capital programme, grants are allocated to sporting and voluntary and community organisations for the provision of sports and recreational facilities and equipment. Through the provision of sports capital funding the Government has provided unprecedented levels of funding for sport and its infrastructure. Since 1998 a total of 5,781 such projects have benefited from over €483 million in grant allocations.

The sports capital programme is advertised on an annual basis. Applications for funding under the 2007 programme were invited through advertisements in the press on 15 and 16 October last. The closing date for receipt of applications was 24 November 2006. All applications received before the deadline, including the one received from New Oak boys soccer club, are currently being evaluated by officials against the programme's assessment criteria, which are outlined in the guidelines, terms and conditions of the programme.

The assessment process takes into account a number of factors. These include the number and quality of the applications received; whether the project aims to increase active participation in

sport and/or improve standards of sports performance in line with clearly stated targets and showing how the application will measure these increases or improvements — in particular, facilities will be prioritised which will help promote and enhance female participation in sport; and whether the application provides evidence that the project is located in a disadvantaged area and meets a need for sporting facilities in the area; whether the following has been provided — evidence of title to the project site, evidence of planning permission applied for or in place, drawings-specifications for the project and accurate costings for each element of the project. Other factors include whether the project is realistic in terms of scale, costs and grant assistance sought; whether a proven history of fund-raising is shown and a good level of own funding towards the cost which will allow the project to be finished within a realistic timeframe; whether the applicant has proved the level of own funding contribution towards the project; whether the project has a high priority in regard to the applicant's existing facilities; whether there is already a good level of similar sporting facilities in the area; whether the application includes details and evidence of consultation with other clubs, community groups, schools and the local authority, especially those that will use the facility; and whether the application clearly explains how the applicant will attract socially excluded people to use the facility.

Highest priority is afforded to projects in disadvantaged areas aimed at increasing participation. High priority projects include those which are essential or integral to sports participation or performance, for example, pitch development, floodlighting, changing rooms and showers. At the end of the assessment process each application is given its order of priority within its own county. There are 22 applications this year from County Carlow, which is an increase of 38% on the number in 2006. They are seeking a total of €2.74 million in funding. In 2006 a total of €702,500 was allocated to projects in County Carlow under the programme, which represented an increase of 58% on the allocation for the previous year.

Every effort is made to achieve a balanced geographical spread of funds throughout the country and a balanced spread among the various sports, while also affording priority to projects in areas of social and economic disadvantage. Senator Browne has made a good case on behalf of the club. I will bring his contribution to the attention of the Minister for Arts, Sport and Tourism and ask him to seriously consider the application which I hope will be successful on this occasion. The Minister intends to announce the grant allocations for the 2007 sports capital programme as soon as possible after the assessment process has been completed.

### Departmental Properties.

**Mr. Coghlan:** I welcome the Minister of State, Deputy Seán Power, to the House and thank him for being present to reply to this matter. This issue arises from an initiative of Killarney Town Council, which I am more than happy to support, which believes 30 acres of the HSE lands in question should be used to accommodate social housing together with facilities for a number of voluntary social care and sporting organisations.

The availability and price of land in the Killarney area makes it extremely difficult to provide for all of those who are currently on the council's housing list. These lands are ideally placed for such housing and the council has already indicated to the HSE its willingness to acquire as much of this land as possible. Perhaps the Minister of State is in a position to indicate the timetable of the phased closure of St Finan's. People in Killarney and Kerry are strongly of the view that these lands should remain in public ownership for the common good because they were handed over at the stroke of a pen from Kerry County Council to the former health board when it was statutorily set up.

The Government has paid much lip service to the securing of lands in State ownership which are surplus to requirements for much needed social and affordable housing. This is a laudable aim but we need to do more to live up to this objective. There is an ideal opportunity to put in place a suitable, substantial housing programme to facilitate Killarney's urgent housing needs now and into the future.

The Minister will be aware of the St. Finan's community action group which has been in touch with her. It comprises a number of very worthy and meritorious organisations such as MS South Kerry, the Wheelchair Association, the Association for the Blind and Kerry Care, the Order of Malta ambulance corps and the two sporting organisations, Killarney Rugby Club and Killarney Judo Club. They have also put forward a number of useful suggestions which have a lot of merit and would require very little space to house their organisations and allow them to carry out their work in suitable premises. The Order of Malta simply needs sufficient space to house three ambulances and to provide training facilities for its own members.

A good and useful proposal has been made to the effect that doctors and chemists will require a health care centre to be on-site. There is no reason this meritorious proposal would not be viable with the town council and St Finan's community action group proposals that a sufficient extra portion of these lands be retained for the public good, especially the provision of social and affordable housing.

**Mr. S. Power:** I will reply to this Adjournment matter on behalf of my colleague, the Minister

for Health and Children, Deputy Harney. I thank Senator Coghlan for raising the matter.

The HSE has informed the Department that St. Finan's Hospital campus, which was referred to by the Senator, measures approximately 55 acres in total with approximately 43 acres sited to the south of the Ring Road in Killarney and the remainder to the north of the road. Currently, mental health services are provided from accommodation within the St. Finan's Hospital building. It is planned to transfer these services to new purpose built accommodation over the next two years. The HSE's plans for the campus involve a range of health care facilities in order to provide modern accommodation to meet the current and future health needs of the population of Killarney and its surrounding areas. The plans include the development of a primary care centre and headquarters for HSE services provided to the population of Killarney and East Kerry.

The St. Finan's building itself, and some curtilage — an area of land to make the building saleable — has been identified as surplus to requirements and will be disposed of when the building has been vacated. The HSE has advised that no actual date has been set for the sale of the St. Finan's building at this time. The HSE is in discussions with the local authority concerning the possibility of the disposal of some of the site to facilitate affordable housing. The HSE has informed the Department that the remaining lands are required for the development of HSE facilities and services and are not available for disposal to provide sporting facilities.

The report of the expert group on mental health policy, *A Vision for Change*, which was launched last year, outlines an exciting vision of the future for mental health services in Ireland and sets out a framework for action to achieve it over the next seven to ten years. The expert group report found that, "Mental hospitals have been the mainstay of mental health services in Ireland for many years. However, the type of person-centred, recovery-oriented care recommended cannot be provided in institutions of this size or environment". On that basis, the group recommended that steps be taken to bring about the closure of all the remaining psychiatric hospitals which are a legacy of a bygone age and to re-invest the resources released by these closures in the mental health services.

The Health Service Executive has indicated that it anticipates the closure of psychiatric hospitals and the reinvestment of the proceeds in modern, replacement facilities to take place on a phased basis. It has also emphasised that hospitals can close only when the clinical needs of the remaining patients have been addressed in more appropriate settings such as additional community residences, day hospitals and day centres together with a substantial increase in the number

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of well-trained, fully staffed, community-based multidisciplinary mental health teams.

The implementation of the recommendations will be a matter primarily for the Health Service Executive which has established an implementation group to ensure the recommendations are realised in a timely and co-ordinated manner. An independent monitoring group was established to monitor progress on the implementation of A Vision for Change.

The Government has already commenced implementation of this strategy and provided

€26.2 million in funding in 2006 for this purpose. A further €25 million has been made available in 2007.

I assure the Senator that the Government is fully committed to the implementation of the national mental health strategy, A Vision for Change, as the basis for the future development of our mental health services.

The Seanad adjourned at 3.10 p.m. until 2.30 p.m. on Tuesday, 6 February 2007.