

SEANAD ÉIREANN

—
Dé Céadaoin, 7 Márta 2007.
Wednesday, 7 March 2007.
 —

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for Finance to arrange the transfer of the 50 Revenue staff employed in temporary accommodation in Limerick city who have completed the training programme and if the transfer can be arranged to a temporary premises at Newcastle West because of the ongoing delay in the opening of the new decentralisation office.

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

The need for the Minister for Education and Science to outline the feasibility of extending third level grants to students dependent upon those in receipt of State contributory pensions, irrespective of additional means.

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

The need for the Minister for Education and Science to indicate her plans for the provision of a new primary school in Killimor, Ballinasloe, following eight years of delay through change in site location, school plans and uncertainty whether it was to be a new school or an extension to the existing inadequate school.

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.

Mr. Dardis: The Order of Business is No. 1, a motion concerning the amendment and extension of the Diseases of Animals Acts 1966 to 2001 to enhance the Minister's ability to deal with all animal disease situations and also with criminal activity regarding animal health, which motion was referred to the Joint Committee on Agriculture and Food, on which the committee has

completed its deliberations and which item it is proposed to take without debate; No. 2, Criminal Law (Sexual Offences) (Amendment) Bill 2007 — all Stages, to be taken on the conclusion of the Order of Business and to conclude no later than 1.30 p.m., with the contributions of spokespersons on Second Stage not to exceed 12 minutes and those of all other Senators not to exceed eight minutes, the Minister to be called on to reply no later than ten minutes before the conclusion of Second Stage, which will conclude no later than 1.15 p.m. and Committee and Remaining Stages to be taken at 1.15 p.m. and to conclude no later than 1.30 p.m.; No. 3, motion for earlier signature of the Criminal Law (Sexual Offences) (Amendment) Bill 2007, to be taken without debate immediately on the conclusion of No. 2; No. 4, Roads Bill 2007 — Order for Second Stage and Second Stage, to be taken at 2.30 p.m. and to conclude no later than 5 p.m., with the contribution of spokespersons not to exceed 15 minutes and those of all other Senators not to exceed ten minutes, on which Senators may share time, and the Minister to be called on to reply no later than ten minutes before the conclusion of Second Stage; and No. 20, motion 37, to be taken from 5 p.m. until 7 p.m. There will be a sos from 1.30 p.m. to 2.30 p.m.

Mr. B. Hayes: We will co-operate with the Government in its attempts to deal with all Stages of No. 2 today. We welcome the fact that the Government has included in the Bill a key measure Fine Gael has been requesting for the past three years concerning sexual grooming.

News on the jobs front in the past 48 hours, especially in the mid-west region, has been horrendous. It has been particularly bad in Limerick where 200 jobs have been lost and, as we speak, the position regarding Procter & Gamble in Nenagh remains uncertain. None of us should underestimate the significance of announcements for parts of the country that have experienced virtual full employment in recent years. However, we need a debate on competitiveness in the House at the earliest possible time. We have lost more than 30,000 manufacturing jobs in the past five years. The low corporation tax regime was negotiated successfully by Deputy Quinn on behalf of the rainbow Government in advance of the 1997 general election. As we enter the general election campaign it is important that the consensus that exists in this House and in all mainstream political parties is held.

More importantly the European Union should hear from this country with one political voice about the dangers of tax harmonisation. Many multinational companies remain here because of our low tax rate. That has been built up by a credible consensus-led political support in the past ten to 15 years. It is important that the European Union hears that if any tax harmonisation goes ahead, particularly on corporation tax, that position will have dramatic impact in peripheral parts

[Mr. B. Hayes.]

of the Union like ours. It is crucial to speak with one voice on the issue of low corporation tax rates given the number of jobs here that are dependent on US and other multinationals.

Mr. O'Toole: Some months ago the people of Dingle held a referendum resulting in them asking that the name of their town be changed to Dingle-Daingean Uí Chuis. The local authority, Kerry County Council, conveyed that overwhelming decision of the people of Dingle to the Government, which promised to deal with it. The Government has not done anything about it in the meantime. I heard on Raidió na Gaeltachta le déanaí an tAire a rá dá mba rud é go mbeadh an moladh ann logainm an bhaile a aistriú go Dingle that he could accommodate them. However, the bilingual version, Dingle-Daingean Uí Chuis, would not be accepted. I find the Minister's decision extraordinary because I discovered driving through his constituency that all the towns of Gaeltacht areas in County Galway are signposted bilingually with both names, as should be the case.

There is absolute discrimination against west Kerry on this issue. The Government is treating the people unfairly and should take its decision on the matter. The Minister for the Environment and Local Government (Performance of Certain Functions) Act 2002 should be fully commenced. If it had been commenced by now the row would not have happened and the people could make up their own minds and the decision would be implemented without reference to the Government. The Government should deal with the issue or else the people of Dingle should erect proper signposts. At a conference yesterday in response to hoteliers from the west Kerry area expressing their concern to him, the Minister for Arts, Sport and Tourism said he did not expect the town to lose any business on the basis of the name. We need to deal with the issue and I ask the Acting Leader to raise it with the Government.

Mr. Ryan: It is rare that I agree with the Minister for Arts, Sports and Tourism but the issue a ndearna Seanadóir O'Toole tagairt dó, is cosúil go bhfuil an ceart aige ó thaobh polaitíochta de mar an t-aon phobalbhreith a tógadh i ndeisceart Chiarraí, ba shoiléir nach raibh ag éirí leis an iarrthóir ba mhó a bhí taobh thiar den fheachtas i gcoinne logainm an Daingin a bheith i nGaeilge. I will say no more on that issue except for one small point. While the people in Dingle may have an issue with this, there most assuredly is not an issue west of Dingle about it. Muintir na Gaeltachta have quite a different view, as has been expressed to me forcefully and vigorously on many occasions.

Mr. Norris: Ochón, ochón, ochón, mo chreach, mo chás, mo dhíth is mo bhuairt.

Mr. Ryan: Senator Norris's attachment to the Irish language is long admired by me.

An Cathaoirleach: The Senator should stick to the Order of Business.

Mr. Ryan: In the report of the Garda Síochána Inspectorate most of the focus has been on procedures for dealing with sieges, which is very welcome. However, most disturbing is the inspectorate's conclusion about how badly equipped the Garda is. We have been hearing this from Garda representative organisations and other organisations. However, there seems to be casualness about equipping the Garda with modern equipment. If a Member of the Opposition used the language the inspectorate used he or she would be accused of politicising the issue of sending people into dangerous situations untrained, unequipped and unprotected. However, that is what the inspectorate's report stated. That the Garda has only 1,200 bulletproof vests for a force of 14,000 is not because of some process that is needed. It is because of indifference on the part of senior Garda management or more likely the Tánaiste and the Department of Justice, Equality and Law Reform. That should be rectified now. The response that it will happen soon is not acceptable and should not be acceptable in a civilised society.

I agree with Senator Brian Hayes on the issue of competitiveness. I have regularly asked for a debate on the issue. A debate on competitiveness can too easily become a debate about wage rates. However, the National Competitiveness Council has demonstrated a succession of issues. From the time the Government and its predecessor came into office we have lived through a boom. It will have taken the Government 13 years to build a decent road from Cork to Dublin and it will probably have the airport closed down by the time it is built. There is a range of issues on competitiveness and I would like the Acting Leader to consider the possibility of us meeting tomorrow to discuss competitiveness. I had a delightful debate with the Minister on Monday night in UCC, which I won judging by the student vote.

An Cathaoirleach: We will stick to the Seanad now.

Mr. Ryan: The Minister ought to come to the House to explain his response not to one little bit—

Mr. O'Toole: Were these some of my constituents down there?

Mr. Ryan: I have no idea.

An Cathaoirleach: Many Senators are offering and I would like to facilitate them all. Interruptions will delay the process.

Mr. Ryan: On competitiveness, there was a daft proposal from chambers of commerce that not enough people were paying tax. They stated that the 40% who were not paying income tax were somehow outside the political process and should be required to pay tax again. On whatever else there may be disagreement, there is consensus in this House that that is among the daftest proposals that has ever been made. It should be opposed by all parties.

Senator Norris raised the issue yesterday. I do not understand why Trócaire is prohibited from advertising when all the advocates of psychobabble, astrology, tarot cards and psychic lies are entitled to the full freedom of the airwaves to advertise their services. It makes no sense or logic. If we are to have legislation prohibiting activities it ought to have logical reason.

Dr. Mansergh: In the understandable absence this morning of Senators from north Tipperary because of the circumstances, I would like to say that our hearts go out to the workers in Procter & Gamble in Nenagh. If industrial jobs can be brought, as they were, to Cashel last autumn, they can be also brought to a town like Nenagh. It is not accurate to describe full employment as applying to every provincial town. The industrial agencies need to work on the matter. That said, in net terms the number of industrial jobs increased by several thousand last year, as did industrial production. We must not overstate what is happening. Of course we all support the single 12.5% rate of corporation tax, which was announced by Deputy Quinn in May 1997, but negotiated by Charlie McCreevy with Brussels in 1999.

Mr. B. Hayes: Childishness.

Mr. Ryan: Like everything else, Fianna Fáil and the Progressive Democrats inherited it.

Dr. Mansergh: The Opposition Senators do not like the facts. In 2001 and 2002 the Labour Party suggested that the introduction of the single tax should be deferred.

An Cathaoirleach: Does the Senator have a question?

Dr. Mansergh: I would be very happy to have a debate on competitiveness because I do not think we should paint it in too gloomy colours.

I wish to raise a second point. I was concerned at the misrepresentation of an aspect of proceedings in this House in a newspaper column in recent days about the Taoiseach's initiative, which we all welcome, about meetings with the churches. It was stated that it was high time that Catholic prayers at the beginning of the Oireachtas proceedings should stop. That is a complete misrepresentation. They are Christian prayers and certainly the prayers in English have

a lot of similarities — I do not wish to claim them for any denomination — with the sonorous language of the book of common prayer.

Mr. Finucane: I wish to express my concern regarding potential job losses in the mid-west region, particularly at Procter & Gamble and Thompson Scientific, which is based in Limerick. Only a few years ago there was a major announcement about the opening of Thompson Scientific which was hailed as a firm with great potential for the Limerick area. Many of the employees in Thompson Scientific are software engineers who came from the University of Limerick. Not only has the west-Limerick area had job losses in recent years in food processing but we are losing in a high technology market. In this case the company is moving to India which has millions of graduates in various disciplines.

We need to debate the issues of competitiveness, broadband and high energy costs. We should not be blind to the fact that many large companies have come before the Joint Committee on Communications, Marine and Natural Resources and voiced concerns about energy and other costs here. We should not take those industries for granted. If they find a more attractive marketplace for their business they will drift to those countries. This is a matter of great concern.

It is up to us to tackle those issues with a view to making this a more attractive economy. When announcing potential job losses it is not good enough for a Minister to say a large number of extra jobs have been created. Extra jobs have been created in the service sector and we are grateful to the emigrants for supporting those jobs but at the higher end of the market we are losing jobs.

Mr. Dooley: I ask the acting Leader to organise a debate on the aviation sector without delay. I am particularly concerned about the difficulties at Shannon Airport where there is a stand-off between management and staff in regard to the future development of a business plan. It is having a negative impact on tourism and commercial and business interests in the region. In view of the debate here today about job losses in the region it is vitally important that we have an airport that can service the needs of the community, particularly if new enterprises are to replace existing enterprises.

An urgent debate is also required on the Open Skies issue, negotiations on which have continued for some time. A deal has been concluded between the EU and US in recent days. There is an effort to allow that to pass without the provision of the necessary marketing fund to allow the region compete in the Open Skies environment. I am disappointed with the Minister in respect of what has happened. I am also disappointed also that the marketing fund promised for the mid west region has not been put in place in tandem with the announcement in regard to

[Mr. Dooley.]

Open Skies. It is vitally important that Shannon Airport can compete on a level playing field. I ask the Acting Leader to invite the Minister for Transport to come before the House at the earliest opportunity to outline what he intends to do to ensure a viable aviation sector which guarantees employment and tourism in the mid west. Perhaps he could arrange for this after the St. Patrick's Day break.

Mr. Norris: Yesterday, I briefly mentioned a protest that was taking place outside the gates by a group of Kurdish people. The Kurds are among the most oppressed people on the planet. They have been denied a homeland, their territory has been carved up, their villages bulldozed, women raped, men tortured and families driven through minefields. There is a point here for us as parliamentarians because yesterday a Kurdish politician was sentenced to six months in prison for referring to the Kurdish leader Abdullah Öcalan as Mr. Öcalan. One gets six months imprisonment for calling him "Mr.". What kind of a democracy is that, yet it is trying to enter the European Union? This is a matter we should take very seriously.

I am sure you, a Chathaoirligh, as a regular attender over many years at the interparliamentary union, will know that the group takes very seriously the rights of elected members. A strong protest should go to the Turkish Government about sentencing to six months in prison a man simply for using the word "Mr.". I remember at the first foreign affairs committee which was established that the entire Kurdish representation, 12 to 15 members, was put in prison. I cannot recall whether it was for speaking Kurdish but it was something like that. This is a matter we should look into.

I have great sympathy for the people in Procter & Gamble. Once again business management took the procedure of not informing the workers first but informing the media through a press release. This is wrong. It is not good PR but this is the way American capital works. Senator Dooley is beginning to realise that now after the way in which they all lick-spittled over Bush as hard as they possibly could in the desperate hope of keeping their own airport open.

An Cathaoirleach: Through the Chair.

Mr. Norris: He stuck a good one in their eye just now in his little deal with the EU, so one can sell out on human rights as much as one wishes but one will get damn all back from the Americans.

I have the greatest pleasure in finding two items of disagreement with Senator Mansergh. The first is the business that we are all in favour of the 12.5% corporation tax deal. On the surface it is quite a good one but Professor Anton Murphy, who discovered the black hole in the

Irish economy a few years ago that had to be very well looked at, was on the airwaves a couple of days ago and pointed out the dangers of this because if this situation is addressed in America as Barack Obama had suggested that it may well be, there will be a flight of that kind of capital too. Professor Murphy pointed out that there were a number of companies with about a dozen employees who were reporting profits of hundreds of millions of dollars that were not made in this country. We were being used to launder the money. We are the new Cayman islands. Beware of false profits because when that goes out all one is left with is a house of straw.

An Cathaoirleach: The Senator has been afforded great latitude.

Mr. Norris: I am calling for a debate. On a more spiritual note, I also disagree with Senator Mansergh about the prayer. I said this a long time ago. I do not think it is appropriate. It is wrong to say that everybody here agrees that "every word and act of ours shall be inspired from Thee". There are people who are agnostics and atheists. In the other House there were Jewish Members and there have been Muslim members. Why should they have to expect that every act and word of ours comes from Jesus Christ?

An Cathaoirleach: I thank the Senator. The point has been made.

Mr. Norris: I am a regular church going member of the Anglican community and unlike Senator Mansergh, I can recognise the graces and melody of Cranmer's prose and one does not achieve it simply by sticking in the word "please".

An Cathaoirleach: Order, please. There are many Senators offering. Please allow Senator Maurice Hayes make his contribution so that others can be facilitated.

Dr. M. Hayes: I support the call for a debate on competitiveness and the economy. While I sympathise deeply with people who have lost their jobs, there is an inevitability about this which we must examine. I watched a BBC television programme last night where a female mill worker from Rochdale was brought to Sri Lanka to see where her job had gone. The woman in Sri Lanka was paid £100 per week for work for which the lady in Rochdale had been paid £800. The interesting thing was that the Sri Lankan lady was worried that somebody in China or Malaysia would do the job more cheaply than her.

It brings us back to a debate we should have on the report on skills and upskilling people, which came out yesterday. The two closures which have taken place are regrettable but of the two, the job losses at Thomson Scientific are far more worrying, which is the point made by

11 o'clock

Senator Finucane. It is the loss of those high-quality jobs which is really worrying for Ireland and something to which we must pay serious attention.

Ms Terry: Next week is National Pensions Awareness Week. As we will not be present in the House next week, I wished to raise my concerns about it today, as I have raised concerns about this campaign on other occasions. I notice that this year, the campaign to entice or encourage people to take out pensions will be even more aggressive than before and will target people between the ages of 25 and 35. The money available to the Pensions Board has been doubled for this campaign.

My concerns, which I have raised here on many occasions, relate to misleading and false information about tax relief. In addition, people are not being provided with a considerable amount of information relating to charges imposed by operators and the fact that there is no guarantee with pensions and no final outcome with regard to how people's contributions will result in a reasonable pension.

The Government and the Pensions Board should not be providing one-sided information on pensions. They should highlight the downside, namely, the fact that people are gambling with the stock market and that there is no guarantee in respect of their outcome. People are entitled to get both sides of the equation. When the Government promotes such a campaign, it is incumbent on it to highlight the downside of any promotion like this. It should be withdrawn because it is a one-sided campaign, which is unfair and misleads consumers.

An Cathaoirleach: As I already mentioned, many Senators are offering to speak. I ask them to be brief so they can all be accommodated.

Labhrás Ó Murchú: Tourism is an important earner for Ireland. It is significant that its benefits are spread throughout the entire island. Cultural tourism is a significant element of that industry. The last major survey that was carried out in Ireland revealed that the top three preferences for tourists were of a cultural nature.

The Minister for Arts, Sport and Tourism said yesterday that he did not believe that An Daingean would lose a single tourist as a result of the name of the area being displayed in Irish on road signs. I agree with him and would even go a step further. I believe it could be an attraction because An Daingean and the Gaeltacht are cultural destinations for tourists.

Mr. Ryan: Hear, hear.

Labhrás Ó Murchú: In respect of the change itself and the plebiscite, I believe Senator O'Toole will agree that this is a legislative issue and can only come about with the change in the

Act passed by the Houses of the Oireachtas. It might be helpful if somebody obtained a copy of the *Irish Examiner* from about six weeks ago. It contained a letter from Donna Ó Cinnéide outlining the deep hurt and disappointment felt by people of the greater Kerry Gaeltacht area at being omitted from that plebiscite.

Mr. Browne: What about democracy?

An Cathaoirleach: Order, please.

Labhrás Ó Murchú: In the past, An Daingean and the entire Gaeltacht were marketed together, but when it came to the plebiscite, the people of the Gaeltacht were omitted. If we are having a debate, we should bring this centre stage.

An Cathaoirleach: As I have already stated, I would like brevity because many Senators are offering to speak. If a person contributes when he or she is called, we will exclude someone.

Mr. Ross: I join with the calls for a debate on competitiveness or some allied subject. We cannot sit back and see these job losses occur throughout the economy and suggest that they are localised. This has developed into a trend. I cannot list off all the job losses, but there have been losses at Pfizer, Thomson Scientific and Procter & Gamble and others which have occurred in recent weeks. Different explanations are given for them by the IDA. Some say that there are different types of job substituting for it and that these types of high-level jobs are going to go. The reality is that a serious problem exists, part of which is the fact that there is cheaper labour in eastern Europe. The Irish economy and the Government must respond to that threat if the days of the Celtic tiger are to survive.

It is absurd for us to weep tears in here — I will not call them crocodile tears — for specific situations when we are not going to address the big picture. Part of this picture has been addressed by Senators Norris, Mansergh and Brian Hayes, namely, the 12.5% rate of corporation tax. It is important for us to have a specific debate on this issue.

Mr. Norris: Hear, hear.

Mr. Ross: This rate is under threat. Undoubtedly, there are moves between France and Germany to undermine the Irish position on this matter. The fact that we have a veto here does not necessarily guarantee that it will survive for long. There are ways of circumventing a veto in European terms. They hit one somewhere else, which makes one's situation almost untenable.

It is very important that we do not ally ourselves with the position of some people in Ireland, including the Irish Congress of Trade Unions, who say that rate should be 20%. We should openly compete with eastern European countries by considering lowering, rather than

[Mr. Ross.]

raising, the rate and should not necessarily stick to the rate of 12.5%. I would like a debate on that issue, which should take place urgently.

Mr. Leyden: I ask the Deputy Leader to arrange a debate on insurance. The Oireachtas Committee on Enterprise and Small Business has worked very hard to assist in bringing down the costs of insurance. Over 400,000 people have two penalty points at the moment and the insurance companies are increasing the costs of insurance. Hibernian Life & Pensions has increased its costs by approximately 10% for those who have two penalty points and is providing pro-rata decreases for those without penalty points.

It is enough to have penalty points and to pay the fine.

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

Mr. Leyden: There should be a debate on the cost of insurance; the effect of penalty points on motorists, given that one in five motorists now have penalty points; and the difficulty that will arise for people in paying increased insurance costs for their cars, in addition to costs to date. Penalty points are being exploited by the insurance companies for their benefit rather than that of hard-hit motorists.

An Cathaoirleach: I ask for brevity because many Senators are offering to speak.

Mr. Browne: A lady who had been deported called into my office a few weeks ago. I was puzzled as to why she was in my office if she had been deported.

Mr. Dooley: She liked the look of the Senator.

An Cathaoirleach: Interruptions are delaying proceedings. Please allow Senator Browne to contribute without interruption.

Mr. Browne: I was amazed to learn that 2,400 people have been deported from the State and that the Minister for Justice, Equality and Law Reform admitted that he had no idea if any of them are back in the country. In addition to this, I read in a newspaper report that 7,000 people are evading deportation orders. One must remember the cost involved. A total of €9 million is spent on flying these people home on special flights. It is very worrying. We have all made representations on behalf of people who possibly applied for citizenship. Why are people waiting years to have their applications processed if, at the end of it, they can be deported but it has no effect afterwards? Why are people having their lives put on hold? I met one lady who has been waiting six years to get her application processed. I assume some people are being deported because of criminal records and it is very worry-

ing that they can come back into the country. The Minister has admitted he has no way of checking whether they are back in the country. That is not satisfactory.

Ms Cox: I am tempted to fulfil a prophecy for which my colleagues are waiting — that I will propose an amendment to the Order of Business. I do not intend to do that today.

A Senator: Go on.

Ms Cox: Today is International Women's Day. We have seen the hullabaloo in the press in recent days about the Trócaire advertisement and the issue of young women in African countries. It is the responsibility of those of us who are lucky enough to be in government in first world countries to examine our responsibility and the role of women in politics and government. I ask the Deputy Leader and the Leader to arrange a debate on the role of women in government to ascertain whether there is anything we can propose before we end this session. Who knows where any of us will be in six months time? I certainly do not.

There is a very important role for women in political life. We do not have maternity leave or child friendly policies. We need to make changes in the institutions. If private business can make changes to facilitate family-friendly work practices then these institutions ought to also. I seek a debate on this matter before the end of the session.

Mr. Coghlan: I, too, am concerned about the ongoing situation regarding Dingle. Senator O'Toole is correct. We all know a plebiscite was held in Dingle and the democratic decision was overwhelming. Despite the commitments given in the light of that result, the town is still suffering from Government neglect. The signs are still directing people to a town in County Offaly. No disrespect is intended to the town in County Offaly, which is a wonderful place also. While tourists eventually reach Dingle, one can ask why they should be made to suffer in not understanding the signs or misreading them and having a terrible holiday experience in trying to arrive at their destination. As has been said, what is happening in Galway is totally discriminatory and is crying out for immediate redress.

An Cathaoirleach: Is the Senator seeking a debate?

Mr. Coghlan: Of course I am seeking a debate.

Ms Ormonde: Many people have called for a debate on the recent job losses and the need to upskill. This led me to consider the role of FÁS. Some of its programmes do not deal with the current situation. I seek a debate to examine the updated position of how FÁS is reforming its programmes to address this issue.

Mr. Quinn: I agree with Senator's Ross's call for a debate on competitiveness, with a particular focus on the 12.5% corporation tax. I was in Brussels yesterday where there is a huge amount of praise for Ireland and what we have done.

Ms White: Hear, hear.

Mr. Quinn: There is a huge amount of envy as well. That envy is in danger of becoming an attack on what has made us so successful. One of those factors is the 12.5% corporation tax. It is being defended very well by Commissioner McCreavy.

Mr. Ross: Hear, hear.

Mr. Quinn: I was impressed by the number of senior Irish civil servants there who are able to play a large part as Europeans but they also keep an eye on the Irish situation. There is a degree of complacency in Ireland, especially among younger people who are used to our success and believe it will continue. Like Senator Maurice Hayes, I would be much more concerned about the job losses at Thomson Scientific because it is part of the high-tech sunrise industries that made our success in recent years, rather than the more old fashioned industries. We have to avoid being complacent and concentrate on making sure we adhere to what made us successful.

Mr. Hanafin: I thank the Cathaoirleach because I know we are short of time. It is unacceptable that workers in Nenagh found out about their job losses on the Internet. In that regard, I rise in support of my county colleague, Senator Mansergh. We will be seeking good alternative employment. Despite what the media say, manufacturing industry is continuing. I commend the workforce in Tipperary which has been very steady. As a representative of the Irish Congress of Trade Unions, I can state they have been very good to employers who have made substantial profits which they have reinvested in the community. The sum of €25 million that is invested in Nenagh on an annual basis will be significantly reduced. We would like to see something done for Nenagh.

Mr. U. Burke: I agree with Senator Ross about the underlying trend that has begun in terms of job losses. Everybody here is genuinely concerned about the job losses in Nenagh and in Limerick. This is an ongoing issue. In parallel to the manufacturing and service industries, many people have lost sight of the fact that the agriculture sector has been losing jobs at the rate of 10% per annum. This is a huge loss. We heard of the tragedy of the factory closure in Nenagh today but the reality is we are closing down rural Ireland on an ongoing basis.

The Government is contributing to this closure by the way in which it penalises people by over-

regulation and by the fact that the support mechanisms for agriculture are being clawed away by the over-enthusiastic and unconcerned Department of Agriculture and Food officials who visit farms. They are not there in an advisory capacity, rather they are there to penalise people and prevent them from going about their work and being productive. That is a serious concern. I would welcome a debate on job creation but, in addition to job losses in the agriculture sector, our output from agriculture is decreasing annually. These losses must be replaced with manufacturing jobs. I hope when we have a debate on job losses, the agriculture sector will be included.

Ms White: I will be brief. The worst thing one can do to an economy is talk it down and be pessimistic. One must be optimistic for success.

Mr. Ross: Hear, hear.

Ms White: We must talk up the country and stop talking it down. Senator Quinn has hit the nail on the head. There are politics of envy in Germany and France about Ireland because they have over-expanded social welfare states. In France there is a short working week and they are trying to increase the working week from 35 hours to get the economy back on track. I am very optimistic about the Irish public servants who have worked for years in Brussels getting all the tremendous tax benefits we have here. I am fully confident, and I assure Senator Ross in particular, that they will continue to do so. We need a debate on upskilling and the role of universities in the regions in developing economic aspects there. More people are required to study at fourth level. We need more PhDs in order that the multinationals here can have added value for their products.

Any business will keep going if it is making a profit and if people want to buy its product. The Pfizer case was tragic because there was no demand for its medication. The bottom line is we have to continue to be confident.

An Cathaoirleach: The Senator has made her point adequately.

Ms White: Anybody who studied economics knows if one is confident the show will stay on the road. Go raibh maith agat.

Dr. Henry: I am sure Senator White is correct in saying we do not need to talk ourselves into trouble but we have to listen also to the multinational companies. I was on a visit to a pharmaceutical company in Switzerland recently and far from suggesting that our problem with employment was companies relocating to eastern Europe, China or India, they talked about our employment costs compared to other European countries and pointed out that taking Switzerland as a denominator of 100 with regard to cost,

[Dr. Henry.]

Ireland's score is 95 and Grimsby is 70. There is much leeway between these scores. We need a debate on competitiveness and I hope it can be held before the end of the session.

Mr. Dardis: As Deputy Leader I attract a crowd the Leader does not attract.

Mr. Coghlan: He only thinks that.

Mr. B. Hayes: I wonder why.

Mr. Dardis: I thank Senator Brian Hayes for his co-operation on the Criminal Law (Sexual Offences) (Amendment) Bill. Senators Brian Hayes, Ryan, Mansergh, Finucane, Norris, Maurice Hayes, Ross, Ormonde, Quinn, Hanafin, Ulick Burke, White and Henry referred to job losses, competitiveness and tax harmonisation. It is depressing to hear of job losses in Procter & Gamble and Thomson Scientific. The losses at the former are not as severe as we thought at first. That does not mean it is not serious for the 300 people who may lose jobs but some 200 jobs will be saved. Serious questions are raised by the matter and it merits a debate.

Ireland has one of the most open, globalised economies in the world and is very competitive. If we were not, we would not survive in this environment. This is a tribute to employees. While wages are high, productivity is also high by international standards. This is the route to survival. There have been job increases nationally as well as job losses over the past years. Yesterday's report on skills indicated we expect to create 1 million jobs in the next ten years. We must adjust our educational system and FÁS, to which Senator Ormonde referred.

There is unanimity on tax harmonisation in this country. It has been defended at draft constitutional treaty talks and successive Council meetings. It will be defended by the Government and will not be conceded, irrespective of what Germany wants to do. As a result of our trip to Washington the Cathaoirleach is aware that there is international fascination with our success. We must be doing something right.

We should have a motorway to Cork and other cities but the projects undertaken at present are being completed on time and within budget. This is an indication of our competitiveness and a tribute to those working on the projects.

Regarding agriculture, it is a characteristic of the past century that when the economy was successful people left the land. This happened in the 1970s and in the 1990s. Happily, such people do not have to take the boat anymore. Is it any wonder young people will not take up farming if they are being told how terrible it is at the breakfast table? I have a son, and some young people want to farm, as my generation did in our 1920s. We did not care about the Government and red tape. We wanted to farm.

Mr. Finucane: The bureaucracy is infuriating them.

Mr. Dardis: The bureaucracy may be infuriating but if large sums of money are being granted from Brussels we have a duty to attend to the farmers in the same professional manner as we farm the land.

Mr. Finucane: If the Deputy Leader knocks on the doors of farmers he will hear what they are saying. They are furious.

Mr. Dardis: Senators O'Toole, Ryan, Ó Murchú and Coghlan referred to Dingle-Daingeán Uí Chúis. Having had a referendum, it is strange that we do not proceed on the basis of the result. I am fascinated by Senator Coghlan. Tourists would have some difficulty winding up in Offaly if they were travelling from Killarney to Dingle-Daingeán Uí Chúis.

Mr. Coghlan: They could be confused if they had a map.

Mr. B. Hayes: It is a wind up.

Mr. Dardis: I have some difficulty with that. I will ensure the matter is raised with the Minister.

Senator Ryan referred to the report to the Garda Inspectorate, equipment and the fact that there were only 1,200 bulletproof vests. This seems a high number. The Commissioner is the accounting officer for the Garda Síochána. Significant amounts of money are made available to the force and it is up to the Commissioner to allocate the money.

Senators Mansergh and Norris referred to the prayer. I am surprised by the illiberal response of Senator Norris. I thought it was liberal to allow the prayer.

Mr. Norris: It is not very liberal to pretend, in a hypocritical fashion, that——

An Cathaoirleach: Senator Norris has made his contribution.

Mr. Norris: ——every act and word of ours comes straight from Jesus Christ.

Mr. B. Hayes: Senator Norris can speak for himself.

Mr. Norris: I will. I will not speak for Jesus Christ as Fine Gael does.

Mr. Dardis: I do not see the difficulty but it is a matter for the Committee on Procedure and Privileges whether we continue with the prayer.

Senator Dooley referred to the aviation sector, an important matter. Last week the EU and the US introduced a new policy. People can look forward to flights to Baltimore and Washington directly from Shannon. Senator Dooley makes a

fair point with regard to the marketing fund and the capacity of the airports to survive in this new environment. It is a subject that merits debate.

Senator Norris referred to the Kurds. As a member of the Joint Committee on European Affairs I had the privilege of meeting leaders of the Kurdish community when we were in Turkey. Understandably, the leaders were enthusiastic about Turkey joining the EU. The freedom they require and the protection of their language and culture can be provided within the EU. However, there remain great difficulties regarding the possible accession of Turkey. We must keep the Kurds to the forefront of our discussions to ensure their rights are protected.

Senator Terry has been consistent in arguing her point about pensions. Historically, equities have been one of the best things in which to invest, notwithstanding the events of the past week. A pension fund portfolio should contain a balance between property, equities and cash.

Senator Leyden referred to insurance for small business. There is a degree of exploitation in targeting people with two penalties. Many of them are no worse drivers than people without penalty points. We should not condone speeding but this is a crude way of attacking the sector.

Senator Browne referred to the deportees. There has been improvement in processing times. There is a difficulty with those who have been here for some time. One cannot argue that people should be deported and then complain about the cost of sending them on aeroplanes. Anyone who has committed a criminal offence or is a threat to society in other ways can be deported quickly.

Senator Cox referred to International Women's Day and the Trócaire advertisement. The role of women in politics merits debate. We will try to do so before the conclusion of the session.

Order of Business agreed to.

Criminal Law (Sexual Offences) (Amendment) Bill 2007: Second Stage.

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

Tánaiste and Minister for Justice, Equality and Law Reform (Mr. M. McDowell): The purpose of this short Bill is to remedy an error in the Criminal Law (Sexual Offences) Act 2006. The point we were dealing with last week in the Dáil was brought to my attention by Deputy Rabbitte, for which I thank him. While the error he pointed out is not as significant as has been claimed in many quarters, I have decided to act quickly and decisively to ensure the legislation on the Statute Book is as the Oireachtas intended it to be.

The error in question, which made section 6 of the 1993 Act inapplicable to offences under the 2006 Act, arose due to a drafting error for which I am politically accountable. It was a summary,

not an indictable, offence. Whereas the Constitution categorises all summary offences as minor offences, it worried me that the statutory offence of asking a child to engage in a criminal activity of a sexual nature had inadvertently been deactivated as a consequence of that error last year. To understand the reason for the offence at section 6 in the 1993 Act one must look at section 7, which deals with soliciting or importuning for the purpose of prostitution. Before the 1993 Act there had been no provision similar to section 6.

When the 1993 Act was being drafted it was thought that some type of soliciting might not be caught by section 7 and that it was advisable to bridge a potential gap by protecting children and mentally impaired persons from being solicited in circumstances which would not amount to prostitution. While the fact that section 6 was enacted is evidence of changing times and of greater awareness of the dangers of child sexual abuse, it still is the case, somewhat mysteriously, that it was enacted as a summary offence only, whereas many people would consider it a serious offence to ask a child to engage in an act which would amount to a criminal offence. The reason it was made a summary offence was that it was considered just a different species of the statutory prohibition against what is loosely referred to as "kerb crawling". It was not intended to be a major bulwark of the law protecting children at the time. It was a summary offence prosecuted in the District Court.

The significance of it being a District Court offence is that no jury trial would be available to somebody prosecuted for it. There are strict time limits in the District Court whereby offences must be prosecuted within six months of their occurrence. In addition, there are limits on the types of penalties that can be imposed. It was not, as has been contended, one of the chief defences for children against child sexual abuse. Nonetheless, it is an important offence and that is why we decided to upgrade it to an indictable offence so certain consequences would follow.

The offence will be capable of being prosecuted at any time. There will not be a time limit, subject to natural and constitutional justice, in respect of the period after which a prosecution can ensue. Second, because it carries a penalty of a five year term of imprisonment, it will be an offence which will be capable of being the subject of detention for questioning, which was not the case with the offence in its original form. Third, the penalties will be far bigger. There is a five year term of imprisonment as opposed to 12 months. In serious cases, a jury trial will be available as it will be an indictable offence.

When this was a summary offence we did not provide for anonymity of complainants, clearing the court and a series of actions one would expect to follow in cases of this nature. We are taking the opportunity in this legislation, given that we are upgrading it to an indictable offence, to provide the ancillary protections and procedures,

[Mr. M. McDowell.]

such as children giving evidence by video link and so forth, which was never the case when it was a District Court offence. The House should bear that in mind.

The offence in section 6 was created in 1993 as a sub-species of soliciting which was a prostitution offence at that time. It was made a summary offence and was not intended to be one which would ever be tried before a judge and jury. It was not intended to attract serious penalties and it did not carry with it a series of protections, such as the right of a child victim to independent legal advice or to give evidence over a video link. It did not provide for a right to anonymity for the child or the accused. None of these existed with regard to this offence. Furthermore, it is significant, bearing in mind some of the amendments that were made in this House, there has never been in respect of this offence any statement as to whether a defence based on the absence of honest belief was or was not material. That has never been part of the law with regard to this issue. I will return to that later.

Section 2 of this Bill effectively re-enacts the original offence but makes it an indictable offence. Section 3 adapts a number of provisions in a number of statutes to provide that the rules of excluding the public from the court, preliminary examination, restriction of evidence and anonymity will apply in these cases. It also allows for separate legal representation and legal advice in the circumstances envisaged by the Act of 2001. Section 4 provides for the child being able to give evidence through a television link or through an intermediary. These provisions are required if we are to deal with this as a serious, indictable criminal offence.

The second Act being amended is the Sexual Offences (Jurisdiction) Act 1996, which made it possible to charge in the State persons who are Irish citizens who are ordinarily resident here who are alleged to have committed sexual offences against a child in another country. The offence of solicitation will now be both a territorial domestic offence and an extra-territorial offence, where somebody goes on holiday as a sex tourist, to use that horrible phrase, to a place outside the jurisdiction and solicits a child for sex. It will be an extra-territorial offence. The Bail Act will also be amended to make this one of the serious offences in respect of which bail can be opposed in the case of somebody likely to re-offend.

The fourth Act being amended is the Sex Offenders Act 2001, which contains a long list of offences. This offence will be subject to the sex offenders register for the first time. Some people appear to think that this was always the law but it was not. I hope the House will appreciate that we are not simply reinstating this offence. We are upgrading it to an indictable offence and we are providing the full panoply of legal provisions in terms of ancillary protections and procedural

matters, as well as extra-territorial application. We are including it with other serious offences against children for the first time.

Section 5 amends the penalties for attempting to have sex unlawfully with a person under 17 years of age. Last year when we legislated on this matter we provided low penalties for attempt, based on the 1935 Act. However, it would be remarkable if the penalty for soliciting a child attracted a more severe penalty than attempting to do the act upon the child. It was felt that if this was to be made a serious offence of soliciting, making it indictable with a five-year penalty, it would be absurd to have a four-year penalty for somebody who attempted the act.

A controversy cropped up about this which should never have. It has been suggested this legislation is infirm because it does not deal with the question of honest belief as a defence. It has been suggested that it is a mistake not to include this in the Bill. Nothing could be further from the truth. The Attorney General considered this at length and came to the view that it would be wrong to insert in this, as with other offences, a particular formula based on a defence of honest belief. Why is that the case?

The CC case, with which we had to deal last year, was based entirely on the particular legislative history of defilement of females. The Supreme Court held in the CC case that it was the clear intention of the Oireachtas to abolish the defence of honest mistake. It was not capable of being interpreted otherwise, having regard to its legislative history. In the same Act, the offence of indecent assault on a young person was entirely silent as to honest belief. The Supreme Court said that in that case there was no problem since it was capable of a constitutional construction and it would imply the ordinary rules of *mens rea* to it. *Mens rea*, the guilty mind doctrine, applies to all serious offences in our law, with very few exceptions.

If it is made a criminal offence to have sex with a person of a particular age, then no one should be in prison as the law and the Constitution now stand if there is a reasonable doubt as to whether that person actually knew the age of the person with whom he or she was dealing. If there is a reasonable doubt as to a person's guilt, the Supreme Court has said in the CC case, that a system must be in place in which he or she cannot be convicted. That is proof beyond reasonable doubt. There cannot be a proof on the balance of probabilities. It must be proof beyond reasonable doubt.

If the Houses agree to put a referendum to provide for cases of absolute or strict liability concerning sexual offences against young persons and it is adopted, and if we introduce a category of offences — a zone of absolute protection — under the Constitution, reversing the decision in the CC case, it will be possible for the Houses to enact laws which cast on the accused all the risk of engaging in any sexual behaviour with a young

person. It will cast guilt on the accused person if he or she gets the age of the young person wrong.

The Attorney General considered it before the Bill was presented and has provided me with judicial dicta on the subject. The situation that now obtains is that the offence, like the offence of sexual assault which is a major plank of our law in the defence of children and where there is no mention of honest belief, will be construed by the courts as requiring a guilty mind to be shown by the prosecution as is normal in all of these offences.

The case has been made that we must now include the defence of honest belief in all offences of sexual crimes against children in order to proof them against constitutional challenge. That is not the case. No serious lawyer believes that should be done. Every Act is construed constitutionally. If it is a necessary constitutional ingredient of criminalising any serious offence that it should be proven the accused had a guilty mind — in this case the accused did know the person was under age — every Act of the Oireachtas will be so construed by the courts. It is not necessary to put a defence of honest belief into every offence.

The proof of the pudding is that section 6, inadvertently deactivated in respect of certain sexual offences, did not mention honest belief. The offence of sexual assault — indecent assault as it used to be called — does not mention honest belief as a defence. The courts impute that to the offence and the Supreme Court has said this is part of our fundamental constitutional jurisprudence in offences of this kind. It is not necessary for the Oireachtas to stamp all offences which relate to age differentiated cases with a particular defence set out in statute form to proof them against constitutional challenge. Every Act of the Houses is presumed to be and construed in a manner consistent with constitutional requirements.

The points raised by Deputy Rabbitte in the Dáil were examined in advance by the Attorney General. The Attorney General came to the conclusion it would be an error to insert these offences on a comprehensive basis right across the law on sexual offences against minors. He drafted the legislation on this basis. He has examined the matter since Deputy Rabbitte made the point and he is stronger in his view that it would be a fundamental error to claim all our laws are open to challenge because they do not mention the honest belief defence. That is not the law and it would not be a proper way to go about our business.

I presume bright, intelligent and industrious people in the Labour Party's backrooms were going through——

Mr. Ryan: We have loads of them. We even have a few in the Oireachtas.

Mr. M. McDowell: Some of them I know myself and am very fond of them. I presume they were going through the legislation——

Mr. Norris: It would be a great help if we had less repetition because this Bill will be guillotined. If this goes on much longer there will be no opportunity for any Member to participate.

An Leas-Chathaoirleach: The Minister without interruption.

Mr. Norris: There will be practically no time for amendments.

Mr. M. McDowell: This error was picked up when they were preparing anti-grooming legislation. The Labour Party leader responsibly alerted me to this in the Dáil last Thursday. I said I would deal with it as soon as I possibly could. On Friday, he published a Bill and informed me he was glad I was making time available to deal with the matter as one of urgency in the Dáil. At that stage, I took it as the green light to get on with it. Last Friday, the Fine Gael Party published a Bill aimed at preventing grooming. It was a modest Bill with which I did not disagree. I did not want parallel debates in the Dáil and I put legislation before the Dáil which took the spirit of the Labour Party amendment, which required urgent action to change the particular offence, and the substance of the Fine Gael Party's legislation. The guillotine was not necessary in the Dáil last night because the debate concluded within the time allotted to it. I hope the same will happen in the Seanad. There was all-party agreement that this was a good and requisite measure. The amendments tabled on it were carefully considered. I look forward to the debate in this House and dealing with the amendments.

Ms Terry: I welcome the Minister and his officials to the House. I welcome this Bill, just as my party did in the other House last night. Fine Gael has been very strong in its support for measures relating to child protection. It supports the zone of absolute protection and retaining the current age of consent. We have called for a referendum on the important issues regarding child protection. The Minister will agree that we do not want that legislation to be rushed because we have found to our cost what happens when that is the case. With the best will in the world, human error can occur when something is rushed. When anomalies or loopholes are identified, we will all call for urgent legislation, but we must always be careful that, in expediting its passage, we do not make errors, afterwards reaching a position such as today's.

While I welcome that this is being dealt with swiftly, we must ensure when we make such important changes, especially regarding child protection, we examine it thoroughly. We should not cause further problems inadvertently, as hap-

[Ms Terry.]

pened in this case. I certainly welcome the Bill before us and feel that the additional measures the Minister is taking on board will provide us with legislation affording protection to children and providing a deterrent to those predatory adults, unfortunately at large in society, who prey on young children.

Unfortunately, this country has a very poor history in child protection. Many cases in which children were abused came to light only recently, having gone undetected for years. I am glad we now live in a more open society in which we are more aware of the situations in which children can find themselves and that we are able to bring them to light. Last week, we saw that success sometimes depends on the vigilance of parents, ensuring that they know what their children are doing and any danger in which they might be.

We legislators must ensure that laws are in place to protect children and that we can act speedily to deal with perpetrators. I will not be too critical regarding last year's events when the emergency legislation came to the House. I know that many criticisms were levelled at the Tánaiste last night owing to the delay during a week in which we threw abuse at one another across the Houses. That time might have been better spent in a serious examination of the legislation.

Mr. Norris: Hear, hear.

Ms Terry: The alternative is our having to introduce emergency legislation overnight. I will not go back over all that, since what is done is done. I appreciate what we now have. We are all human, and I hope that the legislation is watertight. I also welcome the provision regarding Internet grooming and appreciate the fact that the Government has taken on board Fine Gael proposals. My only question is, if this was published three years ago, why was it not dealt with sooner? However, we have it now, and I welcome that.

We live in changed times, and our children are now reared with more numerous and varied problems than we had when we were growing up. With the Internet, a whole new world is opened up to them and they can be at risk. It is up to us to ensure we protect them in every possible way. I will delay no longer the passage of this welcome Bill.

Mr. J. Walsh: I too welcome the Minister and the Bill itself, which is an example of political parties co-operating on questions of importance and real concern to people rather than turning them into partisan issues. That is to the benefit of the Houses and society as a whole. This Bill arises from the emergency legislation passed last year, but everyone in the House welcomed it at the time because there was a need to fill the lacuna that existed as a result of the Supreme Court's ruling in the CC case, in which the defence of

honest mistake was upheld, thus affecting the Statute Book. If the emergency legislation had not been passed, we would have created a much more serious situation in which serious offences would not have been prosecuted.

It is inevitable that where legislation is passed in an emergency, not everything may be picked up, leading to the scenario that has arisen in this case. That is why in the Houses we have a general tradition of not taking all sections of Bills together and allowing time for them to be digested and considered after Second Stage and for amendments to be tabled in a sensible manner. That is good practice, but there are times, such as arose last year, where that is not practical.

I also welcome the Minister's outline of the change in the offence of soliciting or importuning. Hitherto it has been a summary offence, but it is now to be indictable. Neither have there been powers of detention, and the case would be heard in the district court, but now it is rightly to be treated as a much more serious offence. In that regard, the Joint Committee on Child Protection, of which the Minister was a prominent member, recommended the enactment, as a legislative priority, of an offence of child sex abuse, following proposals from the Law Reform Commission. Such an offence would include other forms of sexual contact or behaviour falling short of full sex. It very much falls into that category, and the Minister has followed part of that report by introducing this legislation and treating the crime as the serious offence it is.

Child protection is a major issue, but I have also seen instances where people who were somewhat mentally impaired were taken advantage of. It is very much appropriate that there be protection for them in this legislation too. I note the Minister's comments on the defence of honest mistake and his belief that it is unnecessary to include it in the legislation. It struck me that if one introduced one of the recommendations in the report of the Joint Committee on Child Protection into all legislation, namely, if we created a zone of absolute protection through a constitutional amendment, one would have legislation on the Statute Books at absolute variance therewith. That situation might ultimately prove even more serious, so there is a strong element of logic in what is being said and in the line being taken.

I very much welcome section 4, which deals with what the Minister referred to as sex tourism. It is abhorrent that people who are upstanding citizens at home should deviate from those standards when they go abroad. That many western tourists have gone to Asia and elsewhere to exploit children involved in the sex trade is unacceptable. I welcome the fact that that offence, if committed abroad, will incur the same judicial process and penalty as if it were committed in this country. That is a good measure. One section provides that this offence can now lead to bail being refused on certain grounds, which is also a good

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proposal. These are serious offences and should be considered as such. We regard the downloading of child pornography from the Internet as a serious offence, so surely somebody soliciting or grooming a child for sexual activity is committing an even more serious offence. I am glad that provision is in the Bill and that the offence will be added to the list of offences which can require a person to be placed on the sex offenders' register.

Section 3(2A)(a) as inserted by section 6 of the Bill refers to: "Any person who . . . intentionally meets, or travels with the intention of meeting, a child, having met or communicated with that child on 2 or more previous occasions." Why is the number 2 cited rather than it being on any occasion. Is there a significance with regard to the number 2 being included in the paragraph?

Would that section cover grooming or preparing a child for any sort of immoral activity short of full penetrative sex? All speakers would agree that when it comes to children, we cannot be too protective. During recent decades, various crimes have come to light, not just in Ireland but also across the western world and, I am sure, further afield, which have clearly illustrated the need for absolute diligence and care in this respect. The Bill represents a positive step in that direction. I commend the Minister on introducing it and look forward to it being passed by the House, as it has been by the Dáil.

Dr. Henry: I wish to share my time with Senators Quinn and Norris.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Dr. Henry: I welcome the Tánaiste to the House and I also welcome the Bill. I am glad the Tánaiste has upgraded the offence of asking a child to engage in sex, which is a quite serious one. The same applies to a mentally impaired person.

As Senator Terry said, we have always had to tell children of the risks involved in meeting strangers. We now have the additional risk of cyberspace, which none of us had to deal with before. Section 6 inserts section 3(2A)(a) which addresses this matter firmly in the wording "having met or communicated with that child on 2 or more previous occasions".

It is important to try to address the situation regarding the Internet and other forms of technology. Unfortunately, technology is racing ahead of us and it is very difficult to be sure that we have every corner covered. I hope the word "communicated" will cover any further developments there may be. For example, who would have thought one could do so much with a mobile phone as one can nowadays? A few years ago, it was just for making or receiving calls, whereas now it can be used for so much more, although not to good effect sometimes. We have seen cases of children being bullied by text messages, not

to mention being beaten up in so-called happy slapping incidents. It is extraordinarily difficult to try to keep up with such things. Difficult as it is, however, and the Government can run numerous campaigns, parents must be alert to what is going on in this area. One would not send a child out on a bicycle without giving him or her some idea of the rules of the road. In fact, one would try to ensure a child was proficient in those rules.

We must ensure that we know what is happening on the Internet concerning our children. I commend the lady in north Dublin who managed to find out quickly that her child was being contacted by people who were soliciting him for sex. He became involved with people via the Internet. There are people who do not feel it is wrong to become engaged in such activities.

I am glad the Minister has decided to keep the term "child" as meaning a person under the age of 17 years. One difficulty facing all of us in dealing with various legislation covering the sexual abuse of children is that there are so many different statutes. The Minister has had to modify many of them in this Bill. Is there any way in which we could have a consolidated statute in the not too distant future? Sometimes it is difficult to know whether 15, 16 or whatever is the age at which it is illegal to contact children.

It is also important to address children on this issue because there have been cases where children have lied about their ages. Some time ago, there was a serious case in England concerning a child of 13 who had said she was 19 on the Internet. An American soldier came to the UK and became involved with her. It was a notorious case involving a police chase around Europe. It is, therefore, no harm to inform children that lying on the Internet is not something to be advocated.

Unfortunately, the Stay Safe programme is only implemented in 75% of primary schools. I have raised this matter with the Department of Education and Science and in this House, as have others, but the programme's application still seems to stick at 75%. Therefore, one quarter of primary schools are not bringing these issues to the attention of small children. The Minister should ask his Cabinet colleague, the Minister for Education and Science, to address this point. If the Stay Safe programme were fully implemented, such information could be reinforced by schools. One may find that some parents will not get around to addressing these issues with their children.

I am glad the Minister has placed such crimes on an international footing. Years ago, I proposed a Private Members' Bill on child trafficking which was eventually incorporated into legislation brought forward by the then Government. One can be sure that if somebody is doing something abroad, there is a strong possibility they will also be doing it in this country. In addition, why should children abroad be less protected than children in this country? That is an important issue to bring forward in the legislation.

[Dr. Henry.]

While I commend the Bill, it will be hard to police. It is a difficult area to deal with because it is very private. The Government can only do so much but there is also an onus on parents to be like that woman in north Dublin by trying to watch the activities of their children. It seems awful to be spying on what children are doing. People talk about allowing children to be creative and to fantasise on the Internet, but some types of fantasy are dangerous. One must put this issue under that heading.

Mr. Quinn: I welcome the Tánaiste to the House and welcome the Bill. I congratulate him on accepting Deputy Rabbitte's suggestion last week and for moving as quickly as he did. We are not used to speedy legislation like this. I note that the Tánaiste also praised Deputy Rabbitte, for which I congratulate him.

I abhor so-called quickie legislation, as I think we all do. We never want it and, therefore, in passing this Bill today, we do so with reluctance while recognising the need for it. We should be ashamed of ourselves, however, because we accepted so-called quickie legislation last year, in both Houses, and missed this particular point. We are not lawyers and cannot be expected to identify such points, but it concerns me when, on occasion, I see insufficiently serious attention being paid to some Bills.

I felt a great deal of pride when I was elected to this House, as all of us did. We accepted a great deal of responsibility on our shoulders to examine every Bill in detail. We clearly did not do that effectively last year. There are 166 Members of the Lower House and 60 Senators, but I am not sure how many spoke on the matter or investigated it. We should be ashamed of ourselves for not seeing it. Is it possible that the omission in last year's legislation was not a mistake but was done deliberately by a person in the Office of the Parliamentary Counsel? It did not enter our heads until recently that such a scenario could arise.

I accept everything that has been said and share Senator Henry's sentiments, but let me take the case of the Control of Exports Bill that came through this House the week before last. That Bill enabled us to prosecute a citizen who acts as broker for the sale of armaments abroad. I asked the Minister if this was a sensible arrangement that could be enforced if that citizen left the country 20 or 30 years ago but still held an Irish passport. I suggested it would be better if the Bill referred to residents of Ireland. The Minister accepted my point and sought to find the correct word, be it resident, domicile or something else.

I mention this because, in section 6, this Bill refers to any citizen of the State who intentionally meets a child having met or communicated with that child on two or more occasions. Is it possible to enforce this legislation on a person who happens to be a citizen of Ireland but left ten or 20

years ago with no intention of returning? Can we bring this person back to Ireland or can we prosecute him or her in another country? The Minister has covered the other point I made last week relating to a resident of Ireland who travels to another region.

I congratulate the Tánaiste and Minister for Justice, Equality and Law Reform, Deputy McDowell, on the Bill and on moving as quickly as he did on the issue. I am ashamed that the Bill we passed last year created this problem without us noticing. This is why we must be very careful to avoid so-called quickie legislation that passes through without us paying the necessary attention.

Ms O'Rourke: I welcome the Minister and his generous response to the Labour Party leader, Deputy Rabbitte, and am glad the Bill is before us today for our perusal. I am sure there are other Bills and Acts where a clause addressing the worrying aspect of this could have been fitted. There are other Bills that would have been passed that could have encompassed the gap that has been found but the Minister is right to remove any doubts that could have existed by copperfastening the issue with the introduction of this legislation. It is better to be safe than sorry and the speedy manner in which this matter has been addressed has removed concern in the community so that there will be no repeat of the demonstrations outside Leinster House last May. I said last year that the Bill would need to be rectified but panic set in and they insisted that it be passed immediately. When panic sets in, common sense goes out the window.

I echo Senator Henry's sentiments on putting the legislation together. The body of legislation dealing with children is huge and goes into many areas of life. As the Internet has grown, we have seen the effect it can have on children. Curiosity is a fine feature of children and a natural inclination. They are curious to learn, to know and to go down paths others do not know. However, another natural characteristic of a child is vulnerability. Curiosity and vulnerability are potent characteristics when combined and leave a child open to suggestion and ways of infiltrating his or her life, causing offence and danger. Children know a great deal about technology that adults do not know because, no matter how modern parents are, they would not have had access to the technology available to children today. Children pick up technological developments easily and are well attuned to what is going on in the world.

I introduced the Stay Safe programme at the behest of the Irish National Teachers Organisation, INTO, when I was Minister for Education in 1991. We developed the programme with the head psychologist in the Department of Education at the time, Mr. Tony O'Gorman. We formulated the programme on a hot summer afternoon, it was piloted that winter and was then

implemented in every school in the land. We made it public that we were developing the programme.

The following Saturday, a bus carrying around 30 parents from Cork opposed to the Stay Safe programme drew up at my clinic in my house in Athlone. I will never forget this because I knew they would not all fit in my modest house. Six or seven of the parents came in to berate me, a parent of growing sons, and to ask whether I knew what I was doing because I might be leading children down paths of depravity they could not understand if I allowed the programme to proceed. Various other moral strictures were mentioned and, I understand, the following Sunday there were sermons in several city and rural parishes in Cork against the Stay Safe programme warning parents not to allow their children partake in it.

Mr. Ryan: That is hardly likely to have happened in the city as Bishop Murphy was in charge and he was a long way from such nonsense.

Ms O'Rourke: I am telling the Senator what happened. I was quite appalled and I was always struck by how they did not understand that the programme was being implemented for the good of children. I was deemed morally lax and it was thought that I had gone down the primrose path of dalliance with all sorts of depraved people who were leading me in the wrong direction.

I am concerned that the programme is available only in 75% of schools, and Senator Henry and I raised this matter at the time of the creation of the Commission to Inquire into Child Abuse. Deputies questioned the Minister for Education and Science, Deputy Hanafin, on this issue, yet the level is still at 75%. Why is the Stay Safe programme not in every school in the land? It is a commonsense programme telling children who meet adults frequently how to deal with strangers who approach them, and it began long before the Internet was popular.

I decided to speak on this Bill for the purpose I have outlined and was very pleased when I heard what Senator Henry said. I am sure the parents who came to my clinic meant well for their children, as do all parents regardless of whether they lean to the left or right. They want their children to grow into good adults with a better quality of life, but in the case of the Stay Safe programme, they were incorrect and that opened my eyes.

When one tries merely to address many issues affecting life in Ireland, one can find oneself in another situation, surrounded by a wall and with a label around one's neck suggesting one is, for example, in favour of the sexual exploitation of children. The same applied to the divorce referendum. If one dared utter the word "divorce", it meant one supported it entirely for every man and woman in the land.

Mr. Ryan: Senator O'Rourke took a peculiar position on the first referendum.

Ms O'Rourke: To my undying delight I spoke and voted in favour of it.

Mr. Norris: Good woman, we would not doubt her.

Ms O'Rourke: I was pleased with my decision on how I would conduct myself during the divorce referendum campaign. At that time my 18 year old son was entitled to vote for the first time. I did not comment when he told me he was leaving for the polling station and he cycled off and cast his vote. On his return he told me he had cast his first vote in favour of divorce. When he said I had not tried to influence him I told him he was a grown adult and could make up his own mind.

It is interesting that attempts are made to put people in boxes or pin labels on them if they dare mention a certain word. I remember during the abortion referenda that one would be labelled an abortionist for speaking in a certain manner. I note from recent large advertisements in the *Irish Examiner* and another newspaper that a new campaign to grill politicians on stem cell research is beginning. It appears that when candidates for election call at constituents' doors we will be put right by being asked certain questions. While I am in favour of candidates being asked questions on any issue, we should be allowed an opportunity to engage in intelligent discourse without being labelled for daring to have a conversation.

I welcome the Bill. The Minister was correct to move swiftly to stop panic, although I believe the matter being addressed would be encompassed by other legislation. He acted with commendable speed. While I accept Senator Quinn's point that the Seanad is supposed to be a scrutinising Chamber, all Senators who wish to speak to the Bill will be able to do so. I hope the passage of the legislation will result in more comfort and security for adults and children.

Mr. Ryan: I apologise to the Leader for heckling. I welcome the Bill and apologise to the Minister on behalf of my colleague, the Labour Party spokesperson on justice matters, Senator Tuffy, who has been unavoidably delayed. As I recently told another Minister, I am more disorganised than usual. I apologise in advance if parts of my contribution are less coherent than I would wish.

Several speakers have referred to the Stay Safe programme. Unfortunately, I was absented from the services of the House in the period when the programme was introduced because I was not a Member of the Seanad. During that time, I was a member of a school board of management in an area of Cork city where Stay Safe was vigorously supported by the local parish priest. A diocese on the periphery of Cork city is presided over by a bishop of less than enlightened views on many

[Mr. Ryan.]

issues. Perhaps parts of the city's periphery were identified as——

Ms O'Rourke: Is it the area from which the bus came?

Mr. Ryan: I do not want to get involved in an exchange which might identify the individual in question. However, I want to defend the then Bishop of Cork Michael Murphy who was not of that breed and was, in many ways, most enlightened, as I am aware in both a personal and public capacity.

Mr. Norris: He is unusual in that diocese.

Mr. Ryan: As a result of the publicity associated with the Stay Safe programme, a parents' meeting we held at the school was packed. The meeting scrutinised the programme in great detail and the overwhelming response of the largely female audience was that it was not nearly blunt, explicit or clear enough to satisfy parents. The idea that the introduction of the Stay Safe programme gave rise to a major parental backlash was a myth, albeit a successful one, created by mischief-makers. I invite the Minister to dig a little to ascertain the reason one in four schools has failed to adopt the programme. I may be wrong but I believe these schools are concentrated in certain dioceses.

Ms O'Rourke: The Senator may be right.

Mr. Ryan: Stay Safe would not be in the style of a certain bishop of a diocese near Cork city.

I welcome the Bill. At the risk of attracting the sort of headline I do not want, I am mindful of a letter written by the late Judge O'Leary about some issues in life and society and the apparent determination to create a climate in which people can be easily branded. It is in this context that I will make a few comments which I hope are reasonably thoughtful.

The Labour Party had a hand in the legislation and the Minister responded promptly and efficiently when we raised the matter. The Bill is necessary to close a loophole. Without wishing to blow my own trumpet, in the past two years I have identified mistakes in three different Bills, two of which originated in the Other House. One, the National Economic and Social Development Office Bill, which had been in the Dáil for four years, had an in-built contradiction and the Minister had to return to the Other House to amend it. The second Dáil Bill was the Residential Institutions Redress Bill. Several weeks ago, amendments tabled by the Government to deal with the issue of nursing homes were shown to be in conflict with the Government's stated purpose and the legislation had to be amended on Report Stage. Quality assurance would be useful to ensure such errors do not occur. Given that none

of the Bills in question was rushed, perhaps more questions and answers are required in the Office of the Parliamentary Draughtsman.

Pursuant to this issue, I will raise a number of points I am sure my Labour Party colleague in the Dáil raised last night. My party believes the 2006 Act mistakenly removed the offence of gross indecency from the Statute Book. We could argue forever about this offence but it emerged from the Ferns report that a particularly nasty, since deceased, individual whom I will not name was prosecuted with the offence of gross indecency. I understand the Minister indicated at the time that the offence was obsolete and perhaps he is correct. It was identified as one of a range of offences to protect children from offensive behaviour by adults. I invite the Minister to elaborate on the matter.

My party has tabled an amendment on another issue I wish to raise. I am enthusiastic about legislation to protect children and prevent grooming. We all accept that the offence of grooming should mean inducing, inviting or coercing children to engage in an illegal act. The phrase used in the Bill is "sexual exploitation". Who would object to people being penalised for anything which is intended to lead to the sexual exploitation of children? I unequivocally accept the requirement to do so.

Why does the provision prohibiting grooming, which is defined as meeting a child for the purposes of sexual grooming, require that a person must meet with a child on two or more previous occasions? Why is it that a person who can be shown to have met a child or attempted to meet a child for the purpose of sexual exploitation must do so on several occasions before he or she is deemed to have committed an offence? I may be missing something here but I would like this explained. If a person of my age meets a child and it is clear from the context of the first meeting that the purpose of that meeting is sexual exploitation, I do not see why a second or third meeting is required for an offence to be committed.

Another issue identified by my party's legal advisers relates to paragraph (b) of section 6. This paragraph provides for an amendment of section 3(3) of the Child Trafficking and Pornography Act 1998 in regard to the definition of sexual exploitation of a child. One element of this definition is "inviting, inducing or coercing the child to participate in or observe any activity of a sexual or indecent nature". Members should note that this provision does not refer to illegal activity of a sexual or indecent nature but any such activity. We should consider what this means.

Where does this provision leave a 17 year old who has a date with a 16 year old and engages in the types of activities in which teenagers have engaged for generations? Such activities are not illegal in this State and God forbid they ever should be. We cannot assume our children will remain entirely celibate from age 13 until adult-

hood. There is a degree of experimentation that happens among teenagers under 17 years of age. I understood us all to know the difference between such activity and sexual exploitation.

As the Bill is written, however, it is clearly an offence to invite or induce a child, as defined by this legislation, to participate in any activity of a sexual nature. We should think this through carefully. Is this what we want to do? We might all wish teenagers were more restrained in their activities; all generations would like the generation of teenagers that follows to be better behaved. One can only imagine how well behaved teenagers must have been 1,000 years ago. Marcus Aurelius or somebody else commented on the sinfulness of the next generation.

We are the first generation, however, that is in danger of turning what is part of growing up into an offence. The simple solution, which I understand is contained in the British legislation, is that the definition of sexual exploitation should be amended to specify that an offence takes place where a child is invited, induced or coerced into participating in or observing any activity of a sexual or indecent nature that is unlawful. This would offer sufficient protection. As it stands, we are in danger of creating the offence of dating. That is the legal advice I have received. We are essentially saying that two teenagers who engage in activities that go beyond simply sitting in the cinema looking at each other are committing an offence. We all remember what it was like at that age.

Acting Chairman (Mr. Leyden): The Senator's time has expired.

Mr. Ryan: I invite Members to consider how many of us—

Acting Chairman: We have limited time to debate this Bill and it is vital that everybody has an opportunity to speak. Senator Ryan is depriving another Member of the chance to contribute.

Ms O'Rourke: Senator Ryan is speaking as the leader of the Labour group.

Acting Chairman: I am sorry but his time has expired.

Mr. Ryan: The normal procedure is for the Chair to warn speakers when they have one minute remaining. I got no such warning but I apologise for exceeding my time.

Acting Chairman: I have just taken the Chair and I am informed that Senator Ryan's time has expired. There is limited time for other Members to contribute.

Mr. Ryan: I have no problem with that. There is no need for the Acting Chairman to get annoyed with me.

Acting Chairman: I was not annoyed.

Mr. Ryan: I was not objecting.

Mr. Kett: Senator Ryan could have shared some of my time.

I welcome the Minister of State, Deputy Parlon. I am pleased to make a contribution to the debate on this important Bill. There is no more heinous crime than that of sexual abuse, which involves the taking away of the innocence of childhood. Society rightly acknowledges the seriousness of this crime and abhors the fact that such individuals exist. It is our duty as legislators to ensure we are tough on those who perpetrate such abuses and to make certain no loopholes are available to them to wriggle out of prosecution. This Bill serves to close one such loophole.

This debate is about protecting children. The courts have a duty to do so by way of sentencing. Parents, teachers and society in general have a duty to protect children not only through the upholding of laws but through policies and procedures for their protection, such as those in place in schools, and through education itself. Perhaps most important is the vetting of individuals who work with children. We have seen more of this in recent times but there was a time when people who worked with children could come from any walk of life. Thankfully, that is no longer the case, particularly in the case of children who are vulnerable. The establishment of vetting procedures is a welcome development.

All of us have concerns about the lifestyle of young people. Many of them, for example, are involved in underage drinking and sexual activity. I appreciate the problems they face; they are growing up in a different era to that of their parents and have more disposable income than ever before. We all encountered peer pressure as teenagers but it seems to be a greater factor in the lives of today's young people. The question we must ask ourselves is whether our laws should reflect this reality. I am of the view that our laws should create rather than reflect social norms. It is our job to legislate for the type of society in which we live. Unfortunately, many of our laws reflect the society in which we once lived. The values we hold dear and those to which we aspire should form part of our law-making. Those values must include ensuring that children can enjoy life as children should and in the knowledge that society will support and protect them in every way possible.

It has been observed that much of the legislation in this area is scattered across numerous statutes. It is almost impossible for any Minister to focus on all of them. Justice legislation is complicated enough without the added difficulty of it being scattered across various Acts. I can understand how this oversight could happen. It is difficult to keep one's eye on all the balls all the time.

Several speakers have referred to the dangers associated with the Internet. It is a wonderful tool

[Mr. Kett.]

in many ways and the most prominent technological feature of the 21st century. Almost every child is an Internet whiz-kid, much more so than those of us who are older. Unfortunately, however, it also brings with it the dangers we are discussing. Young boys and girls can access gay sites, for example, and sites used by predatory adults. They can access anything without the knowledge of their parents.

In many instances, parents do not have a notion what they are getting up to because they are whiz-kids on the computers. I am forced to watch “soaps” at home from time to time and I was watching an episode of “Eastenders” the other night in which two youngsters were upstairs working away on the Internet. They had installed a camera which allowed them see the adults in the house coming up the stairs. Perhaps that is the norm; it appears to be the norm on “Eastenders”. Children are doing what they want on the Internet and parents are reluctant to go into their children’s bedrooms and confront them because they are afraid it is not cool, nor do they want to intrude on their children’s private time. There is a down side to that, however, in that if they want to be seen as the cool parent, this kind of activity could be going on under their noses without them knowing about it. That is not acceptable.

There are many issues surrounding youth that cause major concern. Advertising and everything to do with the pop culture is geared towards sexuality. I regret to say that it appears some young girls see themselves as sexual objects. They live from weekend to weekend. They go out, drink, do what they do and talk about it for the rest of the week until the weekend comes around again. A difficult and worrying situation has developed and it is one we must legislate for, not to.

Other speakers mentioned the act of planning, preparing and solicitation. That is just as sinister as the act itself. If I read the legislation correctly, someone who is proven to be planning, preparing, soliciting, importuning or grooming children for depraved only stands to get a five year prison sentence whereas the Child Trafficking and Pornography Act 1998 provides for a 14 year sentence for the distribution of child pornography. Those two crimes are of equal depravity and would command a similar sentence. I may be wrong in that regard but I do not believe so. I am delighted with what we are doing in the House this morning. I welcome the fact that the Minister moved swiftly on it and I wish the Bill a safe passage through the House.

Mr. Norris: I give this Bill a guarded welcome. Like most people who tell the truth, I regard the shared experience of sexual pleasure with another human being in a loving relationship as one of the highest forms of physical and spiritual ecstasy, and we should say that.

Mr. Norris: Those people who are privileged to have that experience should cherish it but there is a danger, because of the language being used now, that we automatically equate “sexual” and “indecent” as if they are replaceable terms, and they are not. I am not saying there is not sexual exploitation but let us not pretend that sexual pleasure is dirty or reprehensible. It is a wonderful gift. That is why it must be treated sensitively and examined carefully.

I regret that, once again in this area, we are dealing with rushed legislation. Senator Quinn was right when he remarked on the requirement on this House, under the Constitution, to carefully examine legislation, and had some hesitations about what was happening here today. I do not believe that is the case. Even though it may well be that almost every speaker who wants to speak will get to speak on Second Stage, there is virtually no provision for the teasing out of amendments in a considered way and then to return to the issues after the Minister’s explanation on Report Stage. That is not what this House is about. In fact, it is a flat contradiction of what we are about.

The timing of this Bill, in the run up to an election, could not be worse because it provokes the kind of posturing we saw in the debate in the other House last night. I watched “Oireachtas Report” last night and I was appalled by the pious posturings, particularly from Fine Gael Members. I like Enda Kenny, by and large, but I was disgusted by what I saw. The kind of posturing that went on would make a rat puke.

I want to say, while the Minister of State, Deputy Parlon, is in the Chamber because it is not the first time this has happened, that there were suggestions that he was less interested in protecting the welfare of children from sexual abuse or that he regarded such matters as minor offences. That is a deeply dishonest and wrong suggestion. I may differ with this Minister on a number of aspects but it is outrageous that any politician should make that kind of accusation. That is what we get when this kind of legislation is introduced in an election period. The Minister showed considerable tact in the way he dealt with suggestions from both the Labour Party and the Fine Gael Party and he has addressed the problem of grooming.

In the absence of the Minister, Senator Ryan raised a query about grooming and wondered whether one meeting constituted grooming. I do not believe it can because as I understand it, grooming is a deliberate preparation over a long term to make children believe it is a normal process. In some horrible cases they were given the impression that it was a religious duty to cooperate. That constitutes violation.

To return to the first point I made about the profound involvement in all of our natures of the sexual instinct, we must also face reality. A few minutes ago the Visitors Gallery was full of teenagers and I would say the hormone level was

Mr. Ryan: Hear, hear.

through the ceiling. That is the reality and politicians do nobody any favours if they pretend the citizens of this country are eunuchs until they are 16 years and 11 months.

My colleague, Senator Henry, referred to the recent case, which is troubling in many aspects, and said the young man involved was solicited by a large number of men. That is not the case. This young man placed an advertisement on a gay website stating that he was 19 years of age and inviting correspondence and contact. A considerable number of the gay people who contacted him refused to have anything to do with him when they found out that he was underage, deleted his number and told him to stop the contact in his own interest. Those people behaved responsibly.

I do not use the computer. There is something in me — I know I am old-fashioned — that revolts against the mechanical element of looking for partners through a machine. I do not like it. It does not appeal to me but I know it is very 21st century. I pay tribute to the young man in question for his courage, integrity and the way in which he told the truth throughout what must have been an extremely difficult time. This State has let that young man down because we have never protected the interests of young gay people. We still have the exemption of the churches from the operation of the equality legislation. That copper-fastens bullying by both students and teachers of young gay people in schools. Report after report indicates that 80% of bullying contains a homophobic element but nothing is ever done about it, although the Stay Safe programme was mentioned.

In the case which was widely reported, reports started off referring to a paedophile ring. There was no paedophile ring. There is a great deal of rubbish written in newspapers. Senator O'Rourke's contribution was excellent. She spoke about the need to be allowed to discuss these issues in a rational manner without being automatically labelled.

The Minister, in anticipation of the fact that we might not have time to have long discussions, took up the question of the amendments. Among others that I tabled was one about honest mistake. I did so partly because I saw "Oireachtas Report" last night and suggestions were made from the Labour Party benches that there might be a constitutional problem. The Minister mentioned the question of *mens rea*, which is very interesting. As a distinguished lawyer, I am sure he is right. He then stated this was a fundamental part of the Constitution and that we may well have a referendum to knock it out. If it is so fundamental, if it is automatically assumed and if it is a good thing, why are we then knocking it out?

I wish to make a point about protecting people who are mentally handicapped, with which I agree. However, let us not be too simplistic about this. The mentally handicapped have various degrees of handicap. Some of them can be pretty bloody cunning. I know of a case of a person who

was borderline handicapped and used that condition to approach people as sexual partners and then blackmailed them. He made a career out of it. What about protecting the rights of those people who under this law would be copper-fastened as criminals? We must realise this area is not fully black and white.

I believe we will need to return to legislate on this subject. Let us have a full sexual offences Bill that deals with the whole situation and not during the run up to a general election. Senator Ryan mentioned the second last paragraph in page 6, which refers to "inviting, inducing or coercing the child to participate in or observe any activity of a sexual or indecent nature." God bless *The Tailor and Ansty*. What about a farmer who takes a young lad aged 16 and a half to the yard to see the bull service the cow? Under this section the farmer could go to jail, which is daft because the wording is so loosely drafted. We must protect people from real exploitation. We must be honest and admit the sexual identity of young people, which is true.

The Minister should be aware that parents inevitably resent that their children are sexual beings because they see it as part of growing away from them. We need only consider how fathers often react to their daughters' marriages.

Tánaiste and Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I do not want to cut into time for amendments in the other Stages of the Bill. I fully agree with the views expressed in this House that we need a sexual offences Bill of a comprehensive kind. Although it was not given major coverage, I indicated last night in the Dáil that I intend to ask the codification committee, which has just been established and is operational in association with University College Dublin, to make this area its first priority. The existing law is spread over a series of statutes, which is why this mistake was made in the first place. It is very impenetrable and is now becoming increasingly interlinked with cross-references between all these Acts. The second reason for doing so is that the Joint Committee on Child Protection, which was established in the aftermath of the emergency legislation last year, was of the view that we needed a comprehensive statute.

I do not like rushed legislation. I wish to say this here because I would get howled down if I tried to say it in the other House. When I asked for a fortnight or three weeks on the previous occasion last year I was howled at from the editorial columns asking me on what planet I was living. I said there was no great big black hole and that we had time to get it right.

Mr. Norris: I remember that.

Mr. M. McDowell: I was screamed at as if there was something wrong with my head and I could not understand the issue. I was abused for not

[Mr. M. McDowell.]

seeing the obvious. I cannot understand why all the people who accused me then of not being sufficiently urgent about it are now running columns in the same newspapers giving out shots about me for the consequences of legislating in haste. It is strange. Of course I realise that it is the prerogative of a commentator to be always right and it is the prerogative of a politician to be always wrong.

I would prefer to have more time to discuss this legislation. I was asked by the Labour Party to deal with it as a matter of urgency. I said I would make time available in the Dáil yesterday for the purposes of doing so. I did that. I took on board the Fine Gael proposal because I did not want controversy about matters I was not doing. I know Senators would like to have a week to consider this entire matter. However, we need a comprehensive sexual offences Bill. We need it to be properly thought through and published, followed by a public discussion. I expect that process to happen later this year. It cannot happen until we sort out the issue one way or another as to whether we will have a zone of absolute protection. There is no point in legislating yet again on this issue and then claiming there is a constitutional difficulty with what we are doing. We need to get all our lines clear in this regard.

I was condemned with vigour last year when I asked for a little time — I said on radio that a couple of weeks would not make any difference.

Clambering mobs made all sorts of demands. People told me that something was missing in my head if I could not see how urgent it was to act immediately. When I was taking the Bill through the Dáil I said I was concerned that I had noticed several mistakes in the text overnight. However, I get no credit for any of that — that is the way the world is. In that self-pitying mode I will sit down.

Mr. Norris: The Minister is the very one who wants newspapers to be able to lie about politicians as much as they want.

Question put and agreed to.

Committee Stage ordered for Wednesday, 7 March 2007.

Criminal Law (Sexual Offences) (Amendment) Bill 2007: Committee and Remaining Stages.

Section 1 agreed to.

SECTION 2.

Mr. Ryan: I move amendment No. 1:

In page 3, line 20, to delete “inserted” and substitute “as substituted”.

I will not spend long on this amendment, as some of the others are more substantive. I am advised the word “inserted” should not be used and the

appropriate legal term would be “as substituted”. While I will not start a big row with as eminent a lawyer as the Minister, I have great faith in the people who give me advice.

Tánaiste and Minister for Justice, Equality and Law Reform (Mr. M. McDowell): Either is acceptable. If a section is inserted in lieu of another one, it is substituted. The draftsman prefers “inserted” and the Senator’s colleagues in the Labour Party prefer “as substituted”. I am indifferent. Rather than bringing the Bill back to the Dáil, I will stick with “inserted”.

Mr. Norris: On a jocular note, I prefer “inserted”. It is much clearer and thinking back to some of the other sexual Bills, if the terms are absolutely substitutable and one is the same as the other, we could have odd references about substituting instruments into various people’s anatomies.

Mr. Ryan: The Minister’s belief in the consistency of parliamentary draftsmen is touching but it is not my experience.

Amendment, by leave, withdrawn.

Acting Chairman: Amendments Nos. 2 and 3 are related and may be discussed together by agreement.

Mr. Ryan: I move amendment No. 2:

In page 4, between lines 3 and 4, to insert the following:

“(3) A defence available under the Act of 2006 shall be available in respect of an offence under this Act.”.

As I think the Minister addressed this issue in his contribution on Second Stage I do not propose to pursue the amendment.

Mr. Norris: I would like to tease out the amendment because I cannot remember whether the Minister had returned or whether his replacement was dealing with the issue on his behalf. I did make the point that he spoke about *mens rea* and how it was such a fundamental part of the Constitution and so forth and that it was implied that it would be taken so by the courts and so on and then that we had the possibility of removing it again. It appeared to me there was a certain conflict which leaves me slightly confused. In cases where people are close in age, say, 16 years and ten months, it can be confusing. People are very different now. I am nearly 63 years old. When I was young, children were children. They looked like children. They were the size of children. By and large they behaved in a way that was regarded as appropriate for children.

However, there has been a substantial change in the 50 to 60 years since I was a child. In view of diet, for example, children are now considerably bigger. They have matured at a much earlier age.

They express themselves sexually at a much younger age. It may be regrettable — I believe it is — but there is no question that young girls are being sexualised at very young ages. One has only to look at the clothing shops and the kind of merchandise that is being promoted as well as the magazines.

It is possible that a person would be at the borderline age and might well give the impression, having the appearance, behaviour, mannerisms and so on, of somebody who was of an appropriate age and was sexually experienced. In view of this there is a case that this defence should survive. In those case it should be available for a judge to decide upon whether it is correct. Perhaps it will in some way. I understood the Minister to say that it is in force at present because of the *mens rea* provision but we might be getting rid of it in the referendum about children.

Mr. M. McDowell: I was called to the Bar in 1974 and practised in most courts, including the criminal courts and I knew my criminal law at the time. It was accepted among all barristers, all solicitors and all judges that the general rule was that *mens rea* was required, that is, that one had to know one was committing an offence. However, there were a number of exceptions but one classic exception was in regard to under-age sex. We proceeded from 1935 to 2006 on that assumption.

On occasion some people said it was unfair as a rule but it was generally accepted orthodoxy among the lawyers and the Judiciary. There was one judgement of the Court of Criminal Appeal which stated it was fair because it spared children being cross-examined. It was not some accident or whatever, it was understood to be the law. The only reason I mention it is that was what everybody thought to be the case until relatively recently. There is the Constitution, our deep constitutional values and *mens rea*, but we always said this was one exception to it. That was what we all understood the law to be until last year.

This leave us in a position where, if we want to have a zone of absolute protection, we have to change the Constitution. The argument which I think was not dealt with until we were bringing the emergency legislation through the Dáil and Seanad last year was that if one allows a genuine mistake to creep into these cases inevitably it is made an issue in very many cases as to how the victim behaved and what demeanour the victim had. Once one goes down that road, it is not so much that it is outrageous that should be a subject for debate in a court case, it is that victims will say they do not want to be part of this and parents will say they do not want their child to be part of this. They will not wish to proceed on the basis that they are not putting their child up to have his or her sexual experience thrown at him or her, whether he was drinking at the age of 16 or whether she was wearing a mini-skirt at the

age of 15. They will not go down that road and will make no complaints whatever.

Given this, the unintended consequence of allowing this to become a litigable issue in these cases is that, like the frost on a field, the complaints will disappear. The Director of Public Prosecutions warned us of this very strongly in the All-Party Committee on the Constitution as did the child psychiatrist who gave evidence. They had no doubt that once we introduced that as a legitimate defence in these cases, many parents and children would say it was not worth the candle and would not make a complaint.

That is the raw practical effect of the CC judgment. As legislators we have to ask ourselves and the people will have to ask themselves, as the ultimate legislators, whether they want to put things back to the way they were or to continue on with the system as it is since the CC judgment. I am not concerned about answering that question today but the All Party Committee on the Constitution unanimously came to the view that it wished to return to the old system. That is set out in its report. It is not an ill-considered view. The members of the committee spent months coming to this conclusion and took expert testimony on it. They said the whole effect of allowing this to come back as an issue in these cases is that there will be far less cases because people will be nervous of exposing their children in this kind of cross-examination.

One can imagine a young girl of 15 or 16 years of age who has false evidence of age, in the form of her sister's passport, in her pocket, and is frequenting a night club, pub or whatever and wearing lipstick, a short skirt and looking very attractive, who will be put through the mill by a senior counsel acting for a man who either did not fall for it or did not care or, alternatively, did fall for it in terms of his guilt or innocence. The phrase used by the Law Reform Commission, which is so graphic, is that she will be converted from being a witness to an exhibit in the case. The case will be, what did she look like? The other question will be, what did she look like two or three years ago when the incident happened. People would not want to proceed in such circumstances and will not subject themselves to such questioning. This is an issue.

The same would apply to young men if they were the subject of this kind of law. It is not a matter on which there is some blindingly obvious principle. On the one hand one will say genuine mistakes should be an issue in every case. On the other hand, if it is allowed in, one knows what the effect will be on the protection of children. Children will be converted from witnesses into exhibits and will be dissected in court and the case will be counterproductive. That is an issue for another day.

However, I make the point that it is not self-evident to me that the system was so bad until the CC judgment. I believe our law was better prior to that judgment than since. Child psy-

[Mr. M. McDowell.]

chiatrists and the DPP came before the committee and said that was their view also. Sometimes we take our law from the Supreme Court but the people have to decide where the pendulum should come to rest. That is the issue.

Ms Terry: While I appreciate the point made by Senator Norris and we spent much time discussing it in the committee, I fully support what the Minister has said. We are in the business of protecting children and we have to set high standards. I know it is easy to think a 15 year old child is 17 or 18. I even notice it, as I am sure we all do, when I knock on doors while canvassing.

Mr. M. McDowell: They are voters.

Ms Terry: I will now always assume the person who answers the door is the voter because I have been caught out too many times when I have been wrong about his or her age. It is very easy to make a mistake. That is the point. It is so easy to make a mistake. Therefore, the onus must on the adult to ensure he or she discovers the age. If there is any doubt, the adult does not get involved.

If we water that down, we are definitely making it difficult for children and putting them at risk. The zone of absolute protection must be provided. As the Minister said, we do not want our young children to be cross-examined in court. We do not want to put them through that. We know that parents will not put their children through that and there will be fewer cases. We see this with adult women who will not go through with a court case or even report a rape because of what they must put themselves through in court proceedings. Therefore, I certainly could not support Senator Norris's amendment. Perhaps when he thinks again about it, he might reasonably accept that we must set high standards and that it is up to adults to ensure they know the age and, if there is any doubt, they do not get involved.

Mr. Norris: With the greatest respect, I do not accept that Senator Terry is the only one with high standards. I think mine are reasonably high too. I accept and sympathise with the fact that one can have horrible cases, particularly in England, where, because they were wearing mini skirts, judges held that young adult women were inviting rape and that there was contributory negligence. These kind of appalling situations exist. However, situations arise where a young man or woman aged 16 and a half years with a history of sexual experience goes out with a mini skirt and lipstick, or whatever the male equivalent is, to a nightclub with the intention of meeting a sexual partner. They are on the borderline and meet somebody who is then automatically guilty and has no defence. This is obviously unfair. The Minister has indicated that grey areas exist.

There have been recent cases where young people have very honestly admitted that this is the situation. We should be caring and protective in so far as is necessary, but we also need to be realistic about what is happening. I will not go on because there are other amendments. I think the Minister is quite right in that we will definitely need to return to this because it is an area where, one way or another, the Minister has acknowledged that people may be unfairly convicted because of the lack of this defence. The balancing part of it is that one could have young people exposed to a brutal interrogation. This is a comment on the practice of law and the adversarial grilling that is practised.

In most circumstances where a young person is really assaulted, raped or inveigled into a situation, this is quite clear. However, a minority of cases involve Lolitas of both sexes aged 16 and a half years who are out to extend the range of their pleasurable experience and who can be quite callous about the fate that befalls their partner. I know it is unpopular and one could get into trouble. Senator O'Rourke previously indicated how one can be excoriated for raising honest points. This has also happened to me and it is a most horrible and disgusting experience. I refuse to be intimidated by the gutter press and cookery experts writing about sexual matters.

Mr. J. Walsh: I concur fully with what the Minister has said and believe he has dealt with the matter comprehensively. I also agree with Senator Terry. In respect of Senator Norris's comments, great consideration and weight was given to the issue of *mens rea* at the meetings of the Oireachtas Joint Committee on Child Protection. The committee heard from legal people who made the point from a legal perspective. Having weighed the matter up, there are other issues one must consider relating to child protection. A very compelling piece of information that was put before us was that since the "CC" case, the number of cases being pursued had dropped significantly. It was felt that if people were able to use this defence, which obviously would not be used only by the person who genuinely made a mistake but also by most defendants to extricate themselves from the charges, it would probably make lead to a negligible number of cases being taken. This would be a serious miscarriage of justice.

The second thing the committee did, which might be of interest to Senator Norris and is related to the weight given to *mens rea*, was to recommend that honest mistake should be linked with a new age of consent of 16 to tie it all together so it is clear. We were effectively saying that anybody who had sex with a person under 16 has an absolute responsibility to satisfy themselves as to the young person's age. This related to peer sex, while other issues related to people in authority. The Minister made a very sensible suggestion to the committee that an age differen-

tial might be introduced as part of that definition, but that is another argument.

Mr. Norris: May I make a quick point?

Acting Chairman: Senator Norris has already spoken a few times.

Mr. Norris: I commend the committee and the Minister on the suggestion about the age of consent of 16. This was a forward-looking, realistic and courageous thing to do. I despise the Opposition for the ignorant, disgusting and hypocritical way it behaved. I wish to serve notice on it that if it tries these kind of prurient and hypocritical tactics again, it will get the same dose it got when it tried the same tactics when the law decriminalising homosexuality was introduced by a decent Minister from the Fianna Fáil Party, Máire Geoghegan-Quinn.

Acting Chairman: Time is limited.

Mr. Norris: For electoral advantage, the Opposition tried to introduce a discriminatory age of consent. Let us have none of this election politics about this serious issue.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

Section 2 agreed to.

Sections 3 and 4 agreed to.

SECTION 5.

Acting Chairman: Amendment No. 4 is in the name of Senators Tuffy, Ryan, O'Meara, Derek McDowell and McCarthy.

Mr. Ryan: I move amendment No. 4:

In page 5, between lines 32 and 33, to insert the following subsection:

“(3) The Schedule to the Act of 2006 is amended, in the row relating to the Criminal Law (Sexual Offences) Act 1993, in the third column of that row, by the deletion of “Sections 3 and 4” and the substitution therefor of “Section 3”.”.

The Acting Chairman need only read out my name for the next amendments. I am quite happy to take the place of the other four Senators.

Mr. Norris: We know that. If he could, he would take their seats as well.

Acting Chairman: Senator Ryan without interruption, please.

Mr. Ryan: Not at all. This amendment concerns the offence of gross indecency, which is a matter of controversy between my party and the Mini-

ster. The amendment attempts to restore an offence which has been deleted either by accident or design. That is the nub of the issue.

Mr. M. McDowell: This issue is of some significance. The effect of accepting this amendment would be that the offence of gross indecency would be restored in respect of a young male over the age of 15. Effectively, a young gay man aged 16 who engaged in some act which was not an offence under the 2006 Act, for example, heavy petting — I do not want to get too detailed in this regard — would commit an offence. An 18 year old gay man who had a heavy petting session with a 16 year old gay boy would commit an offence, whereas an 18 year old heterosexual committing more or less the same actions with a girl would not. If I were to accept this amendment, it would introduce a new discrimination against males. We tried to make the legislation gender neutral and say that if a girl did something, a boy should be able to do something and we should not look at the nature of the act by reference to gender.

Some people would remark on how awful it would be for a 40 or 50 year old man to grope a 16 year old boy. Many people would be turned off on hearing that but, equally, people would consider it wrong for a 50 year old man to grope a 16 year old girl. I do not intend putting back the clock and saying that a 16 year old boy is in a different position to a 16 year old girl. We should have a law which is gender neutral on ages of consent. If I were to accept this amendment, I would be bringing back an offence of gross indecency with a young man in circumstances where a girl was perfectly entitled to consent to exactly the same behaviour.

Amendment, by leave, withdrawn.

Section 5 agreed to.

SECTION 6.

Mr. Ryan: I move amendment No. 5:

In page 5, paragraph (a), between lines 35 and 36, to insert the following:

“(1A) (a) A person commits an offence if—

(i) he or she intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world, and

(ii) doing it will involve the commission of an offence under the Criminal Law (Sexual Offences) Act 2006.

(b) A person guilty of an offence under this subsection is liable—

(i) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding €5000 or both,

[Mr. Ryan.]

(ii) on conviction on indictment, to imprisonment for a term not exceeding 14 years.”.

I again apologise to the Minister. I am doing my best in somewhat constrained circumstances. A valid point is raised in the amendment about the offence of grooming, *per se*. The consequences of grooming are being dealt with here, but the offence of grooming is not. The amendment seeks to establish that if somebody arranges or facilitates something that he intends to do, or believes another person will do, in any part of the world, that will involve the commission of an offence. That is what constitutes grooming. It is not the follow-up or meeting; it is creating the conditions out of which the meeting arises. That is what our amendment endeavours to deal with in this case.

I will listen carefully to what the Minister says on this matter. I understand it is similar to legislation in a nearby jurisdiction. That is not to say it is any reason to believe it is correct because they are developing peculiar laws over there at present. Nevertheless, the issue is whether grooming is covered without it being an offence to arrange, as distinct from to carry out, an action.

Mr. M. McDowell: The particular section with which we are dealing was tendered as an amendment by the Labour Party in the Dáil yesterday. It is modelled on section 14 of the UK Sexual Offences Act of 2003. Fine Gael's Private Members' Bill incorporated into Irish law section 15 of that Act, but section 14 of the UK Act is the one with which we are dealing.

I have to reject it for a number of reasons which are technical in nature. The wording, “if he or she intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world”, constitutes an extra territorial offence, while the wording “and doing it will involve the commission of an offence under the Criminal Law (Sexual Offences) Act 2006”, constitutes a domestic offence. The amendment does not hang together. One commits an offence under the 2006 Act only if one does something in Ireland. This is one occasion when the very skilled Labour Party draftsman got it slightly wrong.

Mr. Ryan: From what I hear, he is better than the Government's draftsman.

Mr. M. McDowell: Nobody is perfect in all of this but I do not think he is correct on this one. In regard to the Child Trafficking and Pornography Act and the Sex Offenders Act, there is provision for extra-territorial offences to be committed. A person in Ireland who aids and abets the commission of an offence under those Acts commits an offence in this country. I cannot accept the amendment because of the way this is phrased. It is not drafted in a technically correct

way. It is clear that subsection (1A)(a)(i) deals with extra territorial activity and subsection (1A)(a)(ii) requires it to be an offence under domestic law. The same Act cannot in my view be comprehended by both paragraphs. The existing law of aiding and abetting the commission of a child sex offence abroad is sufficient to cover that particular issue. I cannot accept the amendment.

Mr. Ryan: How does the Minister believe the offence of grooming, as distinct from the consequences of grooming, is illegal? That is what I do not understand. We do not have any dispute with all the other issues. The offence of grooming is the process of making contact maliciously with the intent of doing something else.

Mr. M. McDowell: This was a point that came up in the Dail yesterday. The Fine Gael Private Members' Bill was a very narrow Bill which was composed of two elements. It was obvious that the UK legislation was examined and one section was chosen as having potential for use in Ireland. Section 14, on which this amendment is based, is problematic. I wish to produce a proper grooming offence which is well thought out and properly thought through. One of the ingredients which will probably be necessary to deal with this issue is to tie down the grooming offence to something which is provable in court.

The fact that an elderly man befriends somebody in a chatroom and sends them chocolates is not of itself a criminal offence, but if one can prove it was for a sexual purpose, then one is into different territory altogether. The real difficulty is to define grooming in a way which allows a perfectly innocent act of generosity on the one hand and, on the other, which prohibits something which is part of the preparation of a child for sexual exploitation. It is a complex issue and requires a tricky drafting balance.

I am dealing with a mess myself so I am not in a position to criticise draftsmen in other countries too much. With the greatest respect to the UK draftsman, I am uncomfortable with a number of the provisions of the UK legislation. We can do a better job ourselves if we take some time. The section in my Department dealing with this issue is working on an Irish version of a sexual grooming offence. It will have to be sufficiently definite to pass constitutional muster. It would also have to be sufficiently broad to be effective. It is a most tricky drafting process. I am not happy with this amendment. Fine Gael was correct to avoid section 14 of the UK legislation and to concentrate on section 15. We have to come back to this issue on a more comprehensive basis and introduce a grooming offence.

Senator Jim Walsh inquired earlier about why two incidents of communication are required. This was done in Britain. The reason it was done is because this issue is on a vague cusp of two different patterns of behaviour and the intention

is to make it necessary for the prosecution to show a pattern of behaviour before somebody could be convicted of grooming, that is was not just a case of one conversation or one chatroom event. The idea of grooming is that over a period, one puts a great deal of effort into subverting a child's self-defence mechanisms so that he or she will trust one. The pattern idea is implicit in this approach.

Ms O'Rourke: It was agreed on the Order of Business this morning to conclude the Bill at 1.30 p.m. I commend the Minister for his generosity in saying he did not want to truncate the debate and that he would be available to stay on for longer. I propose an amendment to the Order of Business, to extend the debate until 1.45 p.m., which is 15 minutes more.

Acting Chairman: Is it agreed to amend the Order of Business and to extend the debate by 15 minutes? Agreed.

Mr. Ryan: At the risk of being beaten up by Labour Party lawyers, the Minister has a point in his argument about the amendment as it is drafted. I will deal with the consequences of this, I am well able for it. The Minister is conceding that grooming is not, *per se*, illegal in this country. That is a matter of concern. In party political nonsense I could beat the Minister over the head with this but it ought to be a matter of concern. The Internet is facilitating this new area and we are slow to deal with it. We should avoid being five years behind technology.

Mr. M. McDowell: Last July the Government approved the scheme of a Bill that involves a general offence of grooming. The Department is working on it, in conjunction with the Office of the Attorney General. I had hoped it would be published by now but other matters have held it back. I commend Fine Gael on not taking all of the UK legislation and using it in its Private Members' Bill because some of it is problematic. The party used discriminatory judgment to include some aspects and omit others.

Senator Ryan has a point in that grooming is not totally criminalised by the provisions of the Fine Gael Private Members' Bill that I have included. I cannot provide the House with a satisfactory formula and, given that we are legislating in a hurry, I do not wish to slap down any old thing and then find the Bill challenged in the Supreme Court under Article 26 because I have gone too far. This must be a workable law and the State must be able to prosecute people under it. Fine Gael avoided the mishmash that would follow from copying UK legislation into an Irish Bill. This could cause immense difficulty. I ask people to give us a few months to get this right rather than attempting something dubious.

Mr. Norris: We should not think that grooming is exclusively confined to the Internet. Grooming over a period of years was part of the process of clerical abuse and that was not reliant on technical advances such as the Internet.

Amendment, by leave, withdrawn.

Mr. Ryan: I move amendment No. 6:

In page 5, lines 38 to 40, to delete all words from and including “, having” in line 38 down to and including “occasions” in line 40.

The Minister made a valid case in respect of a pattern of behaviour. The Labour Party was concerned about the person having to meet the child more than once.

Amendment, by leave, withdrawn.

Mr. Ryan: I move amendment No. 7:

In page 6, line 31, before “inviting” to insert the following:

“in the case of a child who is more than 5 years younger than the person concerned,”.

The wording of section 6(b)(e), concerning the definition of sexual exploitation, is peculiar. The Minister stated that no court would entertain a charge but the Bill concerns the consequences of grooming. The section refers to intentionally meeting or travelling for the purpose of doing anything that constitutes sexual exploitation. The definition of sexual exploitation refers to a child, anyone under 17. Section 6(b)(e) refers to “inviting, inducing or coercing the child to participate in or observe any activity of a sexual or indecent nature”. This does not refer to anything illegal. We all wish that people would delay all forms of sexual activity until they are old enough to manage it, in which case none of us would ever start. None of us is immune to the pressures of it, unless there are saintly people on the other side of the House. From what I know of human beings, the most extraordinary mistakes are made in pursuit of sexual passion. I am concerned that teenage activities that are a part of growing up are being unintentionally defined as sexual exploitation. I support educating young people to make them aware of the joys and pitfalls of sexual activity and the potential human damage. The definition in the Bill includes inviting the child to participate in any activity of a sexual nature. Do we not mean any activity of a sexual or indecent nature that is illegal? I will not go into graphic detail of the intermediate stages between what is illegal and what is legal. The Catholic Church, and many of its adherents, spent 20 years of my childhood defining the phrase “How far can you go?”. Many American Catholic journals advised teenagers about this.

Ms O'Rourke: Senator Ryan is bringing back memories.

Mr. Ryan: The Bill suggests any activity of a sexual nature is a form of exploitation. I will not engage in autobiography because it could be a banned book. It could be a case similar to the *The Tailor and Ansty*, with a large chunk of the Official Report being deleted because we do not want the nation to be corrupted.

Mr. Norris: Senator Ryan has identified a weak clause. I invoked the reference in *The Tailor and Ansty* to taking the nephew out to watch the bull covering the cow. The section refers to “inviting, inducing or coercing the child to participate in or observe any activity of a sexual or indecent nature”. This could involve inviting a child of 16 years and 11 months to a film. Many films have explicit sexual material. This section makes such a situation an offence, which is daft.

Mr. M. McDowell: The Long Title of the Child Trafficking and Pornography Act states: “AN ACT TO PROHIBIT TRAFFICKING IN, OR THE USE OF, CHILDREN FOR THE PURPOSES OF THEIR SEXUAL EXPLOITATION AND THE PRODUCTION, DISSEMINATION, HANDLING OR POSSESSION OF CHILD PORNOGRAPHY, AND TO PROVIDE FOR RELATED MATTERS.” The overall purpose of the Act, as stated in the Long Title, must be considered when one examines the detail. It is to protect children from sexual exploitation. For a child to see a bull covering a cow or a stallion covering a mare does not constitute sexual exploitation. The Director of Public Prosecutions would not get away with that and no reasonable court would interpret the law in that way. We are dealing with a dirty old man, having communicated with the child, who gets the child to come to his house and shows the child blue movies or allows the child to see two friends engage in sexual intercourse on a bed. Sexual in this context would undoubtedly mean human sexual activity and not budgerigars mating in a cage or the like. That allowed, I do not know how one would criminalise a dirty old man who communicates with a child on a number of occasions on the Internet, gets that child to come to a place, for example, a hotel bedroom, and has the child witness a couple having intercourse or some act of sexual fetishism.

This is the difficulty of the grooming offence. One knows one wishes to criminalise that activity and that it is outrageous for a dirty old man to do that to a child. However, to say, as was put to me last night, that a babysitter who kissed his girlfriend in the presence of a child, having gone to the house to look after the child, would commit this offence is fanciful. I was thinking overnight about how to differentiate between the two scenarios I have outlined. There is nothing illegal about a couple having sex in a hotel bedroom and there is nothing theoretically illegal about a child seeing it. However, there is something very wrong about

somebody arranging for that to happen. That is the problem we are dealing with.

I cannot decide not to go down that road because it is difficult. Fine Gael could have decided not to do anything about it in its Private Members’ Bill since there is nothing wrong with it in principle, but there is something deeply wrong with it. I ask the House to take the view that a court looking at the legislation would see it as a Bill to prevent the sexual exploitation of children. It is not exploitative of a child to bring that child to a farmyard when a stallion is covering a mare; there is nothing exploitative about a child seeing a babysitter give his girlfriend a kiss. These are extreme examples which have no basis in reason or common sense. No court would entertain a case of that type and the Director of Public Prosecutions would not prosecute such a case. However, we must criminalise a dirty old man who, for the purpose of grooming a child, inveigles that child to go to a hotel room to witness a couple having intercourse.

Mr. Norris: With regard to the campaign against AIDS among gay males, the most effective method of inhibiting the spread of the disease has involved the use of fairly explicit material. Will the Minister reassure me that this will be protected? It is an important health issue. However, I agree with the Minister’s example of dirty old men showing blue movies to children to get them excited and have their way with them. That is not acceptable and should be criminalised.

Acting Chairman: Does Senator Ryan wish to withdraw the amendment?

Mr. Ryan: Not yet, although it will be withdrawn due to time.

Ms O’Rourke: We can take five minutes more.

Mr. Ryan: Nobody argues with what the Minister says. However, I am thinking of the irate father who comes home to find his 16 and a half year old daughter, slightly dishevelled, with her 17 and a half year old boyfriend. The father is angry and knows the local Garda sergeant. I believe it would be possible to prosecute the 17 and a half year old for this if it were the couple’s second or third date. We must be careful. I do not envisage a huge number of the type of people Senator O’Rourke mentioned earlier——

Ms O’Rourke: They did come to me.

Mr. Ryan: ——demanding that 17 year olds be prosecuted, but we ought to be clear about what the legislation means. I believe it means that teenagers, where one is over age and the other is under age or where both are under age, could be prosecuted for things which, to put it bluntly, most of us did.

Ms O'Rourke: I suggest that we continue for another five minutes and then conclude.

Acting Chairman: Is it agreed that we conclude at 1.50 p.m.? Agreed.

Mr. M. McDowell: If we wish to stop a dirty old man bringing a child to a room and putting on a blue movie or bringing a child to a room to show a couple engaged in sexual intercourse, we must have a law to do so. It is not easy. I genuinely believe that no court would consider that an offence of sexual exploitation was committed in the circumstances described by Senator Ryan. For this section 2A offence to be committed, one intentionally meets the child for the purpose of doing anything that would constitute sexual exploitation. I believe a court would take the view that this legislation is in place to stop sexual exploitation of children, not to prevent a grope by two teenagers. That is not what it is about. I do not know how one differentiates between the two but the age difference is not the crucial item.

Mr. Ryan: No.

Mr. M. McDowell: It is deeper than that. Perhaps in the fullness of time we will return with a better definition but the Fine Gael Party's Private Members' Bill, which is based on the United Kingdom legislation, is good legislation. I am not aware that a better formulation is available. I rely on the common sense of the Judiciary and the Director of Public Prosecutions not to conjure up entirely fanciful sexual exploitation prosecutions.

Acting Chairman: Does the Senator wish to withdraw the amendment?

Mr. Ryan: I will when I am ready. I will not hold up the House. I know what the Minister is trying to do but I also know that it means something different. I was a Member of this House when the first pro-life amendment was passed. We were going to defend this nation against abortion. However, that section of the Constitution ultimately resulted in the legalisation of abortion. One cannot have such faith in how the courts will interpret something.

Judges are sensible and if somebody was charged with this, they would probably send them home with a slap on the hand. However, the Minister cannot convincingly say that situations in which teenagers could be found are not illegal under this section. That is what bothers me. It is not the biggest issue in the world, but to a degree, it reflects our age and the peculiar way we have of looking at teenagers.

Acting Chairman: Does the Senator wish to withdraw the amendment?

Mr. Ryan: The Chair is very keen for me to withdraw it. Is there some reason for that?

Acting Chairman: I am keen to get the legislation dealt with and another Member has indicated that he wishes to speak on the section.

Amendment, by leave, withdrawn.

Question proposed: "That section 6 stand part of the Bill."

Mr. Quinn: I had a query on Second Stage with regard to a citizen who has not been in Ireland for 20 or 30 years and is found to have committed a crime under this legislation in another part of the world. I am not sure how he could be prosecuted. Perhaps the Minister will put my mind at rest on this.

Mr. M. McDowell: This section applies to a citizen of Ireland or a person who is ordinarily resident in Ireland. If we are to assert extra-territorial jurisdiction, under the Constitution we are obliged to so in accordance with ordinary principles of international law. One of them is that there must be some link to the State. A citizen owes a duty of loyalty to the State under Article 9 of the Constitution. A person who is ordinarily resident in this country owes a different set of duties. That is a tangible link.

We cannot have a law in Ireland that allows us to prosecute an Australian for something they did in Thailand because it comes to our attention from a newspaper report. Normally, the citizen would have to be arrested in Ireland. There could be an extradition of an Irish citizen in certain circumstances where they were unlikely to be prosecuted abroad, but that is most unlikely. The truth is that this is most likely to arise in a sex tourism situation. The Attorney General's advice is that there must be a legal connection between the offence and this State before we can assume extra-territorial jurisdiction. That means the perpetrator in cases of sex tourism must have some linkage to the State. Ordinary residence or citizenship is sufficient. We cannot think of some other basis on which Ireland would purport to exercise extra territorial jurisdiction.

Question put and agreed to.

Section 7 agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

Mr. Ryan: While I fight with the Minister on everything and disagree with him about most matters, he is one of the more forthcoming members of the Government. It is worthwhile to engage with him on Committee Stage. I believe the Bill will present problems in criminalising

[Mr. Ryan.]

matters that are not intended to be. The sooner proper codified sexual offences legislation is introduced the better because we are finding ourselves in an enormous mess.

Mr. J. Walsh: I commend the Minister in the expeditious manner in which he dealt with this legislation after it was brought to his attention. Senator Norris and others have commented on the magnanimous manner in which he gave due credit to the leader of the Labour Party and the Fine Gael Party for the initiatives they had taken.

Legislation on grooming is a recommendation of the child protection committee and I would like it classed as a serious offence. The approach being taken is prudent because care must be exercised in this area. I have encountered teachers and youth coaches who are nearly afraid to pat a child on the head or put an arm around a child reassuringly because we have gone to the other extreme. While *nolle me tangere* may operate within various religious orders, it would be a pity if it became a practice in general society. It is an area that needs to be teased out with great sensitivity to ensure we are not creating a society that we do not aspire to.

I commend the Minister in the manner in which he is amenable to amendments from the other side of the House.

Ms Terry: I wish to be associated with the remarks thanking the Minister and his officials in dealing with this matter, particularly in taking on board suggestions from the Fine Gael and Labour parties. That is the way I like to do business and would like to see more of it done this way. Keeping in mind the impending general election, the Minister took the matters on board in a good-spirited way. This matter concerns the sexual exploitation of children. We will depend on the common sense of the Judiciary in how its interprets the law, no matter how watertight it is. It is dealing with a small percentage of people who exploit children and we will depend on the Judiciary to interpret the intention of the Oireachtas.

Mr. Norris: I thank the Minister for taking a direct and personal interest in the matter and ensuring he was available for the debate. I also thank him for dealing with it in his usual vigorous and informative manner. I am glad he has indicated a fuller sexual offences legislation will be introduced. Whatever the make-up of the next Government, it will be charged with that responsibility. I am glad there is a commitment that this matter will be properly addressed.

Ms O'Rourke: I found this morning's business a refreshing treatment of the Seanad.

Mr. Quinn: I appreciate the Minister gave his full attention to the legislation and thank him and

his officials for their work on it. I congratulate the Minister for attending to this matter as quickly as he did. It is a good example of how the Seanad works in how the legislation was teased out.

Tánaiste and Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I thank the House for the spirit in which it took today's debate. I also thank all parties in both Houses in their approach to this issue. No party or Member is more or less concerned than any other on protecting our children. This is not a perfect set of circumstances and I wish I did not have to come before the Houses to introduce this legislation. However, I believe we have done some useful work.

I thank my officials for whom the past 108 hours have been a nightmare and for their hard work. I thank the Parliamentary Counsel and the Attorney General for their assistance.

All laws must be interpreted in a manner which is consistent with the Constitution. The Constitution empowers and directs the Judiciary to interpret our law in accordance with the rules of common sense. There is no mandate in the Constitution for trying people against common sense. There is no mandate in the Constitution for putting people on trial for events which are manifestly devoid of criminal content. A constitutional construction must always be put on legislation. I am in no doubt the DPP and the courts will never interpret this legislation in a way that flew in the face of common sense or would be unfair to ordinary individuals. This is about protecting children from sexual exploitation. I have no doubt that the Long Title, the Constitution and common sense will direct the prosecuting authorities and the Judiciary to interpret this legislation in a manner which is consistent with the Constitution and not in a manner which would be an abuse of our Constitution.

Question put and agreed to.

**Criminal Law (Sexual Offences) (Amendment)
Bill 2007: Motion for Earlier Signature.**

Ms O'Rourke: I move:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the Commission constituted as provided in section 2 of Article 14 of the Constitution to sign the Criminal Law (Sexual Offences) (Amendment) Bill 2007 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to it.

Question put and agreed to.

Sitting suspended at 2 p.m. and resumed at 2.30 p.m.

Roads Bill 2007 [Seanad]: Order for Second Stage.

Bill entitled an Act to amend and extend the Roads Acts 1993 to 2001, the Taxi Regulation Act 2003 and certain provisions of the Road Traffic Acts 1961 to 2006 and to provide for connected matters.

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

Question put and agreed to.

Roads Bill 2007 [Seanad]: Second Stage.

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

Minister for Transport (Mr. Cullen): This Bill represents an important step in ensuring that we in Ireland can implement the most modern and efficient systems for levying tolls on our national roads. It also puts forward measures that should further improve the efficient and cost-effective delivery of the national roads programme within the framework of Transport 21.

The principal purpose of the Bill is to provide the necessary statutory basis to facilitate the implementation of free-flow, open-road tolling, also known as barrier-free tolling, on toll-based national road schemes, through the provision of appropriate deterrents against the non-payment of tolls. The Bill also provides for the redesignation of certain high-quality dual carriageways as motorways; the provision of service and rest areas on the national road network; some technical amendments regarding various sections of the Roads Act 1993; and several amendments to the Taxi Regulation Act 2003. I regard its enactment before the dissolution of the Dáil and Seanad as essential.

Before I speak on the purpose of each major section, it is important to put the Bill into its proper strategic context. The Bill is about ensuring the substantial investment the Government is making in the nation's motorways and national roads delivers real and sustainable benefits to our citizens. The investment in our national roads, including the M50, is guided by the principles set down in Transport 21 and the national development plan. It is therefore worthwhile to spend a little time setting out the background of why this Bill is important and giving Members a clear context of where the legislation, relatively brief as it is, fits into the overall transport investment picture.

I will therefore speak about developments on Dublin's M50, including the buy-out of the West Link concession; the national roads programme; and national roads under Transport 21. I will then speak about each of the main sections of the Bill before making some concluding remarks.

The primary purpose of the Bill is to facilitate the introduction of free-flow tolling on the M50.

Barrier-free tolling is the centrepiece of the Bill. However, that in itself is not a panacea for the traffic problems experienced daily by commuters using the M50 and living in Dublin and its hinterlands. The lifting of the barriers is only one part of the Government's M50 strategy. The Government and the National Roads Authority, NRA, are fully committed to improving the level of service provided to motorists on the M50 and believe it will be best achieved through the M50 upgrade, including the upgrade of the interchanges, coupled with the move to barrier-free tolling.

I would like to take the opportunity to inform the Seanad of the progress that we have made and are making on the M50. The M50 upgrade project involves the widening of around 32 km of motorway from two to three lanes in each direction, with a fourth auxiliary lane in places, from the M50-M1 interchange near Dublin Airport through to the Sandyford interchange. Critically, it also involves the upgrade of ten junctions along its length. I have said previously that there is no quick fix for congestion on the M50. However, when put in place, those three elements — barrier-free tolling, widening of the carriageway and the upgrading of the junctions — will deliver a very significant improvement in the quality of the service on the M50.

The total cost of the M50 upgrade is approximately €1 billion, and it is being undertaken in three phases. Phase 1 comprises the widening of the carriageway between the N4 — Galway Road roundabout — and Ballymount interchanges and the upgrading of the N4, N7 and Ballymount interchanges. Work has commenced and is expected to have been completed by the middle of 2008. Phase 2 comprises the widening of 24 km of the M50, other than the West Link section between the N3 and N4 junctions, and the upgrade of a further seven interchanges. The NRA aims to award the contract for phase 2 in the middle of 2007 and expects construction to be completed in 2010.

Phase 3 comprises the widening of the West Link section between the N3 and N4 junctions, which is expected to commence very shortly and be completed by the middle of 2008. Once complete, the upgrade will bring significant benefits, as it will expand the capacity of the M50 to deal with 50% more traffic than at present; improve average peak-hour speeds; reduce traffic congestion on the radial routes of N3, N4 and N7; and improve traffic flow on the entire Dublin road network.

All the agencies, including South Dublin County Council, Dublin City Council, the National Roads Authority and the Garda are co-operating very closely to ensure everything possible is done to mitigate the impact of the upgrade work on traffic flows on the M50. I am satisfied no effort is being spared by those responsible for traffic management and law enforcement to alleviate the problems on the

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M50 as far as possible, and I thank them for their efforts.

I am confident that, with the M50 upgrade complete by 2010, traffic congestion and delays on the M50 will be reduced and road-users will be provided with an improved level of service. Road-users will begin to see significant benefits next year when the first phases of the motorway upgrade are complete and the barrier-free tolling, which I will shortly describe in more detail, is in place.

Another important step in resolving congestion on the M50 is the decision to remove NTR's tolling concession on the West Link. For commercial and strategic reasons, the NRA, with my agreement as Minister, decided last year to end the arrangement with National Toll Roads under a 1987 agreement for the collection of tolls on the West Link up to 2020. Discussions have been ongoing for some months between the NRA and NTR about the details of its removal from the West Link. NTR must be compensated in line with the 1987 agreement, which is a binding contract. However, the compensation arrangement will not leave taxpayers any worse off than they would have been had the agreement been allowed to run until 2020. As Members will hear when I expand on the topic, they will be better off. The decision to remove NTR was taken to allow the NRA to develop and manage the M50 to provide the best possible service to motorists.

Ending the relationship with NTR now, rather than waiting until 2020, has significant advantages. It will allow the removal in 2008 of the toll plaza on the West Link and its replacement by a barrier-free tolling arrangement along the same stretch of motorway. The introduction of barrier-free tolling will coincide with the completion of the upgrade of the M50 section between the Ballymount and N4 interchanges. From the middle of 2008, the NRA will be free to introduce measures to address the congestion difficulties on the M50. The middle of 2008 represents the earliest point by which the barrier-free system and equipment can be designed, built, tested and commissioned. By removing NTR now rather than in 2020, the State, not NTR, will be the beneficiary of the increased toll revenue as a result of the increase in traffic volumes following the upgrade.

Senators will no doubt be pleased to hear the negotiations should be concluded very shortly. The general terms of the agreement have been in the public domain for a few weeks and I can confirm that the intention is to pay an annual amount of €50 million plus CPI to NTR until 2020. I re-emphasise that in the circumstances in which we find ourselves, it is a good deal for the Government and the taxpayer. We are not paying over the odds and the benefits it gives us are worth the expense involved. The toll revenue from the barrier-free toll will be used to fund the compensation to NTR as well as contributing towards the

funding of phases 2 and 3 of the M50 upgrade, and the cost of introducing barrier-free tolling. The overall upgrade is expected to cost in the order of €1 billion.

The significant ongoing developments and plans for the M50 must be placed in their proper strategic context. That context is, first, the national roads programme and, at a higher level, the Government's blueprint for transport investment over the next decade, Transport 21. I will now talk briefly about both of these programmes.

Recently, the Government published a visionary national development plan which will have a far-reaching positive impact across the economy and society. In the national development plan, the Government explicitly reaffirms its commitment to the delivery of the Transport 21 investment programme. The only significant change proposed is to bring forward from later in the programme into 2008, 2009 and 2010 a total expenditure of €400 million which will be used primarily to accelerate work on the Galway to Limerick section of the Atlantic road corridor linking the gateways from Letterkenny to Waterford. This is concrete evidence of the Government's support for the national spatial strategy and also reflects the progress on advance planning being made by the National Roads Authority, NRA.

The NDP builds on Transport 21 and confirms our commitment to seek to address the investment now necessary to maintain national competitiveness within a sustainable economic and budgetary framework. Transport 21 is the strategic framework underpinning all road investment in Ireland over the next decade. In preparing Transport 21 in late 2005, one of the first tasks was to consider the implications of the considerable economic and social changes that have occurred in Ireland over the past ten years. As Senators will be aware, residential and commuting patterns in Ireland have changed significantly since the mid-1990s. The reasons for this are varied. They include the growth of the economy, the overall increase in population, especially in the hinterland areas around our cities, the growth in employment and increasing car ownership and usage.

It is worth highlighting some of the data to illustrate the changes that have occurred. For example, since 1995, the population has grown by 14% to more than 4.1 million. There are now 500,000 more people living in Ireland than was the case in 1995. The number of new houses being built each year has increased from approximately 30,000 in 1995 to around 77,000 currently, with a significant proportion in the hinterland areas around our cities. Employment has grown by nearly 50% from 1.3 million to more than 1.9 million. There are now 600,000 more people working in Ireland today. Those figures only refer to the recent past.

Private car ownership has increased by around 50% from less than 1 million cars in 1995 to more

than 2 million today. However, our car ownership rates are still low for a developed economy. The car remains the main mode of travel to work and accounts for around 62% of all trips. Distances travelled to work are increasing, with 18% of the workforce now travelling more than 15 miles to work compared with 11% in 1996. In addition, we have seen huge increases in the tonnage of goods transported nationally by road, from 85 million to 283 million tonnes over the ten-year period to 2004. We have seen substantial increases in the numbers of people and the amount of goods passing through our airports and ports.

All of these trends have a significant impact on transport policy and the provision of transport infrastructure and services. All of these trends are in many respects positive. We all want more employment, more houses being built and a society that can afford to buy newer and better cars. As I have said before, it is the impact of these developments that is causing quality of life problems which may threaten our continued growth and prosperity. This is most visible in the congestion experienced regularly by many users of the M50.

Transport 21 is about putting in place the infrastructure and systems needed to help to continue our success. It is a programme of work which would see a modern, state-of-the-art, sustainable transport network being rolled out and delivered in the years ahead. Transport 21 will involve transport investment of more than €34 billion over ten years, the most significant infrastructural investment in the history of the State. As such, it is a once in a lifetime opportunity to identify the sort of infrastructure we want and need for the decades ahead.

Transport 21 provides the basis for an integrated transport network. This is a key development. National roads are one of the two key elements of transport strategy under Transport 21. The other is public transport. During the period covered by Transport 21, we will see the transformation of the transport network in the greater Dublin area, mainly through the expansion of rail-based public transport infrastructure and through providing increased bus capacity and more quality bus corridors. We will see the implementation of an integrated transport system for Dublin to include DART extensions, seven new Luas light rail projects, two metro lines, an underground interconnector rail tunnel which will allow the various commuter rail services to be linked and expanded, and a major hub at St. Stephen's Green integrating metro, commuter rail and light rail services in the city.

Ireland has changed radically in the past ten years and will continue to do so. Ten years from now, Ireland will undoubtedly be a country with a larger and wealthier population, higher car ownership rates and greater public transport demands. Transport 21 will allow us to accommodate these inevitable developments, reduce congestion and the everyday hassle experienced by

commuters, underpin our economic development and improve our quality of life.

Our success in the coming years will be fundamentally dependent on our ability to achieve a 21st century infrastructure for a 21st century Ireland. Connecting communities through an integrated transport system is at the core of Transport 21. At the launch of Transport 21, I said that all involved needed to focus on delivery and that I would be happy to be judged on how well the plan was delivered. With this in mind, it might be worth reflecting on the first 15 months or so of the programme and, especially given the context of the Bill we are considering, the progress achieved under the national roads programme.

Transport 21 builds on the successes of the national roads programme achieved over recent years. This success has been made possible by the fact that Exchequer investment in national roads during the lifetime of the current Government has been at an all time high. A total of almost €9.5 billion has been spent on road construction and maintenance over the period 1997 to 2006.

Transport 21 provides for a total investment of more than €16 billion over the period 2007 to 2015. This means that an average ongoing investment of more than €125 million per month will be made in our national roads. This investment will maintain the pace and momentum of the programme built up over recent years. Excellent progress has been made in the implementation of the national roads programme. Ireland's national road network has been transformed in that time. Since 1997, more than 90 projects have been completed totalling more than 600 km. The length of the motorway network has more than trebled in that time, from 70 km in 1997 to almost 250 km today. The total combined length of motorways and dual carriageways has increased by more than 150%.

Some of the major road building projects funded by that investment include the completion of the M1 motorway to the Border, the completion of 50% of five major inter-urban routes to motorway standard with a further 20% in construction, the Jack Lynch tunnel in Cork, the Dublin Port tunnel, and numerous bypasses the length and breadth of Ireland.

Not only is the network being transformed but so is the way in which road projects are being delivered. Most projects are now being delivered on time and on budget. They include 12 of the 14 schemes opened last year. I am glad to report that many schemes are being delivered ahead of time. These include the N8 Rathcormac-Fermoy bypass which was eight months ahead of schedule; the N21 Kinsale road interchange which was six months ahead; and the M1 Dundalk western bypass which was five months ahead.

The benefits of the record level of investment are evident. The elimination of long-standing bottlenecks in Kildare, Monasterevin, Cashel, Loughrea, Drogheda and elsewhere has been

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achieved. This has delivered substantial journey time savings and greater journey time certainty. The high quality network being put in place is contributing significantly to supporting our national competitiveness, job creation and the achievement of more balanced regional development. It will also deliver a positive road safety dividend as upgraded roads, especially motorway or dual carriageway standard roads, provide a much safer driving environment.

The development of our road network has played an important part in the record economic growth levels we have witnessed over the period, as a good road network facilitates competitiveness in the transport of goods through an improvement in overall transit times, safety levels and level of service.

Progress in the national roads programme has been excellent in recent years. However, progress in 2006, the first year of Transport 21, was better than excellent; it was truly exceptional. Last year was, in every way, a record year for Ireland's national roads. The Government has hit the ground running in implementing the roads element of Transport 21. Some 14 projects were completed and open to traffic while a dozen more began construction, which represents more than three times the number of starts in the previous year. The total investment in our roads was €1.7 billion, some €90 million ahead of target.

Last year saw the completion of two major projects in Dublin, the Dublin Port tunnel and the Naas Road widening scheme. Work also started on the upgrading of the M50 and on two important national spatial strategy gateway projects, the Limerick tunnel and the Waterford city bypass. Work is currently in progress on 22 projects covering some 312 kilometres of roadway. A large number of other projects are at various stages of planning and it is worth pointing out that planning and statutory processes like environmental impact assessments and compulsory purchase can be as time consuming and almost as expensive as construction.

In the early years of Transport 21 investment in the national road network will focus on the completion of the five major inter-urban routes by 2010. After that the focus will shift towards the upgrading of the remainder of the national primary network with particular emphasis on the Atlantic corridor route. Already the strong performance of the National Roads Authority and its partners across the country in local authorities is evidenced by the fact that they have been able to advance a number of key projects on the Atlantic corridor to begin construction years ahead of their original schedules. Measures in today's Bill can only add to the efficiency of Ireland's road builders.

As I stated at the outset, the driving force behind the introduction of this legislation is the need to provide the necessary statutory basis to facilitate the implementation of free-flow open

road tolling, also known as barrier-free tolling, on toll-based national road schemes through the provision of appropriate deterrents for non-payment of tolls. In particular, this legislation is necessary to support the introduction of free flow open road tolling at West Link on the M50 in mid 2008.

I would like to use the opportunity granted to me today to place on record a number of facts about how free flow tolling will operate on the M50 from next summer. This I hope will help to dispel some of the rumours and half-truths that have sprung up around the issue in recent times.

There will be tolling at only one point on the newly upgraded M50 and that is at the West Link bridge. The toll plaza that is currently there will be knocked down and replaced by two gantries, the purpose of which will be to read electronic prepaid tags on vehicles and to take a photographic record of those vehicles that do not have those tags in order to invoice the road users for the payment of the toll.

Road users will be able to pay their tolls in a variety of ways and the most common and convenient way is likely to be by prepaid electronic tag, which they will attach to the windscreen of their vehicles. As an incentive registered users will be offered a discount on the standard toll rate. Users can also post-pay after they have used the toll road and this can be done over the phone by credit or debit card, online or at retail outlets. Non-registered users who use the toll road and who do not pay within 24 hours by telephone, online or in a retail outlet will be sent a letter in the post asking them to pay the toll charge. They will have a number of days to pay the toll charge and if they fail to do so they will incur a liability to pay a default toll, which I will explain in more detail later.

This new system will be operated on behalf of the NRA by a toll operator from August 2008 and BetEire has been recently appointed to this role. All tolling revenues, after costs, will be reinvested in the national road network and toll levels will be kept at levels similar to those of today. The electronic tags that will be used on the M50 will work on all other toll roads.

The system is being designed and operated by some of the leading experts in the world and it will be up and running as fast as possible — a full 12 months ahead of a comparable project in Vancouver, Canada. Despite this, I know that we live in a world where there is an almost incessant demand to have things delivered immediately and I can appreciate this, especially when it comes to the M50. People feel, quite rightly, that they deserve a better service on the M50.

Commuters and road users will seek to have this happen sooner. They may feel that as the Government owns the bridge it is a case of just knocking down the toll gates and installing the necessary cameras. If only it were that simple. This Government, Transport 21 and I stand for the delivery of real, viable solutions to often complex and difficult problems. We have to get this

right and time is needed to ensure all involved get it right.

The NRA has employed some of the foremost experts in the field to advise them on this matter. These people have constructed and operated toll bridges worldwide, from Melbourne to Paris to California to Santiago. Their considered expert opinion is that the earliest possible date we can have a successful new system up and running is August 2008. Time is needed to design and develop the necessary computerised systems and software and to construct and install the new tolling gantries and associated electronic apparatus. A further period will be needed to install and test all the systems and back office systems need to be put in place and tested rigorously. There will be trial periods to fine tune the operation before it finally goes live.

Overall, this will be done in one year less than what the Conference of European Directors of Roads' task force on electronic fee collection recommended would be a realistic implementation timetable for such a project. Its view is that it takes a minimum of four years to put in place such a system even working at a significant speed. Interestingly, all of the major players in the world bid for this project and were incentivised to deliver in the quickest time possible. None of the other bidders gave an earlier completion date than summer 2008, which is well ahead of what is being delivered internationally. The project in Vancouver started just before us and will be completed a full 12 months after ours is up and running. This indicates the type of request we have made of the NRA and its partners to deliver on this project and the NRA is confident it can succeed. Completion of the project on time will be a world record for the delivery of such a system in such a short period. We should not forget that no other country has delivered in this kind of timeframe.

While existing legislation is adequate to facilitate the introduction of free-flow toll collection, it is essential that the enforcement provisions relating to non-payment of tolls be strengthened to provide sufficient deterrents to cater for toll violations in a free-flow open road environment.

Sections 1 and 2 set out the various definitions that are used in the Bill. Section 3 is a necessary technical amendment and provides that a toll scheme must specify the way in which tolls will be collected and charged. Section 4 establishes a charge that a motorist will incur for not paying a toll on time which is known as a default toll. The level of the charge will be set by toll bye-laws which will be drawn up by the NRA this summer following a public consultation. As colleagues know, the toll road scheme will be displayed publicly this summer, well in advance of the system going live and this will facilitate public consultation.

At this stage it is not possible to say how much the charge will be, as this requires further research and analytical work by the NRA.

However, what I can say is that the practical application of the charge is likely to be similar to the current parking fine system. Motorists will have the chance to pay the charge within a specified period of time from the date they receive the default toll notice. If they fail to pay within the allotted time the charge will increase by a multiple of the original charge. If the charge is still unpaid after a further period of time then court proceedings may be initiated for recovery of the toll and related charges as a simple contract debt.

Section 5 of the Bill gives toll operators access to the national vehicle and driver file to facilitate the collection of tolls and default tolls from users who are outside the electronic payment system. It also imposes certain responsibilities on leasing and hire companies to provide information about cars they have leased or hired out.

Section 6 updates the legislative references to local government bodies in section 13 of the Roads Act 1993 in light of the changes in local government legislation that have taken place since that Act was enacted.

Section 7 relates to the Functions of the National Roads Authority. This section amends section 19 of the Roads Act 1993 which specifies detailed functions of the National Roads Authority including preparing or arranging for the preparations of designs, maintenance programmes and schemes for traffic signs, securing the carrying out of works, allocating grants, specifying standards and carrying out or assisting research. The section replaces the existing section 19(1) of the Roads Act 1993. The majority of the provisions are the same with some amendments that will slightly extend the NRA's powers to allow it to provide service and rest areas, which has been an issue I support, as well as enabling it to more efficiently carry out its functions. In particular the section now gives the NRA specific power to provide service and rest areas.

It is important to emphasise that no part of the Bill affects the fundamental way in which the national roads programme is to be delivered, as envisaged in the Roads Act 1993. The excellent work we are seeing and will, I strongly believe, continue to see in the national roads programme under Transport 21, is a result of the partnership ethos that has developed over many years between the NRA and local authorities.

Section 8 deals with the issue of motorway designation. A central part of the national roads programme under Transport 21 and the National Development Plan is the development to motorway or high quality dual carriageway standard of the five major inter-urban routes linking Dublin to Cork, Galway, Limerick, Waterford and the Border. Excellent progress continues to be made on the development of these routes, of which more than 70% have been either completed or are in construction.

To date, the development of these routes has been largely on the basis of HQDC standard.

3 o'clock

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However, as the national road building programme has evolved, the specifications, physical design and layout features of HQDCs have developed to the point that they are now essentially the same as motorways. Nevertheless, while there is little or no physical difference between the two road types, there are major procedural and practical differences between the two. For example, the speed limits, signage and the nature of traffic and classes of vehicles permitted to use the two road types differ. Furthermore, and most significantly, there are major differences between the access and development controls that apply to the two road types. Development beside and access to motorways is far more stringently controlled than in the case of HQDCs.

To protect the substantial investment being made in the national road network and help prevent its premature obsolescence, it is proposed in the Bill to provide a ministerial power to make orders declaring certain HQDCs to be motorways. The proposed provision allows the Minister for Transport, under certain circumstances and subject to consultation, to declare an existing HQDC or a HQDC in construction or planning to be a motorway. Currently, a road can legally be a motorway only if it has gone through the planning process under a motorway scheme. This section will create a straightforward alternative statutory procedure, subject to appropriate checks and balances, for a HQDC to be declared a motorway.

The provision is time limited, in that only existing HQDCs or those in the statutory planning process on the date of passage of the Act may be declared to be motorways under the provision. This will mean the currency of this provision will probably end some time next year. In effect, this means the provision covers in the main all of the major inter-urban routes which, as I indicated, are almost three quarters complete or in construction and are due for completion under Transport 21 by 2010.

My Department will keep this provision under review in the future to ensure it reflects developments at national and European level. Before issuing a declaration under this provision the Minister must arrange for a public consultation process and he or she is also obliged to consider any observations or objections which result from that process. On the advice of the Office of the Attorney General, the proposed public consultation procedure is similar to that currently provided for motorway schemes under section 48 of the Roads Act 1993.

A well-informed and consistent approach to planning and development issues, which affords maximum support for the goal of achieving and maintaining a safe and efficient network of national roads, is essential to facilitate continued economic growth and development throughout the regions. I am conscious that there are some concerns about restrictive approaches to develop-

ment along national secondary roads and non-national roads. I have, therefore, arranged for my Department, in consultation with the Department of the Environment, Heritage and Local Government, to examine the question of further developing the guidance material which has issued to the NRA and the local authorities, with a view to providing for improved flexibility in relation to development proposals affecting other lightly trafficked routes.

Sections 9 and 10 make a number of amendments to the Roads Act 1993 to facilitate the provision of service and rest areas on the national road network. Ireland's national road network has been transformed almost beyond all recognition in the past decade. One of the consequences of the substantial development of long lengths of motorway and high quality dual carriageway is that there is an increasing need for facilities to cater for road users who wish to rest during their journeys and/or avail of fuel, sanitary and refreshment facilities. Mindful of this, I asked the NRA to review its policy in this area last year. The authority subsequently published its policy document on service and rest areas on the national road network in July last year.

To address the growing need for service and rest areas, the NRA intends to provide service areas offering a full range of services, including retail services, at intervals of approximately 50 to 60 km and rest areas — parking and sanitary facilities only — at intervals of approximately 25 to 30 km. These facilities will be located both on-line and at or close to existing interchanges. It is worth noting that the timely development of these areas will make a valued contribution to improving the safety of the road network. This will be true for all road users, particularly road hauliers who tend to drive for longer sustained periods than most other road users. The rest areas constructed on the network will also make it easier for them to comply with European Union rules on driving times and rest periods.

The National Roads Authority recently concluded an extensive investigation to identify the optimum locations for on-line service and rest areas. The exercise identified locations for up to 12 service areas and 11 rest areas on the major inter-urban routes, namely, the M1, M4-N4, N6, M7-N7, N8 and N9, as well as on the N6-N18 and N11 routes.

It has become clear in recent months that there has been a poor response from the private sector to the opportunities presented to cater for road users' needs as the motorway and dual carriageway network is developed. Expressions of interest from the private sector in this regard have yet to deliver a single service area. In the light of the experience to date, these can no longer be regarded as offering the necessary assurance that road users' needs will be addressed within a reasonable timeframe. In the circumstances, the NRA has decided to become more

directly involved in securing the provision of service areas.

Unfortunately, the Roads Act 1993 does not give the NRA explicit powers to provide these rest and service areas on the existing motorway and dual carriageway networks. The provisions in this Bill address this deficiency and will greatly facilitate the NRA and road authorities in arranging for the provision of service areas on motorways and dual carriageways. The amendments I am proposing will allow the NRA to drive the planning and development of these service and rest areas. Once constructed, it is intended the facilities will be created by way of a PPP arrangement.

Section 11 refers to the various amendments to the Roads Act 1993, which are being made in the Schedule. I will refer to some of these later.

Section 12 introduces a number of amendments to provisions of the Taxi Regulation Act 2003. The initiatives proposed reflect issues raised with the Department by the Commission for Taxi Regulation and are aimed at building on the programmes being implemented by the commission to promote the development of quality services by all of those engaged in the operation of small public service vehicles.

In that general context, the proposal to amend section 34 of the 2003 Act provides for the introduction of a licensing control regime for dispatch operators who operate a business for taking bookings for taxis, hackneys and limousines. Dispatch operators play a key role in the delivery of services, especially to those who cannot avail of on-street services such as those available from taxi ranks. Since the passage of the 2003 Act, the commission has pursued a programme of regulatory reform that has resulted in the realisation of a significant range of changes from the previous code.

Against this background, I find no reason to continue with the general requirement for ministerial consent to future regulatory changes the commission wishes to pursue. Accordingly, section 12 proposes that the requirement for ministerial consent for the making of certain regulations or ministerial consultation, in sections 34, 38, 46 and 52 of the 2003 Act, be removed. This proposal will greatly enhance the independent status of the commission. However, all orders or regulations made by the commission under the Act will continue to be subject to the requirement to be laid before the Houses of the Oireachtas after they are made, in accordance with section 3 of the 2003 Act.

In addition to an amendment to facilitate the extension of the fixed charge system to offences under regulations made under section 39 of the 2003 Act, the House will also note that this section provides for the extension to hackneys and limousines of the enabling powers available to the commission in respect of taxi fares. I would stress that this initiative is an enabling provision and does not necessarily herald the adoption of

fare controls for hackney and limousine operations in the near future.

The section proposes that the maximum fines for certain of the offences established under the 2003 Act should be increased. I am promoting this change for the immediate purpose of bringing the maximum fines more into line with the current maximum fines applicable to summary convictions, which have been established in legislation since the passage of the 2003 Act.

Section 13 is a standard provision regarding the short and collective citation of the Bill.

The Schedule to the Bill contains a number of miscellaneous provisions. Many of these amendments are consequential on new or changed legislation enacted after 1993. The non-consequential amendments to the Act contained in the Schedule are of a technical nature and their purpose is to make it easier for the NRA to better manage and administer the national roads programme. Many of the others are simple updates of references in the Roads Act 1993 to other legislation which has changed since that Act was passed. Given the nature of the amendments, I will not dwell on them but some are worthy of greater explanation.

Section 63 of the Roads Act 1993 allows the NRA to make toll agreements with private investors. Two amendments are being made to this section. The first ensures that toll agreements can prescribe the way in which tolls are to be collected. This will explicitly allow for tolling in a barrier-free environment. The second inserts a new subsection 1A and allows a road authority to enter into different agreements with different persons in relation to the financing, construction, maintenance and operation of toll roads.

The amendments to section 81 of the Roads Act introduce a penalty and enforcement regime which better reflects the needs of the 21st century. Penalties are strengthened and updated for various offences throughout the Roads Act. This section also reflects the fact that new offences have been created under this Bill in regard to barrier-free tolling. In general, fines have been increased from £1,000 to €5,000. I reiterate that criminal prosecution is a last resort. Every effort will be made to ensure people have the chance to comply fully with the terms of this Bill. The majority will do so without giving it a second thought. It is necessary to have the "stick" of criminal prosecution, however, to make clear that we are serious about enforcing the terms of this important road legislation.

This legislation is essential if barrier-free tolling is to be introduced in the near future. Once enacted, it will allow systems to be put in place on roads such as the M50 that will relieve congestion and improve the quality of life for all road users. The other provisions of the Bill will better allow the NRA and its partners to administer the national roads programme in order that the welcome benefits it has delivered in the past several years can continue at an even greater pace. The dividends reaped in terms of value for money and

[Mr. Cullen.]

road safety will be maintained and enhanced. The substantial investment we have made and will continue to make in our national road network over the period of Transport 21 will be protected for future generations of road users.

Calls were made for me to address the issue of parking congestion experienced on public roads in the environs of sports stadia and such venues on event days. Together with some consequential and connected amendments, on Committee Stage I will bring forward a detailed amendment to the Road Traffic Act 1994 to allow local councils to deal with the matter through the making of by-laws.

The Government wishes to see a particular urgency applied to the passage of the Bill. This will allow the process of the introduction of barrier-free tolling to begin with certainty, as well as the commencement of the process for the procurement of service and rest areas on the national road network. I look forward to the co-operation of Members in facilitating the passage of the Bill and I commend it to the House.

Mr. P. Burke: I welcome the Minister, Deputy Cullen, and wish him well in bringing this important legislation through the House. While several new powers and functions are provided for in the Bill, there is no doubt the most important are those relating to barrier-free tolling. I assume barrier-free tolling on the M50 is the main consideration of the Bill and it endeavours to facilitate its introduction.

Like so much we have seen in recent months, however, this amounts to a further attempt by the Government, in its dying days, to buy the election. The voters will not be fooled by such blatant electioneering. This legislation amounts to a U-turn by the Government. It was not so long ago it denied the State's contract with NTR would be ended and that the company would be bought out. The position is much changed today. This U-turn comes late in the day, however, for motorists who have had to suffer years of intolerable congestion, a situation that has worsened with the current upgrade works on the M50. The decision to move to barrier-free tolling comes far too late.

The Government has been in office for almost ten years and only now is it seeking to address this problem. Every dog in the street has known for years that the barriers on the M50 were a significant cause of the chronic congestion that blights the motorway each day. The Government ignored the problem for a decade, however, preferring instead to turn a blind eye and to deny that the barriers consistently caused massive tail-backs on the M50. Barrier-free tolling is better late than never, but it remains hugely disappointing that motorists will have to wait more than 18 months before the barriers finally come down.

If the Government has concluded a deal with NTR on the buy-out, why can there not be

immediate relief for motorists? Why not lift the barriers immediately? The Government has consistently failed to give a credible answer to this legitimate query. Anyone who uses the M50 regularly, particularly during rush hour, will know how horrendous it can be. If the State is prepared to hand over €600 million of taxpayers' money to a private company that has already made unimaginable returns from its involvement with the M50, motorists are entitled to relief now and should not be forced to wait for 18 months, as the Government proposes.

Mr. Cullen: That is not what we are doing.

Mr. P. Burke: There can be no doubt the M50 tolling regime has been a disaster from start to finish. This was a poor deal for taxpayers from the outset. It is a reflection of the wider deficiencies in the body politic at the time, which ensured the needs of the public remained bottom of the list of priorities. We should not forget this poor deal was delivered by a Fianna Fáil Government.

Mr. Cullen: Senator Burke is being unfair to the former Minister, Liam Kavanagh, who put together the deal.

An Cathaoirleach: Senator Paddy Burke without interruption.

Mr. P. Burke: Twenty years later, with this latest €600 million sweetheart deal for NTR, the same mistakes are being played out again. Once more, taxpayers must bear the brunt for Fianna Fáil ineptitude and incompetence. I could not put it better than a member of the Fianna Fáil Party, Deputy Fleming, who commented at a meeting of the Oireachtas Joint Committee on Transport in 2006 as follow, "Shame on whoever negotiated that deal". It is indeed a shame.

Mr. Cullen: That is a misquote.

Mr. P. Burke: Not only were taxpayers and motorists subjected to a poor deal under the 1987 Fianna Fáil-signed arrangement but that party's abysmal track record of negotiating on behalf of taxpayers was evident on two other occasions. In 2001, the State entered into a further contract with NTR for the development of a second West Link bridge. The outcome of this deal is that the State has paid €1.1 billion so far in constructing the M50 while taxpayers will pay a further €1 billion for its upgrade from two to three lanes by 2010. Motorists, however, have received little benefit from this investment.

Mr. Cullen: Is Fine Gael opposed to those improvements?

Mr. P. Burke: NTR has been the primary beneficiary of investment in the M50. As each new section was opened, it funnelled ever more vehicles through its toll bridges. Despite spending

only €38 million on those toll bridges, the company has reaped a rich reward of more than €230 million. When the Comptroller and Auditor General examined this deal in 2004, he concluded, “The cost to users by way of toll revenue is around 4.8 times the whole-life costs of the toll road including the two bridges, or around €869 million more than the cost when expressed in 2004 values”. Not only was the original deal a bad one but the Government is hell bent on doing it all again.

The Government will pay €113 million to a French company to construct the new barrier-free regime and a massive €600 million to NTR to compensate it for ending the contract. Where is the compensation for motorists who have to endure unbearable congestion around the West Link Toll bridge? A clause in the original contract stipulated that the bridge should not be allowed to become a source of congestion on the M50. Despite the undeniable reality that it has become a source of congestion, it appears that at no point did the Government mandate NTR to lift the toll barriers in acknowledgement that they were a major cause of traffic tailbacks.

Instead, the Government rushed headlong into this giveaway compensation package with a blank cheque book. The deal with NTR involves the taxpayer paying €1 million per week until 2020. Moreover, commuters will continue to pay a toll to use the M50. This debacle raises serious questions about the use of private sector tolls and their implications for traffic management and the protection of road users’ interests. The terms of this buy-out are a costly lesson on the dangers of relinquishing control over a vital strategic element of infrastructure to private interests.

Fine Gael has a clear position on the future of tolling. We will rule out any new private tolls on our roads and insist that the State never again loses control of a major component of infrastructure. Such proposals work against the public interest. Fine Gael will ensure that all future tolls will be operated by the State and levied solely for the benefit of Irish taxpayers and motorists to maintain and operate roads. We will also mandate that there will be only one toll on any major inter-urban route. Multi-tolling in a small country is a nonsense. The State will set toll fees and use them only to regulate traffic flows, cover maintenance costs and some capital costs. Fine Gael would move immediately to a barrier-free toll facility on the M50 and rule out any plans for multi-point tolling. Fine Gael proposes a new set of contractual relationships between the State and the private sector for new roads to better service motorists and taxpayers.

The current financing system is not delivering value for money for the State, the taxpayer or the motorist. There is no justification for using expensive private money for public roads. With a growing economy and where the Government has found itself with an unexpected additional €2 billion in tax revenues, there is less need to resort

to private sector finance. While there is currently no longer a rationale for private sector tolling, Fine Gael acknowledges that if the economic climate changes and State coffers need private finance back-up, extra financing options must be considered such as investment from the pensions reserve fund or increased capital borrowing and PPPs reimbursed by annual payments instead of tolls.

The Government has proved itself incapable of managing the development of many major infrastructure projects. The list of its shortcomings and inadequacies is long after ten years in office — the port tunnel, PPARS, Punchestown, marinas, e-voting, illegal nursing home charges. Never has any Government mishandled and wasted so much of taxpayers’ hard-earned money so rapidly and blatantly. The M50 buy-out is no different and it is ordinary commuters and taxpayers who are bearing the brunt of that incompetence.

While I would like to deal with the other significant parts of the legislation, there is one further point regarding tolling I wish to raise. Last week, media reports indicated that the new barrier free tolling regime would not be able to toll vehicles registered outside the State. That is extremely worrying, given the high level of non-national vehicles on our roads. The legislation before the House appears to make provision for non-State registered cars to pay a toll. However, in a radio interview yesterday the Minister admitted that the State would be relying on motorists’ goodwill to pay the toll.

Mr. Cullen: Can the Senator give us access to the vehicle registration file in Poland?

Mr. P. Burke: That is unacceptable. Currently, more than 20% of all penalty points detected are not imposed, largely because they involve cars not registered in the State. Will that situation apply to the new tolling regime? That will mean that motorists who do pay will end up paying for those who do not. We are about to invest in a new road tolling regime and a new speed camera regime at a cost of hundreds of millions of euro and the system must be capable of tracking all cars. Otherwise, it is a poor investment.

Mr. Cullen: It is capable of tracking all the cars. It will photograph every single registration.

Mr. P. Burke: Regarding the payment of tolls, it has been brought to my attention that pre-paid tolls cannot be used on all toll roads and that a different payment system will be needed for, say, the M50, the N4——

Mr. Cullen: I will send the Senator the speech because he must not have been listening. The tag is inter-operable with every toll. That is part of the contract.

Mr. P. Burke: Currently, the tag does not cover all the——

Mr. Cullen: I accept that. That is because NTR control the tag.

Mr. P. Burke: If that is the case I will welcome it.

Mr. Cullen: I thank the Senator.

Mr. P. Burke: The Bill also makes changes to the Taxi Regulation Act 2003 and appears to give powers to the regulator to make regulations covering various aspects of the taxi industry, from vehicle standards to driver behaviour. The original legislation in 2003 gave this power to the Minister for Transport. I am concerned that this power is being taken away, removing the Minister from the equation and reducing the accountability for such regulation from the Houses of the Oireachtas. I do not support that provision because the elected Members of the Oireachtas have a right to scrutinise any changes to the taxi industry and that any such regulation should be signed by the Minister for Transport and laid before the Houses of the Oireachtas.

I welcome the provisions in the Bill which mandate the National Roads Authority to provide rest or service areas on our major route ways. Driver fatigue has been identified as a significant factor in road fatalities and accidents and it is critical that motorists have the opportunity to avail of such services. It is regrettable that it has taken so long for this to happen. It appears that for a considerable length of time both the Minister for Transport and the National Roads Authority opposed the provision of such facilities. These facilities will now have to be developed retrospectively and may not be in place for several years. That is another example of the short-sighted approach to infrastructural development adopted by the Government.

Section 8 provides for the upgrading of a road from dual carriageway status to motorway. The maximum speed does not apply on the N17 or the N7, which is the Naas to Dublin road, yet the Naas Road is a three-lane carriageway each way. On some parts of the N17, including——

Mr. Cullen: That is why I want to sort it out.

Mr. P. Burke: ——the Ennis bypass, which the Minister opened recently, the maximum speed does not apply on any of those roads. It may not apply at dual carriageway level either. What would it take for those roads to be upgraded to ensure the maximum speed can apply on them? They are two lane carriageways and are built to a very high standard yet the maximum speed of 120 k/hr does not apply on either of them. What would have to be done at the time of construction to allow those roads to——

Mr. Cullen: I have made that point. It is a technical matter.

Mr. P. Burke: If it is technical and if this Bill allows that the speed be raised to the maximum speed, I would welcome that. I will not oppose the Bill. I welcome its provisions and hope the Minister will clarify some of the issues I raised.

Mr. Wilson: I welcome the Minister, Deputy Cullen, and his officials to the House. I thank Senator Burke for his positive contribution to the debate, especially his concluding remarks.

The Roads Bill 2007 facilitates the introduction of barrier free tolling, redesignation of certain high quality dual carriageways to be motorways and a number of amendments to the Taxi Regulation Act 2003. I welcome the Bill as undoubtedly it will prove to be a simple and practical way to facilitate the efficient administration involved in solving the traffic bottleneck that is the Westlink toll bridge on the M50.

While there is legislation to facilitate the introduction of free flow toll collection, it is necessary to strengthen the enforcement provisions relating to non-payment of tolls and to provide sufficient deterrent to cater for toll violations in a free flow open road environment. It represents a decentralising of some powers from the Minister to relevant bodies — the National Roads Authority and local authorities in the case of upkeep and construction of roads — and the Commission for Taxi Regulation. This will undoubtedly result in cutting the bureaucratic red tape and make it easier for the National Roads Authority to better manage and administer these duties in general.

As regards barrier free tolling, which is the main aim of the Bill, the utilisation of this technology is the future and it is time to embrace it. By enabling the driver to drive straight through a toll collection point without the need to stop or slow down must be welcomed. According to research undertaken by countries where similar technology is used, I understand 400 cars per hour can pass through a manned toll booth, 600 cars per hour can pass through an exact change lane and 2,200 cars per hour can pass through a barrier free tolling system.

I recently spoke to the Chairman of the Oireachtas Joint Committee on Transport who had just led a delegation from the committee to Australia. He was very impressed with this barrier-free tolling system and highly recommended it for use on our motorways. This is very welcome news for users of the M50 and will in time be welcome news for users of the other motorways. Opposition Members may jump on the bandwagon and claim it is too little too late. However, no one could have foreseen the growth that has occurred in almost every sector of the economy on this island and therefore no one could have estimated the growth in motoring numbers using the West Link and other national roads and motorways. When it opened in 1990,

only 3,000 motorists used it daily; by 1996, 25,000 motorists used it; by 1997, 45,500 motorists used it each day; today more than 85,000 motorists use it on a daily basis. Now with the banning of HGVs from the city centre, the use of the port tunnel and the 35% extra HGVs using the M50 daily, the problem of congestion is becoming more intense. Therefore, the introduction of barrier-free tolling in conjunction with the upgrade of the M50 must be welcomed.

It may be of interest to Senator Paddy Burke and his colleagues that our economic growth has been a double-edged sword. Thanks to the Fianna Fáil-led governments through the years with dynamic economic planning we are one of the richest countries in the world. We are now dealing with the consequences of this growth and considerable catch-up is required. However, we are getting there. The Minister highlighted a number of projects that have been completed and are under construction.

When Senator Paddy Burke's party was in government along with the Labour Party until 1987, its legacy was bankruptcy and emigration. We now have a population of 4.5 million with a taxpayer base of 1.5 million. It is not that long ago under a Fine Gael-led administration that we had fewer than 1 million employed and fewer than 500,000 taxpayers. The Government is in the process of constructing a national motorway system equal to any European and international standards. We should compare our taxpayer base for the past 15 years with that in the countries used as examples by Senator Ross and others, such as Britain, France and Germany. They had the money, the population and the employment. We had not until recent times. I accept the M50 has its problems. However, what problems would we have today if it did not exist?

As the Minister pointed out in his speech, we should not forget our recent successes, such as the Luas, the port tunnel, and the various motorway projects complete and under construction. I congratulate the Minister on the excellent work throughout the country. It is not possible to travel in any direction without coming across the major ongoing work. I commend the Minister and his departmental officials on their efforts in particular on the M3 motorway which is very relevant to the part of the country from which I come. If it was not for people like Senator Ross and others aiding and abetting those who were protesting against the road, the people of Meath, Cavan and north Leitrim would now have a state-of-the-art motorway on which to travel in safety.

I acknowledge the great work on the upgrade of our rail networks. We do not yet have a rail system in Cavan. However, we will soon have a rail connection to Navan and we will continue to press the Minister and the Department to ensure we get it as far as Cavan and Donegal. I commend the Government on its Transport 21 programme. As the Minister said, €125 million will be spent each month on national roads between now and

2015. I acknowledge the work put into the M1 road to the Border. I use that road on a regular basis and it is a credit to everybody involved in the project. It is worth being positive about transport and road developments instead of always knocking them. I ask Senator Paddy Burke to clarify whether it is Fine Gael policy to rob the pension fund to pay for the country's infrastructure. While I knew about negotiations between Fine Gael and the Labour Party, I did not know that party was writing the scripts for Fine Gael yet.

Mr. P. Burke: I did not say anything about robbing the pension fund.

Mr. Wilson: I ask the Senator for clarification on Fine Gael's position on tolls. He stated it was not opposed to tolls but was against private companies benefiting from the tolls. A number of Fine Gael people are claiming that if that party gets into Government the M3 will have no tolls. I would like clarification on that matter.

Mr. P. Burke: The State should have control. The Senator should remember what happened to Telecom Éireann — we have no broadband in large areas of the country.

Acting Chairman (Dr. Henry): Allow Senator Wilson to speak without interruption.

Mr. Wilson: I also seek clarification from Senator Paddy Burke on behalf of his party and from Senator McDowell on their policy regarding future infrastructural projects, particularly roads, if, in the unlikely event of them even coming near the present Government at the general election, they need to depend on support from the Green Party, which is opposed to all road building projects. What will they say to the people who live in places like Cavan when the Green Party tries to prevent the building of the M3?

Mr. P. Burke: Fianna Fáil wants to get into government with the Green Party.

Acting Chairman: Allow Senator Wilson to speak without interruption.

Mr. Wilson: I welcome the Bill and look forward to its speedy passage. I look forward to the contributions from those who oppose it.

Mr. Ross: I am glad Senators Paddy Burke and Wilson have opened the batting to make this a somewhat more contentious debate than it looked like it would be judging by the less controversial nature of the Bill. To state, as Senator Wilson did, that it is time for us all to be positive about what is happening on our motorways represents naivety in the extreme. I suggest that Senator Wilson should go to the West Link toll plaza in approximately 25 minutes and tell that to

[Mr. Ross.]

the people who are often stuck in six miles of traffic from the toll plaza back to Shankill.

Mr. Cullen: Talking about it does not deliver much.

Acting Chairman: Allow Senator Ross to speak without interruption.

Mr. Ross: The Minister is very good at interrupting.

Mr. Cullen: I am very good at listening to the rubbish the Senator goes on about.

Acting Chairman: Allow Senator Ross to speak without interruption.

Mr. Ross: I had to listen to the Minister speaking on "Morning Ireland" telling a whole pack of—

Mr. Cullen: All the Senator ever comes up with are smart-aleck bloody gimmicks that achieve nothing.

Mr. Ross: I am sure part of that language is unknown to this House.

Mr. Cullen: It is not unknown to the Senator in his Sunday newspaper column.

Acting Chairman: Allow Senator Ross to speak without interruption.

Mr. Ross: I am glad the Minister has kept his cool temperament as always.

Mr. P. Burke: The Senator must have hit a nerve.

Mr. Ross: I had to listen to the Minister the other day on "Morning Ireland" when asked a question on a demand management report which is being done on the M50. In characteristic ebullient style he did not answer the question. What is happening on the M50 is a piece of sleight of hand and it very cunning. It is purely and simply designed to pacify an enraged electorate. That is the reason I pointed out to Senator Wilson that it is absolutely ridiculous to tell people to be positive when they are stuck for hours at the West Link toll plaza every single day.

Mr. Cullen: What does the Senator want to do about it? The Senator is great for making speeches. He should do something about it. He is lecturing all the rest of us on a daily basis. If he wishes to quote what I said on "Morning Ireland" he should at least quote me in context.

Mr. Ross: I will sit down while the Minister interrupts.

Mr. Cullen: Not at all, please do not behave like a child. The Senator should get up and be a man.

Acting Chairman: I ask the Minister to desist. This is the Senator's time.

Mr. Ross: I thank the Chair.

Mr. P. Burke: Is the Minister getting on the Senator's nerves?

Mr. Ross: One could never rile the Minister, he is a picture of calm and sobriety all the time. It is not a problem. The difficulty about what I had to listen to from the Minister that day was this: it is all very well coming out with fanfares and sending one's press office with messages to the media that he was going to open the West Link toll bridge, which he did last January and again in recent weeks, but the West Link toll bridge is still closed. Every day of the week people are queuing up and are asked to be positive by Senator Wilson and the Minister. Why do they have to put up with this? I lay the reason firmly and squarely at the hands of the Government, not at the hands of NTR. It is in the power of the Minister, as at this minute, to set the toll at zero and he knows that. If he set the toll at zero today all he would have to do would be to compensate National Toll Roads which is what he intends to already. Instead of that he has decided to promise this in August 2008, in order to try to passify people before the general election. This is a gimmick.

Mr. Cullen: If the Senator wants to write out a cheque for €110 million he should do so.

Mr. Ross: The Minister is writing out a cheque for almost €1,000 million for this already.

Mr. Cullen: I am not.

Mr. Ross: The Minister is.

Mr. Cullen: The Senator knows well I am not.

Acting Chairman: Minister, you will have a chance to reply.

Mr. Cullen: I look forward to that.

Acting Chairman: That is terrific. Senator Ross to continue without interruption.

Mr. Ross: I thank the Chair.

Mr. Cullen: I cannot allow untruths to be put on the record.

Acting Chairman: The Minister will have a chance to correct them if that is what he wants to do.

Mr. Ross: I promise I will not interrupt him. The Minister will have a chance to reply to me. The cheque will be for €50 million every year for 12 years. That is my understanding.

Mr. Cullen: Correct.

Mr. Ross: That is €600 million.

Mr. Cullen: Correct.

Mr. Ross: That is also linked to the cost of living.

Mr. Cullen: CPI.

Mr. Ross: Neither I nor the Minister know what that will be between now and 2020. At the rate at which the Government is going, with the highest inflation rate in Europe, it will much nearer to €1,000 million than to €600 million.

Dr. Mansergh: It is not the highest.

Mr. Cullen: It is not. Again the Senator is making it up as he goes along.

Mr. Ross: What the Minister could do——

Mr. Cullen: The Senator is extraordinary. He is becoming a caricature of himself. This is hilarious stuff. I was only asking the Senator to speak the truth and not to come in here with——

Acting Chairman: Minister, in your closing speech you may correct any inaccuracies.

Mr. Cullen: It is very difficult when one is addressed in such a manner and when falsehoods are being put on record. I have to sit here and listen to these falsehoods which are constantly put on record as presented by the Senator. They are inaccurate.

Acting Chairman: This is the Senator's chance to speak.

Mr. Ross: It is a very limited chance but I will continue if I may.

Acting Chairman: I will allow the Senator injury time.

Mr. Ross: I thank the Chairman. I apologise to the Minister if I angered him. It was not my intention to do so. I still need to put a couple of things on the record which he may find somewhat unpalatable. In order to ensure that does not happen again I will try to make my remarks as milk-and-watery as possible. Having listened to him on "Morning Ireland" that day I heard a question being put to him about a demand management report which has been produced. I wonder why a demand management report is being put up for the M50. I ask the Minister to restrain himself.

Mr. Cullen: It was part of the planning permission granted by the local authority. It was a condition of planning, not a condition by me or the NRA. The local authority demanded it.

Mr. Ross: I did not say it was a condition laid down by the Minister.

Acting Chairman: Minister, you will have a chance to reply.——

Mr. Cullen: If the Senator asked I would be happy to give him the answer.

Mr. Ross: The Minister is not at some Fianna Fáil local parish meeting——

Mr. Cullen: The Senator should not be like that.

Mr. Ross: ——but is in one of the Houses of the Oireachtas and he ought to behave as though he had the dignity of a Cabinet Minister and that he is in the House.

Mr. Cullen: I will not take any lectures from the Senator.

Acting Chairman: Senator Ross, please address the Chair.

Mr. Ross: Perhaps we should have——

Acting Chairman: Minister, you will have a chance to reply. Please do not get annoyed.

Mr. Cullen: Let us proceed. I will listen to more of the——

Mr. Ross: I shall return to that interview which the Minister gave on "Morning Ireland" which was very entertaining. I listened to it because I had been speaking beforehand. Apart from the fact that he made remarks similar to those he is making here about the contribution I had made earlier, he did not answer the question about the demand management report. The problem we have with his proposal for the M50 is not just that he is not opening it now, he can open it now by setting the toll at zero. It is no good for the Minister to shake his head. If he sets the toll at zero drivers will flow through the West Link.

Mr. Cullen: Waving cheques for €10,000 on television shows never contributed anything to the success of anything in this country. Gimmicks do not solve anything.

Acting Chairman: I ask the Minister to allow the debate to progress.

Mr. Cullen: The Senator is being very provocative.

Acting Chairman: He is going to address me directly from now on and the Minister will be silent until it is his turn to reply.

Mr. Ross: I am trying very hard to address the Chair but it is somewhat difficult. I will continue to where I was before I was so politely interrupted. The problem with the demand management report is that it is set up to manage the traffic after 2008 and to make recommendations. According to the Minister — I believe him — the tolling arrangement which is proposed is going to stay, once it is barrier free tolling, at the same point as at present. The Minister promised repeatedly on “Morning Ireland”, that there will only be single point tolling. As the Minister is not interrupting, I must have got something right.

Mr. Cullen: The Senator is correct so far.

Mr. Ross: Without interruption.

Mr. Cullen: The Senator is correct.

Mr. Ross: I must have got something right.

Dr. Mansergh: The Senator is inviting interruptions.

Mr. Ross: The Minister said that. This is the most ridiculous and preposterous suggestion and hypothesis that I have ever heard. It is a statement made to carry the Minister through until May or possibly June and he knows he cannot bind his predecessors by this

Mr. P. Burke: Hear, hear.

Mr. Ross: It is absurd to suggest that one has a demand management report which will not and has not producing alternative tolling arrangements. That is what it is about. It is about traffic management. The alternatives in this report are as follows. First, as the Minister rightly says, single point tolling in the same place. The Minister is right. Second, that tolling is put at certain selected points on the M50 and, third, there is to be tolling of all the approach roads.

Mr. Cullen: If I have my way that will not happen.

Mr. Ross: I ask the Minister to wait a minute.

Mr. Cullen: The Senator has been trying to sell newspapers on the back of this for weeks.

Acting Chairman: This debate must take place through the Chair.

Mr. Ross: The Minister is not down in Waterford Castle.

Mr. Cullen: The Senator knows well what he is at.

Dr. Mansergh: He would not be invited.

Mr. Cullen: Exactly.

Mr. Ross: Neither would they invite Senator Mansergh.

Mr. Cullen: They probably would not. It is a rarefied place to be.

Acting Chairman: Please, Senator Ross without interruption.

Mr. Ross: What will happen is that the Minister will leave office in May.

Acting Chairman: Senator Ross must address the Chair.

Mr. Ross: I am putting it to the Chair. The Minister will leave office in May. The report——

Dr. Mansergh: Will come back.

Mr. Ross: The report will come back. Perhaps Senator Mansergh could have that job if his ambitions are fulfilled. He might replace him. The report will then find its way into the hands of the Minister’s successor and, lo and behold, he or she will decide to toll the entire M50 rather than a single point. There is a certain logic in that option which this report will recommend. Does the Minister know why it will recommend this? It will recommend it because it is absurd simply to toll a single point. The people who go through that point get tolled, but people travelling from Bray to Blanchardstown do not pay anything. This is crazy and the worst of all worlds for everybody. If one goes through one point on a long stretch of road, one pays a toll, but if one uses any other stretch of the road where one does not go through that point, one does not pay a toll. This is ridiculous.

Mr. Cullen: Does the Senator want people to be tolled at several junctions?

Mr. Ross: Is there a procedure for removing a Minister from the House?

Acting Chairman: I do not intend to be forced to remove him. Senator Ross must address the Chair.

(Interruptions).

Acting Chairman: Senator Mansergh will be the next to speak so he should restrain himself.

Mr. Ross: Let us be realistic about this. This is not going to happen. When barrier-free tolling is introduced, over a period of years the entire M50 will be tolled. The Minister’s pledge will come back to haunt him because it is ridiculous to say

that a single point will be tolled forever. It is not going to happen. That is not what the report said.

Mr. Cullen: The Senator knows that I never said forever.

Mr. Ross: It is not going to happen. We will have barrier-free tolling all over the M50 and people should be told this. They should not be told that a ridiculous single point polling policy is going to continue just to carry them over the May period.

Mr. Cullen: Policy *à la* Senator Ross.

Mr. Ross: I cannot understand why the Minister did not take the opportunity he had this year or last year simply to open that particular West Link toll plaza.

Mr. Cullen: It would have achieved nothing.

Mr. Ross: It would have brought about a great deal more happiness for a large number of people caught in those queues.

Mr. Cullen: No.

Mr. Ross: I take the Minister's point when he interrupts because I can hear some of his interruptions. He says it would have achieved nothing. I accept that there is a case to be made for those who say that the M50 is so blocked up at peak times that one will just have another block a little further up the road. It is possible. I do not know whether that is true. Certain consultants' reports have said that, but they are reports commissioned and paid for by people with vested interests, notably, National Toll Roads.

However, there is an unanswerable case for opening that particular West Link toll plaza at peak hours. I do not know whether the Minister travels that road very often.

Mr. Cullen: I do so regularly.

Mr. Ross: If he travels at peak hours, he knows that there is no doubt that one can be caught there for between 20 and 30 minutes in front of the toll bridge and when one gets through, there is a clear way as far as the airport and further on.

Acting Chairman: The Senator is in injury time.

Mr. Ross: I know. I am well and truly injured. There is an unanswerable case for opening them now and paying an additional amount, which I presume would be only approximately €75 million. If the Minister is going to spend appropriately €1 billion on this, which is the kind of inflation-linked calculation he would come up with, he might as well spend an additional €75 million to open those gates now. I do not think he realises the absolute misery he has caused and continues to cause commuters.

What else is happening on that road that is very difficult to understand? If anybody travels that road by night, he or she will see that there are lanes being built on or which are closed at night and on weekends when people could very happily do the work which is carried out in many other countries and clear those roads at a much faster pace.

Mr. Cullen: The people objected.

Acting Chairman: The Senator's time has concluded.

Mr. Ross: Presumably the Minister will get a chance to reply.

Acting Chairman: The Senator's time has concluded.

Mr. Cullen: Senator Ross should not ignore the planning system.

Mr. Ross: Why must we ensure that these roads are built and repaired only between the hours of 9 a.m. and 5 p.m.? I could only use one lane when I travelled back from the airport the other day.

Mr. Cullen: I agree.

Mr. Ross: We are talking about one single lane on the largest traffic jam in Europe. Nobody is using the process to ensure that Saturday, Sunday, evening and night work is carried out. This could be done. Plenty of people are prepared to do this work. I rest my case.

Dr. Mansergh: I am not sure under what Standing Order injury time exists. I compliment Senator Ross on a statement worthy of Sir Boyle Roche, namely, that the Minister cannot bind his predecessors. Indeed, he cannot.

I welcome the Minister and the Bill and congratulate him on the implementation of Transport 21. We all accept that over 30 or 40 years, there have been many road and other transport plans which have not come to fruition. The difference is that this plan is happening and people are beginning to see this. The Minister is one of the most energetic Ministers with responsibility for transport we have had. Contrary to the received wisdom among commentators, I think he is one of the best Ministers in the Government and is delivering.

We hear about all the misery, such as the situation on the M50, to which I will return. What about the easing of travel taking place throughout the country, whether it is people travelling to the west on the M4 and N4, people travelling in my direction on the motorway to Portlaoise or people travelling down the east coast below Wicklow where improvements are steadily under way? Another example would be a person talking about his or her brother travelling up from Cork to meet him or her and all the bypasses that have

[Dr. Mansergh.]

been finished. The fact is there is a lot less misery now. I can remember many miserable nights where I spent 30 minutes going through Naas and then through Newbridge and so on, although that was a long time ago. There were bottlenecks which have been removed.

The same is true of public transport. There are more trains and there is more room on trains. Let us stop concentrating all the time on the misery and let us concentrate on what is being done. We do not need to be lectured by the Opposition parties. I obtained a copy of the 1997 election document of Fine Gael, Labour Party and Democratic Left, entitled *Our Next Steps in Government — 21 Goals for the Next Century*, which was one of the skinniest election platforms I can remember. It just talked about good management of traffic, which was the sole reference to transport. There is slightly more in a Fine Gael document which stated that investment would be prioritised in roads, sea ports and rail transport services.

We are always accused of breaking our promises. I have here the Fianna Fáil election manifesto for 1997, entitled *People Before Politics*. On the subject of national primary roads, it stated: "We will complete as soon as possible the Dublin ring road." It has been completed, but we are now into the second round of widening it. The manifesto also stated: "Our target will be to upgrade the Dublin road to the Border to continuous motorway standard by 2005." I acknowledge that there are still half a dozen kilometres right up to the motorway, but the road has been substantially completed and welcomed. The manifesto stated that Fianna Fáil would aim to provide a continuous motorway to Kinnegad for all routes to the west and north west and have a motorway standard road to Portlaoise completed by 2005. It stated that Fianna Fáil would complete the upgrading of the Naas dual carriageway. This is perhaps the one area where we did not fully achieve, pending the construction of a new motorway by 2005. The question is whether the Bill will enable the Naas dual carriageway to be upgraded to motorway standard. I see the Minister nodding, so, in a sense, that is the outlook. A lot of promises were fulfilled. Far from it being a waste of money, it has been an excellent investment. If there is any criticism to be made, it is that a lot more needs to be done.

I welcome the upgrading of what the Minister called HQDCs, high quality dual carriageways. I can think of a few examples. I could never understand why the Glanmire and Watergrasshill bypasses were not motorways from the outset. One would need a microscope to see the difference between a dual carriageway and a motorway. No doubt there are technicalities involved but they are beyond the ordinary motorist. It would be good to see some of the N11 dual carriageway which is, effectively, also a motorway. Why is the road beyond Kinnegad not considered a motorway? I do not think any motorist could

understand this. One of our colleagues was caught speeding on the Cashel bypass and had to abjectly apologise a while back but, when the works are completed, that should be up to motorway standard.

I am astonished the editor of the business section of the *Sunday Independent* should be so naive to think if one got rid of the tolls all traffic would flow smoothly. One can bet one's bottom dollar that, first, one would attract more traffic onto the M50 because there would not be a toll——

Mr. Cullen: Correct.

Dr. Mansergh: ——and, second, one would clog up at all sorts of other pressure points. There has been a single point of tolling since the M50 opened in or around 1990 so I do not see any lack of credibility or any reason it should not continue that way. The truth of the matter is that, ideally, one should not have tolling at all on urban motorways. It is not in place around Paris, for example, but we are where we are, and we have to proceed from there. Creating a toll-free M50 would impose an expense on the taxpayer. Why should taxpayers in general pay for the M50 to be free? A single point of tolling is still preferable to having it everywhere along the line.

I wish to draw the Minister's attention to one point. I travelled in this morning on the Luas from south Dublin. At approximately 9.30 a.m., only two of the 600 parking spaces remained free at Sandyford. The capacity of the car park there is insufficient and to some degree this may be limiting the use of the Luas. I accept that when the line is extended, other park and ride points will be introduced which will relieve the situation. The taxi system, which is referred to in the Bill, has improved enormously.

I was very pleased to welcome the Minister to Tipperary last Monday week. He came to visit both developments in public transport by visiting Limerick Junction — he is probably the first Minister to go there for some considerable time — and he then went on to discuss the N24 improvement with the Tipperary Town Council. I understand more fully what he said that day from the reference in his speech today to the extra €400 million which he has brought forward to deal with the Atlantic corridor. I was on that western route in recent weeks travelling from Letterkenny to Tipperary. Undoubtedly, it needs investment, in addition to the western rail corridor.

People in Tipperary are very pleased the Minister held out the prospect that the road improvement could be turned into a dual carriageway bypass. I made sure the message was well disseminated. In effect, the compensation for the delay will be the upgrading in the quality of the road. Of course none of this will happen if the Green Party's pledge to cut down on roads spending is made a precondition of Government. That

party may insist upon this if it is to become part of a rainbow coalition. I would welcome any clear statements from the Fine Gael and Labour parties along the lines of what I have said, telling the Green Party firmly and clearly that is not on.

I thank the Minister for the terrific amount of progress that is being made. Transport 21 is turning out to be a stunning success.

Mr. McDowell: For the record, the 1987 deal was a bad deal. Everybody in this House knows it was a bad deal. The Minister accepts it was a bad deal but it was 1987. I say that because I sometimes think colleagues do not realise how much of a turn-off it is for the electorate for politicians to spend all of their time talking about something that happened 20 years ago or even ten years ago. In so far as we can learn lessons, we can learn from 1987 and the deal that was done. We must have regard to it but let us move on and see what we have to do.

I find myself conflicted with the Bill, largely because of a point Senator Mansergh made towards the end of his contribution, namely, that it is obviously intended primarily to introduce the barrier-free toll system on the M50. I do not believe there should have been tolls on the M50 in the first place. It is the experience not just in Paris but in virtually every major capital city in Europe that one does not have tolls on ring roads. The reason is to actively looking to encourage people to use them so as to take traffic out of the city centre. We are not in that position here. I very much regret that is the case. Looking at the facts in an objective and dispassionate way, I accept it is difficult to see how we can get back into that position.

The central question with which we are faced is why we should use tolls. Two reasons come forward as to why we have to continue tolling in some form or fashion. One is demand-management, to which Senator Ross referred earlier. The second is, as the Minister argued, to continue to pay for the compensation to NTR and for the improvements to the M50. There is a core of truth to what Senator Ross said earlier in that we are paying over lots of money to NTR over the next 12 years or so. Where he clearly missed the point — presumably deliberately — is that the taxpayer is not paying that money, it is coming from the users of the road.

Mr. Cullen: Correct.

Mr. McDowell: There is a political choice to be made; whether we believe it is correct to write a cheque of that magnitude to NTR for each of the next 12 years or whether we believe that should be done by virtue of the tolls paid by road users. It is not an easy choice for somebody like me who does not believe we should be tolling it in the first place. However, on balance, it appears some sort of tolling system will have to continue.

I will return to the demand-management point in a few moments because it has relevance to issues which are not specific to the M50 but what we have to do in terms of transport in the general Dublin area. I have a number of detailed questions which are important in terms of the money aspects of this matter. The Minister acknowledged a figure of €50 million against the CPI. Is that a net figure? As the Minister is well aware, the State takes VAT and licensing fees and rates are paid to two county councils at least. In effect, there is a substantial take by the State from the toll that is currently paid. Is the €50 million inclusive of that or is it the net figure we will pay over to NTR?

Mr. Cullen: That is the amount that will be paid to NTR.

Mr. McDowell: So it is a net figure.

Mr. Cullen: At the moment it is about €45 million.

Mr. McDowell: Does the company pay tax, licence fees or anything of that kind out of that? I take it, it does not.

Mr. Cullen: Corporation tax and everything else obviously has to be paid and whatever the duties are in terms of the company's income. That is a matter for the company's tax advisers.

Mr. McDowell: So, essentially, corporation tax is the only deduction.

Acting Chairman: While our deliberations are calm I do not consider it proper to have a question and answer session.

Mr. McDowell: I beg your pardon. The reason I mention this point is that it is important in terms of assessing the overall impact, as to whether we have to allow for corporation tax to be taken out of it or whether VAT has already been deducted from it.

Acting Chairman: Senator McDowell may ask questions to which the Minister can reply in summing up.

Mr. McDowell: I would like to have details of that. Negotiations have not been completed but I assume those difficult issues have been dealt with. This is important in assessing the value of the deal. The contract has been awarded to BetEire Flow, a consortium linked to Sanef. I am unclear as to how this will work. A figure of €113 million has been cited, which I assume to be set up costs. Will BetEire Flow continue to be responsible for collecting tolls thereafter? What deal is the State entering with BetEire Flow in respect of responsibility for maintaining the area of land around the toll booths and the price that can be charged? We

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need this information to assess how good a deal the State is getting.

The idea of the default toll is interesting. The Minister referred to Vancouver. Planners expect 10% of users to default but this will fall over time.

Mr. Cullen: That is the international figure.

Mr. McDowell: The fine charged in Vancouver is 49 Canadian dollars if one defaults and does not pay within a certain period. If the fine is substantial in Ireland a considerable additional income will accrue to the tolling company in the early years. Some 90,000 cars use the toll booth, meaning 8,000-10,000 cars will default every day. If they pay a substantial fine the additional profit accruing to the company would be considerable. I assume it accrues to the company rather than the NRA.

Mr. Cullen: Toll revenue accrues to the NRA. BetEire Flow will be the operator on a fixed contract. For the first time, the State has control of the tolling.

Mr. McDowell: That is not clear in the text of the Bill, which refers to the undertaking. This could refer to the tolling company. While I do not have a problem with this in principle, we should not seek to use this as a revenue raising mechanism from hard-pressed motorists using a road that should not be tolled. The fine should be pitched at a realistic level, deterring people from skipping the toll but not as a major revenue raising exercise.

Another Senator referred to France, where Sanef has experience. E-tag tolls are an option in France but one can also choose the pay-as-you-go lane. Many people on French motorways choose the e-tag lane. Our system will be different and much more ambitious in providing only for e-tagging. We will do very well to have this set up by the middle of next year. International experience suggests this is an ambitious project and I hope the Minister is confident it can be accomplished.

Another Senator referred to foreign cars, particularly those from Northern Ireland. Why can we not gain access to the database of cars in Northern Ireland?

Mr. Cullen: There are major information protection considerations.

Mr. McDowell: Surely we can consult with authorities there to have interoperability of databases. There are major information technology issues involved in giving the tolling company access to our database of car registration details.

Dr. Mansergh: On a point of information——

Acting Chairman: Will Senator Mansergh stand up if giving information?

Dr. Mansergh:——the British-Irish Interparliamentary Body, which met this week, is considering making penalty points applicable across the United Kingdom and Ireland and perhaps it should be allowed do the same with regard to tolls.

Acting Chairman: I thank Senator McDowell for allowing that.

Mr. McDowell: Senators are being much nicer to one another. The temperature has gone down, for some strange reason.

It would be important to gain access to the registration database in Northern Ireland if possible. This may require intergovernmental agreement. I imagine it will be difficult to grant the tolling company access to our database of car registration details and perhaps we should attempt to extend this to Northern Ireland. It will cause a degree of resentment if people believe a significant number of cars on the M50, those from Northern Ireland, can avoid the toll.

Senator Ross's point about multi-point tolling is logically correct. As a Member of the Opposition I will not suggest tolling every approach road to the M50 but it makes no sense that Senator Wilson can go from here to Cavan without having to pay. A significant number of those who use the road do not pay and those unfortunate enough to live and work on different sides of the toll must pay. The logic of it is compelling, as is the politics. Being a politician I have no intention of taking that point any further but the Minister knows what I am saying.

One of the major problems with the M50 is that it was built as a ring road. A few years ago the Minister stated that 84% of traffic on it was local and was not using it as a ring road or a bypass. We must consider other options. Public transport must be improved and metro west is not sufficient. It will provide a transport option for those who seek to travel around the western fringes of the city and access the airport but we must complete that loop by connecting it with the Dart line, a project that is not part of Transport 21.

Like the Green Party I am not a major enthusiast for roads but, objectively, we have no choice but to build a ring road, given the urban sprawl of west Dublin. The M50 is no longer a ring road and we need one. It is counter-intuitive for me but we must accept the need for an outer ring road and plan for it because it will take at least 20 years to complete.

Planning is an essential part of the process, and not just for roads. Someone pointed out at the time that building several large shopping centres next to the M50 was a crazy decision. Those who seek to use the runways into the centres block up the M50. I hope we have learned from it but I am not sure. A large retail centre is fairly close to the M50. We cannot position such outlets in proximity to the road without impacting on the road. It

will not work if the road is intended to provide quick access around the city and cars are backed onto the road. This message needs to go out to the three local authorities involved. Some of their actions in recent months suggest they have not got the message.

We must consider the port. A huge number of HGVs use the port but the capacity of the port traffic to grow seems infinite. The Minister referred to the phenomenal increase in freight. All these HGVs and freight cannot be accommodated at Dublin Port as it is. Either it is expanded seawards, existing functions are relocated elsewhere or another port is developed. The expansion of the port should happen somewhere other than in the city centre.

Mr. Cullen: It is a serious debate.

Mr. McDowell: I am not suggesting that having built a port tunnel we should now abandon the port or move it, but the port will continue to expand and that must be done outside the city centre.

Mr. Cullen: It is the next phase of development.

Mr. McDowell: Quite apart from anything else, the M50 will be unable to cope with the traffic.

We should not be at this point, but a bad deal got us to it. The concept of tolling the M50 was bad in the first instance. I cannot stand over the notion of paying such a huge amount both to expand the M50 and to pay compensation to NTR. We must find a rational way of dealing with this and put it in place as quickly as possible. It should be sensitive to the needs of all motorists and not just of those who pay the toll.

Labhrás Ó Murchú: One of the pioneers in the modern aviation sector was Monsignor Horan. He always appeared to enjoy the cut and thrust of defending his vision while at the same time getting on with the work. The Minister is the same. He enjoys the cut and thrust of debate but, most importantly, he gets on with the work. In fairness, he is a straight talking Minister. There is a minimum of waffle. One knows exactly what he is talking about and can understand it, even if one is a lay person in the context of that discussion.

Generally, people welcome good news. This Bill is about good news. For a long time we talked about the difficulties on the M50. Senator Wilson outlined the statistics today. It is possible that through-flow per hour will be four or five times greater than it is at present as a result of barrier-free tolling. That is the bottom line. It is good news. Indeed, it is as a consequence of good news that we are discussing this Bill today. Our economy has been almost miraculous and the spread of wealth across a broad sector of the population means there are more cars because more people are driving to more jobs.

Senator McDowell has always been reasoned and balanced in debates.

Mr. Ryan: I will report him.

Labhrás Ó Murchú: That is as it should be. The cut and thrust of debates should be that way. I am old enough to span two generations in Cashel town. I remember when a bypass of Cashel was being discussed 30 years ago. There were public meetings to oppose the venture because it would affect the town's economy. The reason was that the economy in Cashel was not strong. There was not a huge number of vehicles travelling through the town. Now, however, because the economy is strong and there are more vehicles in Cashel, the town does not require extra traffic. After all those years of debate I have not met anybody who would go back to the way things were. That can be seen in many other areas. I can recall the debate about the Naas bypass years ago. People used to ask me how the town had fared and whether it had affected business. These debates must be seen in a certain context.

I also remember the debate about closer relationships with Northern Ireland. Invariably, one of the arguments put forward against interaction with the North was that our road system was so antiquated and the road system of Northern Ireland was so advanced that there was no way a certain section of the community would want to do business with us. However, people in Northern Ireland now talk about the wonderful improvement in the road network in the Republic.

I accept that the debate is not as balanced or general as it might be, given that a certain event is due to take place in the next few months, but when one talks to ordinary people who must drive long distances every day, one will generally hear them say that the roads are wonderful at present. That is the position. We must plan for the future, and that is what we are doing. This relates not just to the barrier-free tolling of the M50 but to many other issues that must be considered. I am glad the upgrading of the dual carriageways is being considered. Maybe it could not have been considered initially or there might be an opportunity to conduct a trial of it, but it is important that this should happen.

I am especially interested in the provision of services on the road network. When one is driving in Britain one can be sure of being able to get petrol, dining facilities and so forth. There are difficulties with our network which must be examined. This is particularly important for people who might not be familiar with a route. It is all right for those who travel a road daily, but people who are not familiar with routes need to know that services will be provided.

Over the years we have discussed what part of our road network should get priority. The Minister has made himself available to any delegation that wishes to meet him to put its case. It was not always that way. Often, the local community was

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not consulted about the things that were done. That created a difficulty because the community no longer felt ownership of its area. Often, communities felt that other powers, which did not necessarily consider their case, were working behind the scenes. Senator Mansergh has mentioned Tipperary and undoubtedly the same could be said about virtually every region.

I greatly support consultation with local communities. I believe that greater consultation takes place now. People have access to the Minister, the National Roads Authority, NRA, and so forth, and they have an opportunity to make their case. That is a major advance on years ago when one would sit at an urban or county council meeting and listen, month after month, as the same questions arose with no answers being provided. Local knowledge and information can play an important role. To refer to the Cashel bypass again, people had an opportunity to express their views on the possible routes that could be chosen. I hope that process will continue to be part of any development that takes place in future. Ultimately, the local community will have to be happy with and accept the changes that are made.

With regard to value for money, only two or three years ago, two of the main arguments being made were that projects were being completed late and over budget. I wish somebody would talk about the good news now, with projects being completed early and on budget. That is taking place throughout the country. It has become part of local folklore. I have heard it spoken about in Clare, Cashel and other parts of the country, yet it is not being highlighted. Full marks should be given to the Minister because, when a difficulty was identified, he took it on board, listened to expert and local advice, checked the market and now he is delivering projects on budget and ahead of schedule.

I do not travel regularly on the M50 but I have often used the route. I understand the frustration that has built up over the years. When the Government initially announced the steps it would take, there was delight. It probably is necessary to do a little nit-picking and play politics but, in fairness, it is also important to take the longer view. When we make a decision, we must consider whether there will be further challenges and opportunities.

There is much talk about the NRA and passing on accountability and responsibility to other agencies. It would be foolish not to do that. After all, this body is the repository of the most up-to-date information, technical advice, accountability and so forth. It has worked exceptionally well. I cannot see how it would have worked if we did not have an agency approach to the matter. The Oireachtas is responsible for the legislation, providing the finance and a monitoring role in it. However, I cannot imagine how we could possibly succeed in doing this without passing responsibility on to someone else.

I support the Bill, which is based on good news. It is responding to a challenge which is the product of our economic progress. I wish more Ministers would interact with the House as the Minister did today. It is vitally important in the dissemination of information. It is better to base our arguments on a real and genuine premise rather than a personal approach.

Mr. Browne: I wish to share my time with Senators John Paul Phelan and Bradford.

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

Mr. Browne: I am sure the Minister would prefer to be outside smoking a cigarette rather than having to listen to me.

Mr. Cullen: The Senator should not remind me.

Mr. Browne: As the Minister is from Waterford, the frequency of rail services for Carlow has improved. However, the quality of and overcrowding in the carriages leaves much to be desired. I welcome the proposal to construct a motorway between Dublin and Waterford which will link in Carlow. How many of the landowners affected by the proposal have had their compensation finalised? Some have explained to me they have had some problems with the process while others were happy with it.

I am against tolling. Why has a ring-fence surcharge on fuel not been introduced? Senator McDowell hit the nail on the head when he asked why it should be exempt in Dublin but not in other rural areas. If a three cent ring fence were added to the price of a litre of petrol to finance road-building programmes, it would provide a fairer system. The more mileage used, the more one should pay. Why should a pensioner, who may drive 2,000 miles a year, pay the same rate as a heavy user? Motorists are being crippled by high VRT, motor tax, half the price of a litre of petrol going to the Government in VAT and more tolling is being introduced.

Mr. Cullen: That is the main topic in traffic management debates internationally.

Mr. Browne: I had a head-on collision with a bus some years ago.

Mr. J. Phelan: That explains everything.

Mr. Browne: Why is it on the M50 that when a car crash happens, the whole motorway comes to a standstill? It is time to have a rapid response unit to such motor crashes. While the priority should be to rescue injured people, if no one is injured, the traffic should be quickly cleared. It is frustrating to be stuck in a four-mile tailback when all that happened was a car was rear-ended. For minor accidents, they can be quickly photographed and the issue can be resolved afterwards.

Mr. Cullen: I have introduced mobile systems to remove large and small broken-down trucks if they begin causing an obstruction.

Mr. J. Phelan: I agree with Senator McDowell's argument on the M50. I would not necessarily agree with building new motorways but there is an inescapable argument for a new orbital route for Dublin city. The Taoiseach has referred to it on several occasions but no concrete plans have emerged. I would like to see it pursued as a matter of urgency. The M50 is no longer a ring-road for Dublin city and is used more for local access to suburbs. Senator Wilson referred to the volumes of traffic using the M50 on a daily basis.

The sod was turned at Mullinavat recently on the inter-urban route between Waterford and Dublin. It is a positive development and I look forward to its speedy completion. However, the traffic situation in New Ross is appalling. When I was elected to Kilkenny County Council in 1999, I was informed by the NRA and the Department that a bypass would be completed by 2006. I learned from Mr. Barry and the NRA the week before last that it is still not even at the stage of the lands being purchased for the route. It is a matter of urgency. I know of no other town that suffers as much traffic congestion as New Ross. Tailbacks of several miles exist every evening on the N25.

Ms O'Rourke: Has the Senator heard of Moate?

Mr. J. Phelan: I agree Moate's traffic congestion is bad and I have been caught there several times. However, it is still not as bad as New Ross. I feel sorry for the town's inhabitants who have become prisoners in their own homes. Some time an individual in the town will require an ambulance but it will not reach them because of the long delays. Before the Minister leaves office in the next several months, will he ensure the New Ross bypass is urgently progressed?

I am not convinced of the desirability of tolling bypasses. It has been proposed to charge a toll on the Waterford city bypass. Many people from south Kilkenny, commuting to the industrial estates outside of Waterford, will be caught by such a toll. It is unfortunate that they should have to pay a toll. The true traffic travelling from Rosslare to Cork should be tolled but it is not desirable for those using it to get access to their place of work.

Acting Chairman: Senator Bradford has only three minutes.

Mr. Bradford: The moral of the story is not to be last in either the car queue or the speaker's queue.

I know the Minister's personal commitment to the Bill. However, many questions relating to our approach to tolling and road construction have

arisen. I agree with Senator Browne's proposal for a fuel surcharge rather than tolling as a means to raising road-building funds. Several months ago the Minister opened the Fermoy bypass, one which had been sought by the local community for 20 years. Yet, because of the position of the toll bridge, 60% of the traffic that it was hoped would travel on the bypass still goes through Fermoy, Rathcormac and Watergrasshill. A bypass for Watergrasshill was provided four years ago but because of the recently introduced tolling scheme on it, traffic is avoiding it by going back through the village. It is causing much disquiet. The Minister indicated he would visit the area to see the impact of the tolling scheme. Will he do so over the next several weeks? From the village's point of view, a bypass is not working properly.

One section relates to the provision of service and rest areas on the national road network. I welcome that. As recently as this morning I received correspondence from a constituent who has been in touch with the Minister's office, if not with the Minister himself, as well as with the office of the Minister for the Environment, Heritage and Local Government, Deputy Roche. That person, a lorry driver who travels long distances across the country, made the same point that he has made to various Departments.

Under the tachograph system, he must stop every so often to rest. It is not possible to do so on most main roads and he is not allowed to halt on the hard shoulder. To comply with one rule, he must break another. It is important that we act on the provision of service and rest areas as quickly as possible. Provision is made in the Bill, and we must encourage people to build them urgently for the sake of road safety. I wish I had more time but I welcome the provision of such areas.

I know decisions were taken long before the Minister took up his present post, but I ask that he re-examine the tolling scheme and the system of road building. We must see if there are better alternatives, as I suspect may be the case.

Ms O'Rourke: I will be very brief, giving three minutes to Senator Ryan who may otherwise not get a chance to speak.

Acting Chairman: Is that agreed? Agreed.

Ms O'Rourke: I welcome the Minister and thank him for the lovely road that now stretches as far as Tyrrellspass and will shortly go to Kilbeggan. We really want it to go to Athlone, since Moate has become the new Kinnegad, but that is beside the point.

I wish also to mention briefly the town of Rochfordbridge, whose business people have contacted me. I know that signage is relevant and they would like signs informing motorists that there is a restaurant. The Minister will be familiar with such signs which might indicate, for example, that there is a major secondary school in Roch-

[Ms O'Rourke.]

fordbridge. Whatever the signs for services in towns, Rochfordbridge gets no mention on any. I was asked to speak on the issue and raise it with the Minister. I presume that doing so publicly is the same as doing so privately and that note will be taken.

I cannot understand truck drivers who refuse to use the massive facility that we now have running from Tyrrellspass to far beyond Enfield. We see them on the parallel road to the left as we go through with our €2.60. The wear and tear caused by those huge trucks on the roads, not to mention the drivers, who must watch out for bends, represents a very great shortcoming on the part of truck owners and the drivers themselves who do not use the new road. I met one of them one day and asked why. He shrugged and replied that it was on the boss's orders, which is a great shame.

This Bill does not allow for county roads, being intended to cover much more important matters, but to the people it is the county roads that matter. We travel around to cumann meetings — the other parties may give them an alternative name — and find that the issue of county roads arises constantly. People believe that not enough is being spent on them and that maintenance is insufficient, so there is great dissatisfaction.

Those people take their children to school, visit the local shop, attend church or go into town, but they find themselves short of the proper road surface on which to drive. However, great work is being done, and roads are now being completed ahead of schedule and within costings, which is quite remarkable. I sat on the sub-committee dealing with public transport during the period when we heard horrendous prices quoted which were then disgracefully trebled. That everything is now happening within a tight framework is very good for roads, the Minister, his Department and the National Roads Authority, NRA, which is in charge of seeing that all those plans are brought to fruition.

Perhaps I might mention Rochfordbridge once again. If the Minister can arrange for a note of what I have said to be sent to the NRA, that will save me contacting it myself. Rochfordbridge needs signage, which is not good enough generally. When one drives to Galway via Mullingar, one does not see a sign saying "Athlone, Mullingar". I know that the choice of words is "end destination". That end destination is Galway, but in between comes Athlone. The end destination shown in the case of Mullingar is Westport, and it would do no harm to include an intervening major town on such signage. Other countries seem to have made a great job of signs, but ours are not as modern or as user-friendly as they should be. I will give the rest of my time to Senator Ryan.

Mr. Ryan: I had not been going to speak at all, but reconsidered. I thank God that we are to do away with the distinction between high-quality

dual carriageways and motorways. I remember reading a report in which a Bord Pleanála inspector said that he could not figure out the difference. If he could not manage it, who could?

Second, when will we have national electronic tolling? I use it constantly on the Fermoy bypass, about which I will say more presently. However, I cannot use it anywhere else. The device I have on my window will not work on the M50.

Mr. Cullen: The new one will be completely interoperable.

Mr. Ryan: When will that be introduced?

Mr. Cullen: They are working on it currently.

Mr. P. Burke: It will come in after the general election.

Mr. Cullen: The Senator asked me a straight question. He is quite correct in saying that we need a unified system.

Mr. Ryan: Is that going to happen?

Mr. Cullen: It is part of the contract.

Mr. Ryan: I hope it does not take as long as integrated ticketing covering Dublin Bus and the Luas.

Mr. Cullen: No, thank God.

Mr. Ryan: On the Fermoy bypass, it is now time for coercion. Like Senator O'Rourke, I believe that trucks should be banned from small villages unless they have business being there.

Mr. Cullen: I agree.

Mr. Ryan: Such an initiative has been taken successfully in Dublin whose taxi-drivers have told me of the wonderful effect that it has had on the free flow of traffic. It is disgraceful that An Post, a public organisation, has a policy of not paying tolls.

I am delighted that action has been taken on service areas. Many of us have suffered considerable discomfort, to put it mildly, travelling certain stretches of motorway because there is nowhere to relieve oneself.

My only negative comment is that it is a pity that it is to take 13 years to furnish us with a proper national roads system, from 1997 until 2010. It could have been done more quickly, but I hope it will now happen.

Acting Chairman: There are three minutes left in this slot, and Senators Quinn and Jim Walsh have said that they would like to contribute. Is it acceptable if they have a minute and a half each?

Mr. J. Walsh: How about two or three minutes?

Mr. Cullen: I am due elsewhere.

Acting Chairman: I must give the Minister ten minutes and can therefore give each Senator only a minute and a half.

Mr. Quinn: I will take a minute and a half, if I may. I believe that we have not got our costs right. I was recently immobilised on the M50 and looked to my left and right to see what work was going on, but no work was under way. Admittedly, that was a Saturday, but I was there again on a Sunday, again in the evening. I cannot understand why we have not got our costs right.

Mr. Cullen: If I might——

Mr. Quinn: Perhaps the Minister might allow me to make this point, since I have only a minute and a half.

Mr. Cullen: The Senator may have three minutes. I will give him some of my time.

Mr. Quinn: I thank the Minister. It seems ridiculous to equate the cost of building the road with the cost to the economy. The cost of paying people to carry out work is only part of the cost because there is a further substantial cost in voter frustration, petrol and people sitting in traffic jams doing nothing when work is ongoing. The loss of business due to trucks repeatedly sitting idle is very great. The company I have been running for many years has a large number, and if they get stuck on the M50, there is a cost to us. However, our fleet is tiny compared with the national total.

When I travel elsewhere, I invariably see big lights rigged up at night to allow work to be carried out. I understand there might be frustration about not getting something done. In a rural area, I cannot understand why work cannot go ahead at night. I can understand that on the Rock Road in Blackrock, local people might ask for work to stop to allow them to sleep, but that does not apply to the M50.

Mr. Cullen: That was the planning.

Mr. Quinn: There is great frustration, and I would love to think that we had got our costs right instead of simply counting the money we pay the developer. I hope the Minister can give me an answer because we have not done it correctly hitherto.

Mr. J. Walsh: I commend the Minister. I have never seen such progress being made on improvements to our road infrastructure, although it was overdue. The fact that the work is on time and within cost is a credit to the Minister and the initiatives he has taken.

With regard to the M50, tolls are a satisfactory way of recouping the cost of road improvements. They should be on main arteries between our

main centres of population but definitely not on bypasses such as the M50 and the Waterford bypass.

A second river crossing at New Ross is badly needed. The other day, I waited 45 minutes to get through the traffic there. People from different areas tell me that New Ross is the biggest bottleneck in the country. Anything that can be done to accelerate the second river crossing there would be welcome. Once the Waterford bypass has been completed we will have chaos there with traffic backed up to Glenmore.

The Minister will be familiar with the Fiddown-Piltown bypass, but the two plus one road system is a hazard and someone will be killed there. The two plus one concept should be abandoned in favour of a two plus two system. We should move towards dual carriageways where accidents are not taking place. That policy should be pursued and the NRA should be advised accordingly, if it is not of that mind.

Speed limits need to be reviewed across the country. The private administration of the speed limits is to be introduced but the limits in some areas have been set at artificially low levels simply as a status symbol for small rural locations. Those speed limits need to be re-examined. I am glad the Bill will provide for a system whereby dual carriageways can be upgraded to motorway standard. That is long overdue.

Acting Chairman: The Senator's time is up.

Mr. J. Walsh: Eight years ago, the chief executive of the NRA told the Joint Committee on Transport that the speed limit on the N11 and the Arklow bypass would be raised to 70 mph, which would now be 120 km/h. That needs to be done. In most cases, gardaí are taking the soft option of shooting fish in a barrel.

Recently, I was travelling by road in Britain and over a journey of a few hundred miles I averaged a speed of 104 km/h. In this country one would be lucky to average 60 km/h but the hidden cost of that to our economy is enormous. Drivers who travel at 40 mph are having a huge impact on that cost and constitute a major road hazard. Something will have to be done. I do not know if Ireland has a higher proportion of bad drivers compared to other countries, but in other jurisdictions people travel at the speed limit. A law needs to be introduced specifically to target people who hold up 20 or 30 vehicles behind them. I urge the Minister to examine that problem.

Minister for Transport (Mr. Cullen): I thank Senators from both sides of the House for their contributions to this debate which, by and large, was rational and fair. I have no disagreement with the point made by Senator Quinn. We want to introduce a 24-hour operation on the M50 but ironically those stuck in traffic are the same people who objected through the planning pro-

[Mr. Cullen.]

cess to stop us doing a 24-hour system. It was a condition of the planning process that we could not do that. The planning process imposed strict timeframes on what work we were allowed to do——

Mr. Quinn: Even on the M50?

Mr. Cullen: ——on the M50. I am talking specifically about the M50 so that is a simple answer. We live in a democracy and the planning process is the voice of the people. That voice was very clear — they did not want 24-hour working and weekend restrictions on the M50, which is regrettable because it does add to real costs that are visible, as well as hidden costs all over the place, including delivery. That is where we are, however, and all these roads are subject to the planning conditions as laid down.

This brings me to Senator Ross's point, although he has completely ignored the fact that a demand management review of the M50 was sought and set down by the planning process, not by the NRA, myself or the Government. It was a condition of planning on the M50 that they would examine the possibility of demand management in future. That was a legitimate matter. It is extremely childish, however, to present it as Senator Ross did, claiming that a week after the general election there will be tolling points all over the M50. It might sell a few stories here and there but it is disingenuous to suggest it.

I have been very clear about this. I have no doubt in my mind that demand management will ultimately be an issue on the M50. I have also stated quite clearly that we must have the entire M50 completed, along with other elements of the road network that feed into it, and the public transport facilities. If one is going to deal with those issues one must have alternate public transport facilities in place. I cannot think of any other major cities that do not have at least a skeletal framework of good public transport, including fixed rail, light rail and metro systems. That is what we are doing and there is no doubt that when we get to that point, whoever is here in ten or 15 years' time will have to look at that issue. It will not happen in advance of that, however.

Of course, I would love to live in a country that does not need tolls but we would not have a fraction of the roads programme we have delivered without the PPP involvement. That is a fact of life. It is interesting that many delegations from all parties have made it clear to me that if they could get a PPP to advance their project, they would be delighted to do so because they would see the benefits coming immediately instead of some years later.

While it has been a question of balance, the biggest investment has unquestionably been from the Exchequer on behalf of the taxpayer. In earlier phases, we got money through the European structural funds. That is the balance that needs to

be struck but of course the M50 is unique. It started out, effectively, as a major ring road to bypass Dublin but has become a commuter belt. I am happy to inform Senators that in the near future I expect to receive major draft proposals from the NRA on its study of an orbital road. The orbital is not another ring road outside the M50; it is fundamentally different and aimed at allowing major traffic volumes to avoid Dublin altogether. That is the principle of the orbital project and we all look forward to seeing that when——

Mr. McDowell: That was the principle of the M50 when it was first thought of.

Mr. Cullen: I am aware of that but this will be away from Dublin altogether. That is the point the Senator made himself as regards what we are doing. Huge challenges are posed in that respect and the only way we can deal with the internal dynamic of Dublin is by what we are doing with public transport. Ultimately, when the latter form of transport is in place one would have to push back car access.

It is interesting to see what they have done in London, although I am not talking about the congestion charge. Almost all private cars have been removed from The Strand, Piccadilly Circus and Leicester Square. The Strand is down to one lane whereas it used to have three in either direction. It is now mainly used for public transport. It is a question of changing people's habits in order to encourage the use of public transport in and around the city centre. Dublin will go like that. The success of the cordon in what it has done for traffic in and around the centre of Dublin gives us encouragement to make the right decisions for the future in that regard.

All the projects are on budget due to very good management all round. There is no question about that and the vast majority of them are now well ahead of schedule. That has come about because we have managed to develop the first pan-European construction industry. It does not exist anywhere else. That model has brought all the skills at all levels and mixed them with the skills that were already here. That is what has changed the dynamic, together with the contracting arrangements. We are the only country in Europe which has major players from Spain, Portugal, France, Germany, Turkey and the UK. All those companies are bidding for projects here. They have Irish elements in them but they are basically pan-European construction companies, which have brought a huge skills momentum here. That, in turn, has had a positive effect on timeframes and budgets when it comes to dealing with all these issues.

I am glad of the response to upgrade high quality dual carriageways to motorways. As I said at the outset, there is no difference between the quality and physical appearance of such routes. The time has come to re-designate the main roads

which will have a major positive effect on speed limits and travel times. I know that people complain of travelling at 120 km/h on one road section and then having to reduce speed on a better section of road. They find it hard to understand but it concerns designation. I welcome what Senators have said about the opportunity presented by the Bill in that regard.

Senator McDowell and others have acknowledged that best international practice on delivering barrier-free tolling is about four years. That is the best that has been achieved internationally. As I said earlier, Vancouver which started behind us, will be a full 12 months behind us before delivering it. We will do it in three years. It is a huge challenge and all the best companies in the world bid for it. They were asked if they could do it more quickly and they could not. Three years was the minimum length of time possible. I believe this project will happen and that it will be a credit to the National Roads Authority, NRA, and the companies involved.

It is not possible, as has been suggested, simply to lift the barriers on the M50 as this would create far worse chaos. We and the NRA did examine such a scenario. Senator Ross's simplistic waving of cheques to lift barriers would compound the problem and the misery being experienced by people on the M50 as it would increase the traffic. I travel the M50 every week at peak and off-peak times and the biggest problems lie in the interchanges, especially at peak times. Simply lifting the barriers would achieve little or nothing.

The three combined elements that will change people's lives are barrier-free tolling, a 50% increase in the capacity of the M50 and changing the interchanges to a free-flow set-up, that is, taking all the traffic lights and roundabouts out of the system. When all this is done, there will be a fully functioning M50 which complements the tunnel well and can deal with access from the Naas dual carriageway and many other elements.

I thank Senators for their compliments on Transport 21 and those passed on to me personally. I am well aware of the New Ross bypass as there are two big projects in the south east: the N24 in Senator Mansergh's area, which I have been visited, and the New Ross bypass. People feel impatient about these projects and they must be carried out but we are moving up the list of projects. The national development plan gave us an extra €400 million this year and that will help me get projects moving quickly. I do not understand why people, especially trucking companies, will not use the network when a toll is applied, although experience shows that in a few months they will do so. The figures coming through on Fermoy are close to those expected when the projections were made, and this has been the case everywhere else.

Taxpayers are not funding the buy-out of the M50 and this is a point that is regularly misunderstood, perhaps deliberately. National Toll Roads, NTR, is receiving what it would have received in

any case on the M50 and there is nothing new or additional. If I did not agree with the NRA's proposal to remove NTR from the M50, the benefit of increasing capacity by 50%, which will cost €1 billion, would have flowed to NTR. NTR will only receive what it would have had the clock stopped today and it will not benefit from the huge investment that is to come. Those returns will come back to the NRA, effectively on behalf of the taxpayer. The same people who are now criticising me said we should remove NTR from the administration of the M50 as it received a fantastic deal and I agree with the Senators who said this.

Ireland was different in 1987 and people thought those who bid for and built it were mad since they lost a fortune in the first few years. Luckily, things came right for these people, and good luck to them, but it is now time to move on. The real reason for doing what the NRA and I resolved to do in negotiations last year has nothing to do with a forthcoming election. We aim to go ahead with barrier free tolling, remove NTR from the equation and compensate it only what it would have received anyway in a binding contract until 2020. Nobody can change the contract but NTR will not get the advantage of massively increased volumes of traffic on the M50 in coming years. In my view, this project could see a substantial potential saving for taxpayers and road users. I think I have done the right thing as it fits in to a wider agenda.

I thank Senators for their courteousness and the constructive way most people in the House approached the debate.

Question put and agreed to.

Committee Stage ordered for Tuesday, 13 March 2007.

Education System: Motion.

Mr. U. Burke: I move:

That Seanad Éireann, noting that:

- the physical condition of many schools is poor, yet the delivery of new classrooms and buildings proceeds at a snail's pace;
- 30% of children from disadvantaged backgrounds have serious reading problems, three times the national average;
- 110,000 primary schoolchildren are in classes of 30 or more, with 10,000 of these children in classes of 35 and up, despite programme for Government promises now five years old;
- early school leaving remains unacceptably high with up to 60% of young people leaving before leaving certificate in some areas, yet many schools are not

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served by the National Education Welfare Board, NEWB;

- one in five school computers is more than six years old, with more than 5,000 computers being beyond repair or use; and
- 50% of primary schools still have no access to the National Educational Psychological Service, NEPS, a vital service for children with special educational needs, even though this service was established in 1999;
- believes that this Government has failed children and young people, and that a change in leadership at the Department of Education and Science is long overdue.

I welcome the Minister of State at the Department of Education and Science, Deputy Haughey, to the House. Everybody knows that there are basic requirements for the delivery of a good education at all levels. Schools, the physical environment in which children are educated, must be safe, adequate, spacious and properly furnished and resourced. Does the Minister of State acknowledge that children throughout the country are facing these conditions at school?

It is only two weeks since the Minister for Education, Deputy Hanafin, visited St. Catherine's national school in Aughrim outside Ballinasloe where she witnessed the reality of the situation facing many schools. The school is grossly overcrowded and has been waiting 12 years for progress on a replacement. The teachers are frustrated by the lack of progress as they have commitments to the children, yet they cannot educate them properly in the circumstances. When one sees a child with special needs educated in a group of 28 children in a small room, one realises how the inadequacy of the resources.

In the inspector's report on whole-school evaluation there is a list of schools with inadequate conditions. On the Adjournment tonight I will mention another school, in Killimor, Ballinasloe, that has suffered the same consequences of eight to ten years of indecision. A school has been promised but we await a decision.

The report says that in St. Brendan's national school in Clonfert, Ballinasloe, a secretary's office functions as the principal's office, general purpose room and staff room. It is a multi-functional room that is as small as the table before me. The irony is that when all the above schools are taken into account, it is easy to see why at Scoil an Spioraid Naomh in Roxboro, County Limerick, visiting inspectors commented in a recent school report that the school was fortunate to have a permanent, spacious, well-maintained building at its disposal. All children in the country should have access to permanent, spacious, well-

maintained building. This is not the case and no progress has been made in this regard.

A Fine Gael Party survey of 79 schools building projects approved more than 18 months ago shows that only 13 of the projects have commenced, a further four are at design stage and no progress has been made in 62 — almost four out of five — of the schools surveyed. Some of the schools were given the green light to proceed with development in mid-2005 but the Fianna Fáil-Progressive Democrats Government has failed to deliver one additional brick.

In the coming years, 58,000 pupils will enter primary level education. Notwithstanding current overcrowding, what action does the Government propose to take to secure proper school accommodation for these children?

I am sure the Minister of State, Deputy Haughey, will inform the House of substantial progress made in tackling educational disadvantage. I welcome the appointment of a large number of special needs teachers at primary level. As I pointed out in the House last week, the change in criteria following the transition from the disadvantaged area scheme — DAS — to the DEIS — delivering equality of opportunity in schools — scheme has resulted in schools with disadvantaged status being penalised for having done an excellent job under the earlier scheme. The additional support mechanisms available to schools under the DAS scheme included provision of additional resources, teaching manpower hours and home school liaison staff, all of which were marvellous. Under the new scheme, schools which made progress under the previous system will have additional resources withdrawn. The only change agreed to by the Minister of State in the House in response to my query was that some of the benefits would be restored. This decision was taken in response to widespread outrage about this issue.

If we are seriously concerned about disadvantage in national schools, we must invest heavily. The Comptroller and Auditor General stated that a poor return was achieved on the large sums spent in this area in 2005. The Department and Minister have not properly planned expenditure. The Minister of State will no doubt indicate that millions of euro have been spent but he should read the Comptroller and Auditor General's report in this regard.

Many schools are experiencing serious problems with overcrowding. Of the 442,000 primary school children in full-time education in the 2005-06 school year, 2,020 were in classes of between one and nine pupils, 60,000 were in classes of up to 20 pupils, 105,000 were in classes of 20 to 24 pupils, 102,000 were in classes of 25 to 29 pupils, 101,000 were in classes of 30 to 34 pupils and more than 9,000 were in classes of 35 to 39 pupils. No Minister could stand over this record. Various Ministers for Education and Science under Fianna Fáil-led Governments have sat on this issue for years. We will hear Senators from the

Government side ask about the teachers who have been recruited in recent years. We were promised 800 more teachers and a reduction in average class sizes. Class sizes have fallen by, on average, just one pupil, which is not good enough.

Mr. O'Toole: Hear, hear.

Mr. U. Burke: Reducing class size requires substantial investment. We know from OECD reports that Ireland's expenditure on education, at 4.5% of GDP, is the second lowest of 30 OECD countries. This figure is indicative of our lack of commitment to primary education. In recent years, we have repeatedly argued that failure to invest in primary education will result in children being lost forever. Every year, as many as 1,000 children fail to transfer from primary to secondary education and drop-out levels are even higher in secondary schools. This is a serious problem.

Yesterday, at the launch of a job skills report, the Minister for Education and Science stated Ireland must address skills levels and increase the number of students in third level. This objective will not be achieved with such high drop-out rates. What have the Minister or her predecessor, the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey, done to provide the necessary investment in recent years?

Information technology is another vital issue. Ireland trails practically every other OECD country in investment in IT, ranking 29th out of 30 states in the 2006 report, *Education at a Glance*, in terms of IT investment. The Minister promised that all teachers would be allocated a laptop to assist them in their work to further IT penetration in the classroom. This commitment, given in 2002, has never come to fruition. One quarter of Irish children aged under 15 years use computers frequently at school compared to an OECD average of approximately 40%. This is a further illustration of a dishonoured commitment. Despite the Government's many statements and commitments on the importance of IT in education, children in primary and early second level education do not have access to computers.

Acting Chairman: The Senator's time has concluded.

Mr. U. Burke: I will conclude shortly and hand over to my colleague, Senator Browne.

The position regarding the National Educational Psychological Service — NEPS — is a sorry one. I will give two examples, one from Dublin and another from Galway, to allow the Minister of State to judge the gravity of the problem. The position as regards early childhood services at the Brothers of Charity service in Galway is as follows. From the date of referral by a consultant paediatrician children must wait at least six months to be placed on the service list.

Following a six month wait they are offered one hour every two weeks with a community nurse. Following further waiting, the child will be seen by specialists in speech and language and occupational therapists. There is a long waiting list to see occupational therapists.

Acting Chairman: The Senator has exceeded his time.

Mr. U. Burke: It is argued that parents can secure services privately. One cannot get access to private services. Last year, the parents of a child in Dublin who is waiting for an appointment to see an ophthalmic paediatrician and a psychiatrist had to pay €3,310 to have a private assessment of the child carried out. This year, they expect to pay €4,500 to access the service. Is this the type of education system over which the Minister of State wishes to preside? It is an indictment of those in charge of it. Perhaps we may only have to wait some weeks, however, before it is brought to an end.

Mr. Browne: I welcome the Minister of State. I have great pleasure in seconding this motion and will deal with certain aspects of it. The schools building programme is lacking in accountability and transparency. I undertook the survey to which Senator Ulick Burke referred out of frustration, having asked the Minister for Education and Science three questions on the status of schools buildings projects approved by her. Her refusal to provide me with the information sought suggests either she is not aware of it, which is worrying considering that some €500 million in taxpayers' money is involved, or she was concealing it.

I was shocked to discover that building work had begun on only 13 of the 79 schools for which approvals were granted. I was also shocked to hear the comments from principals who are utterly frustrated with the length of time it takes to commence work after receiving approval under the schools building programme. In addition, many schools have been waiting years even to receive approval. I am aware of schools in which a new principal was appointed by the time their application was approved under the schools building programme. When these schools finally got the go-ahead, the project design was no longer adequate. One school in Carlow submitted a new planning application at the same time as it received approval for its original application, which, after years of waiting, was insufficient to meet its needs.

In no other job, whether that of architect, engineer, quantity surveyor or whatever, is one expected to commence employment under the same conditions as many principals must endure. If I had been told on becoming a Senator four and a half years ago that I had no office and must commence a building programme, I would have laughed at the notion. Despite this, we expect

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school principals to take on the role of monitoring schools building projects. They are not architects or engineers. How much of a principal's day is taken up in dealing with the Department's planning section?

There must be an immediate change in this regard. Additional support must be provided to principals who are obliged to take on the task of organising building projects in their schools. It is unfair and would not happen in any other walk of life. When the Minister of State was appointed to office, I am sure he was not given a list of architects and engineers and told to build his own office. The Minister of State is right to laugh but this is what we expect school principals to do.

Ireland is competing globally for jobs. Some 40 million Indian graduates will shortly enter the workforce and will compete with students in Dublin, Clonmel, Carlow and elsewhere for jobs. We must ensure pupils are educated to compete with those people. The roll-out of the information and communications technology programme, as planned, is vital. I look forward to hearing about the comprehensive package referred to in the Government amendment. Will broadband be available in every primary and post-primary school? Difficulties in accessing broadband are affecting some schools, especially in rural areas.

I am told by Bus Éireann inspectors that levels of compliance in regard to the wearing of seat belts are unsatisfactory. In reply to a recent question on this issue, the Minister of State told me that a limited survey will be undertaken by Bus Éireann. This should be done as a matter of urgency. We must learn from the tragedy that took place in County Meath. The safety of drivers is also a concern. Children may be less likely to misbehave on buses if they are using seat belts. I welcome the Minister of State's assertion in his reply that he plans to install closed circuit television, CCTV, cameras in all new buses. This may help to resolve disputes. One such dispute is ongoing in Carlow where students, parents and bus driver are at loggerheads. This is unsatisfactory and difficult to resolve. CCTV cameras would be of use in such situations.

We must focus on the importance of planning ahead. Rathoe is a small village in Carlow that previously comprised only 20 households but for which there are now plans for hundreds of houses. I spoke to an angry constituent there recently who justifiably complained that the Rathoe area plan included no zoning for the expansion of school facilities. It is only logical that many of the people who buy these new houses will go on to have children who will require school places. Enrolments will increase dramatically, perhaps even double or treble, and an extension will be required to the existing school building. This will mean less areas for the children to play in. Similar problems are arising in Ballinabranna. There is no planning or foresight in this area.

Is there a unit in the Department that undertakes any type of liaison with the planning authorities either in the drafting of zoning or the granting of planning permissions? There must be some dovetailing in this area. We must avoid a situation such as that in Laytown, County Meath, where children had to be divided into morning and afternoon shifts because of a lack of space. This will be replicated in other locations. The Minister of State is more than welcome to visit Carlow and I will show him the rapid growth in places such as Ballinabranna. I welcome such development but I do not welcome the fact we are granting planning permission for hundreds of houses while doing nothing to increase school capacity. It is only common sense that the two should be tied together.

I defend the Minister for Education and Science on the question of course content in the teacher training colleges. I seriously question how relevant it is. I attended St. Patrick's College and studied academic French as part of my training. This was a waste of time because it was irrelevant in terms of teaching primary schoolchildren. The Department must examine whether course content in the teacher training colleges is relevant to what teachers require to teach effectively. It is worth noting, for instance, that we were not taught how to use a roll book which, Senator Fitzgerald will agree, is an important skill.

I am concerned at our vulnerability given that the churches own such a large proportion of school lands and buildings. We will be left high and dry if they begin to pull out of the education system. Religious orders are under pressure as their members get older. In addition, some of them must pay out compensation and must realise cash quickly. Has the Department any plans to deal with this issue?

There must be increased ring fencing and monitoring of funding for home tuition for children with autism. We have gone from a situation where the Department did nothing for people with autism to one where money is being thrown at home tuition services without any attendant safeguards. We must ensure that the quality of home tuition is adequate to meet the individual's needs. I hear mixed responses from parents in this regard.

Mr. Fitzgerald: I move amendment No. 1:

To delete all words after "That" and substitute the following:

"Seanad Éireann

- commends the Government on hiring 4,000 more primary teachers since 2002 and 7,000 since 1997;
- notes that last year there were 80,000 fewer primary schoolchildren in classes of 30 or more than in 1997, while the number of children in classes of 35 or more was just one fifth of the 1997 level;

- supports the priority given in recent years to providing vastly improved services for children with special needs and those from disadvantaged areas;
- appreciates that another 800 primary teachers will be hired next September, with the focus on reducing class sizes;
- welcomes the extra supports being provided for children in disadvantaged areas under the DEIS action plan, with a particular emphasis on early intervention in literacy and numeracy;
- recognises that with the measures put in place to promote school completion and increase access to second chance education, 86% of Irish 20 to 24 year olds now have upper second level education or equivalent, way ahead of the EU average of 78%;
- welcomes the extra staff being provided for the NEWB and NEPS in 2007, 2008 and 2009;
- commends the Government on the unprecedented level of investment in school buildings in recent years which has benefited thousands of schools;
- further commends the provision of €4.5 billion for the school building and modernisation programme under the National Development Programme 2007-2013; and
- welcomes the more than €250 million being provided for schools' ICT under the NDP, which will be supported by a comprehensive new ICT strategy."

I welcome the Minister of State, Deputy Haughey, and congratulate him on his appointment. It is the first opportunity I have had to welcome him in his capacity as Minister of State at the Department of Education and Science. I have no doubt that his commitment to education, his learning as a graduate of Trinity College Dublin and his understanding of the issues throughout my neighbouring constituency of Dublin North Central make him well equipped to take on the challenges ahead. I wish him every success.

I was confused and intrigued upon reading the Fine Gael motion and wondered what was its purpose or the agenda behind it.

Mr. U. Burke: Did it hurt?

Mr. Fitzgerald: I tried to figure out whether this was about having an effective debate on education. If my party officer handed me a motion such as this and told me to debate it in the Seanad, I would call on my leader to have him sacked instantly. The motion comprises six or seven elements and I will comment on each of these presently. It reads like a litany of moans

to an agony aunt and concludes by peremptorily calling for her execution.

Mr. U. Burke: Will Senator Fitzgerald be the hangman?

Mr. Fitzgerald: When I read it first it took me back to a time in my youth when I witnessed a frustrated farmer going out with a scatter-gun to shoot the crows eating his corn. He fired at everything in sight but hit nothing. That sums up what Senator Burke is afflicted with tonight and what his spin doctors have foisted on him. The scatter-gun approach he has taken in this Chamber this evening does no service to a debate on the many serious issues in education that need to be debated.

Mr. U. Burke: On a point of order, the amendment has nine scattered issues.

Mr. Fitzgerald: With his professional background and his expertise in education it must be a major embarrassment for him to be sent in here in this manner. I sympathise with him in that regard as I do with Senator Browne, who seconded the motion.

I acknowledge that each of the areas listed in the Senator's motion is an important area in its own right. The Minister of State will concur with that view when he replies to the debate; if the Minister were here she would concur with it also. Each of those issues is part of the holistic approach to providing a top quality service in education and would merit a debate in its own right, irrespective of the sweeping assertions made in the motion before the House. However, lumping together all these serious issues in a motion on which we will have a two hour debate smacks of crude political opportunism. I would go so far as to suggest it reflects a party mindset unsure of itself. There is no clear education policy from Fine Gael. Such a policy should have been handed to Senator Burke to debate in this Chamber. Within two months of a general election all we get is this motion. I am not impressed. If the truth were known, Senator Burke is not impressed with having that foisted on him. Fine Gael appears to have decided that if it cannot make a strike with the first shot, it will keep slinging the mud because some of it is bound to stick.

The Minister and the Minister of State against whom this hotchpotch motion is directed can be justifiably proud of their record of achievement in education. In both their cases, they have been *in situ* for a very short time, the Minister of State, Deputy Haughey, being *in situ* only in recent weeks.

Mr. U. Burke: When she came into the House the Minister said it was aspirational to have reduced class sizes. They have got worse in some cases.

Mr. Fitzgerald: I have no doubt his achievements will be equally spectacular to those of the Minister.

It must be said those achievements have been publicly acknowledged by all partners in education. I remember the comments made in recent years by partners in education at all levels of education and I challenge anybody to contradict me—

Mr. U. Burke: A few of the partners are opting out.

Mr. Fitzgerald: —on that and produce quotes in that regard.

Despite the fact that I am extremely disappointed with the way the motion is structured and its obvious intent, I will comment briefly on each of the items in so far as time will allow me do so.

On the school buildings and maintenance programme, Senators Burke and Browne referred to the long delays that can take place in the building of a school. We are all aware of the devolved grant scheme. This debate on how to break the logjam has been going on for many years under successive Governments. The devolved grant scheme is one initiative—

Mr. U. Burke: That is the problem. The Government does not know how to break through the logjam.

Mr. Fitzgerald: —I understand is working successfully in entrusting to local boards of management much of the initiative in regard to fast-tracking development. I will leave it to the Minister of State to expand on that if he has the opportunity.

On the issue of school building and school maintenance in general, one set of figures alone tells a major story. This year the Minister and the Minister of State have secured €540 million for school buildings, which is by far the largest allocation for school building in the history of the State. To give a gentle reminder to my colleagues opposite, that compares to €90 million when they were last in Government.

Mr. O'Toole: The Senator did well to remember that.

Mr. Fitzgerald: That is a multiple of six.

Mr. U. Burke: I think 1997 is stuck in the Senator's brain. He cannot get beyond that.

Acting Chairman: The Senator, without interruption.

Mr. Fitzgerald: I realise the truth hurts and memories can fade but I will jog the Senators' memories on that. The Minister and the Minister of State will have 1,500 projects under way this year ranging from very small works to new roofs, windows, large extensions and new schools. They

will seek further funding next year and the year after and, given their record, I have no doubt they will succeed in securing it.

A related area is the day to day funding allocated to schools, which is important for the day to day and week to week operation of schools. The Minister and Minister of State secured the largest ever increase in the capitation grant of €18 per pupil.

Mr. U. Burke: It is a pity they did not deal with the issue of class size.

Mr. Fitzgerald: I am only starting; we will have another day to debate this issue. That increase brought the primary capitation grant to more than €163 per pupil. I have another reminder for my colleagues opposite.

Mr. U. Burke: Every principal must fund-raise to keep his or her school operating.

Mr. Fitzgerald: Rather than the grant being €163 per pupil, it was €57 per pupil when the parties opposite were last in office.

I want to speak in detail on educational disadvantage, students with special needs and class sizes because the Senators opposite misrepresented the position. I challenge any speaker in the House or any person outside it—

Mr. U. Burke: The Senator will have to go to his constituency and meet the people on the doorsteps.

Mr. Fitzgerald: —professional teacher or parent, to state in public that the Government was wrong to give priority to the areas of special needs and educational disadvantage. I challenge any teacher, professor, parent or politician to have the courage of their convictions and say the Government was wrong to prioritise the areas of special needs and disadvantage, which is what we did from 2002 onwards.

Mr. U. Burke: The Government was forced to do it through legislation.

Mr. Fitzgerald: That priority was right. The Government made the right decision. That is what is at the core of this issue. I commend the amendment to the House.

Debate adjourned.

Visit of Lithuanian Delegation.

Acting Chairman: Before calling the next speaker I am sure Members of the House will wish to join with me in welcoming the Lithuanian minister for education and science, Ms Roma Zakaitiene. On my own behalf and on behalf of all my colleagues in Seanad Éireann, I extend a very warm welcome to you and sincere good wishes for a very successful visit here.

Education System: Motion (Resumed).

The following motion was moved today by Senator Ulick Burke:

“That Seanad Éireann, noting that:

- the physical condition of many schools is poor, yet the delivery of new classrooms and buildings proceeds at a snail’s pace;
- 30% of children from disadvantaged backgrounds have serious reading problems, three times the national average;
- 110,000 primary schoolchildren are in classes of 30 or more, with 10,000 of these children in classes of 35 and up, despite programme for Government promises now five years old;
- early school leaving remains unacceptably high with up to 60% of young people leaving before leaving certificate in some areas, yet many schools are not served by the National Education Welfare Board, NEWB;
- one in five school computers is more than six years old, with more than 5,000 computers being beyond repair or use; and
- 50% of primary schools still have no access to the National Educational Psychological Service, NEPS, a vital service for children with special educational needs, even though this service was established in 1999;
- believes that this Government has failed children and young people, and that a change in leadership at the Department of Education and Science is long overdue.”

Debate resumed on amendment No. 1:

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

“Seanad Éireann

- commends the Government on hiring 4,000 more primary teachers since 2002 and 7,000 since 1997;
- notes that last year there were 80,000 fewer primary schoolchildren in classes of 30 or more than in 1997, while the number of children in classes of 35 or more was just one fifth of the 1997 level;
- supports the priority given in recent years to providing vastly improved services for children with special needs and those from disadvantaged areas;
- appreciates that another 800 primary teachers will be hired next September, with the focus on reducing class sizes;

- welcomes the extra supports being provided for children in disadvantaged areas under the DEIS action plan, with a particular emphasis on early intervention in literacy and numeracy;
- recognises that with the measures put in place to promote school completion and increase access to second chance education, 86% of Irish 20 to 24 year olds now have upper second level education or equivalent, way ahead of the EU average of 78%;
- welcomes the extra staff being provided for the NEWB and NEPS in 2007, 2008 and 2009;
- commends the Government on the unprecedented level of investment in school buildings in recent years which has benefited thousands of schools;
- further commends the provision of €4.5 billion for the school building and modernisation programme under the National Development Programme 2007-2013; and
- welcomes the more than €250 million being provided for schools’ ICT under the NDP, which will be supported by a comprehensive new ICT strategy.”

Mr. O’Toole: I notice that the amendment bears no relation to the motion. It does not deal with the issues raised in the motion of class sizes and the others which I will list.

Mr. Fitzgerald: The Senator should answer my question.

Mr. O’Toole: I would like to share two minutes of my time with Senator Quinn.

Acting Chairman: Is that agreed? Agreed.

Mr. O’Toole: I welcome the Minister of State, Deputy Haughey, back to the House from where he started. I look forward with great interest to what he has to offer us. We hope it will be positive, productive, creative and satisfying, which I am sure will be the case.

I welcome the debate on the issues raised by Senator Ulick Burke. They are crucial. I am disappointed that my colleague and old friend, Senator Fitzgerald, refused to deal with the issues raised. They include the fact that 110,000 primary school children are in classes of 30 or more pupils and the other issues specifically outlined. The problem with the amendment to the motion is that it does not deal with any of those issues. I do not have a difficulty with many of the issues outlined in the amendment were that the case. If the Government dealt with all the issues presented, I could support many aspects of the amendment.

[Mr. O'Toole.]

I commend some of the issues mentioned in the amendment. However, I met two principal teachers last night — I can give the Minister the names of the two schools of which they are the principals, and they are Fianna Fáil schools——

Mr. Haughey: Is there such a thing?

Mr. O'Toole: ——who told me that this week they lost their access to the educational psychological service. That is a reality.

There is no reference in the amendment to the recent report from the National Council for Special Education, which outlined the way the Education for Persons with Special Educational Needs Act was to be implemented. I intend to refer regularly to that aspect in my contribution. That report gave a time-line set of objectives for the implementation of that Act. The report was given to the Minister three months ago. Implementation of the Act requires a great deal of money but that is not happening.

The issue for me is class size. I ask my colleagues to accept this point. Trying to deal with class sizes of more than 30 for those 110,000 pupils is an undermining of the curriculum. It cannot be done. I am not trying to gild it and I know that the Senators opposite will not disagree with this point. On average 10%, 3 pupils, would have a learning difficulty and would need some form of remediation. Perhaps two would have some form of special need. More than likely the class would have one or two newcomers. The focus of the Department of Education and Science at the moment is to ensure that as far as possible children with special needs are educated in those classes also. That is impossible and it is why the excessively large classes do not work. We all supported the inclusion proposal when discussing the Education for Persons with Special Educational Needs Act. However, it cannot work in classes of that size, which is why we need a maximum class size.

When we last discussed education here Senator Minihan made substantial and important points about teacher efficiency. He made the point that teachers who are not efficient in their job should be found out, on which I support him. Children only get one chance and they deserve the best, which is why they also deserve not to be in classes of 30 or more. Large classes damage all children in the system and not just the ones I mentioned.

My problem with the Government amendment is that it reflects emotional blackmail. The Minister is claiming that although the Government was going to do one thing, it is now doing something else instead. It was going to reduce class sizes but it has decided to look after children with special needs and disadvantage instead. This is at the same time as the same Minister has told us all — and was cheered to the echo for doing so — that there would be additional supports for special education and disadvantage which we all

welcomed. Nobody knew at that point that a solemn commitment and promise given to reduce class sizes as outlined in the programme for Government would now be ignored, which is causing chaos.

While I am not sure about Senator Minihan, Senators Fitzgerald and Ormonde will certainly recall back as far as 1987 when Fianna Fáil returned to Government and owing to a huge problem with money it increased class sizes at the time. It approached the education partners but there was war. At the end we all sat down and came to a conclusion. For the past 20 years solemn agreements have been hammered out with school managements, teachers, education partners and the Department of Education and Science every year. It has rarely been satisfactory for anybody. I have negotiated most of it myself.

I was rarely happy leaving those negotiations but we stuck by our agreements. It used to stick in my craw every week to hear questions in the other House being asked as to why an additional teacher could not be sent to a particular school. The reply always stated that because of an agreement with the INTO, the extra teacher could not be sanctioned. We got blamed every time and I needed to defend it for 20 years. I do not take lightly that a solemn agreement entered into has been unilaterally broken. It is a breach of trust and confidence that is utterly unacceptable.

As I said last week it was cheap and nasty to try to deflect attention from this debate by referring to the quality of those leaving teacher-training colleges, some of whom never got to become teachers anyway. I made my points on that subject last week. I am uncomfortable with the final point in the Fine Gael motion that “a change in leadership at the Department of Education and Science is long overdue”. I have considerable confidence in the people running the Department of Education and Science and they are not here to defend themselves. I do not know whether that was the point Senator Ulick Burke intended and I can talk to him about it at some stage.

The other significant and serious points need to be addressed and should have been addressed by the other side in the course of the debate. Considerable work remains to be done in primary education. A survey during the week showed that most schools have inadequate access to physical education, which is a problem. The percentage of schools on the west coast is appalling.

Mr. Quinn: I thank Senator O'Toole for sharing time. I congratulate Fine Gael on tabling the motion on a very worthy topic. I cannot support the motion for precisely the reason Senator O'Toole outlined. I believe that the Minister should not go. I understand from those working in education that there is a hope that she will stay and will not be promoted after the general election. I believe she is probably the best Minister for Education and Science we have had for a long

time. As I believe she should stay, I will not support the motion.

However, I agree with the long list of actions not being taken as outlined in the motion. We have a long way to go to get so many other things done. The concentration on special needs must place heavy emphasis on intellectual disability. Today I attended a launch by the National Institute of Intellectual Disability, which covers intellectual disability at all levels, including primary, secondary and now an institute in Trinity College. It is a joy to see the achievements of people who never had the chance to be educated at that level because of their intellectual disability.

Yesterday saw the publication of the latest report from the expert group on future skills need. In spite of the extra funding mentioned by Senator Fitzgerald, there is no way that we will get anywhere near the requirements by 2020. Taking a long-term approach the Minister has considerably more to do. We are seriously under-investing in our education system. In spite of the increase in recent times, the Minister needs to convince her Cabinet colleagues that we need to invest considerably more. We must take a long-term view. The responsibility is on us, the legislators, and on the present Government to look to the future. Given the predicted skill shortage by 2020 in spite of the considerable investments, we need to do more otherwise all the work the Minister has been doing and for which she deserves credit will be lost.

Mr. Minihan: I join previous speakers in welcoming the Minister of State, Deputy Haughey. As this is my first opportunity to do so, I wish him well.

I am conscious of what a number of previous speakers have said regarding the framing of the motion. Senator Fitzgerald summed up many of the points I would like to make. I will not support the motion for many of the reasons outlined by the previous two speakers. I felt that the final part of the motion was uncalled for and took away from the spirit of the motion. We have called for debates on education in this House a number of times recently. We had a debate last week on teacher training. The Government amendment is factual and we can stand over it. While it may not be the record the Opposition wants to hear, it is our record.

However, some points raised by the Opposition are worthy of consideration. In all the debates we have in this House I am concerned that we do not get one meaningful proposal or constructive idea from the Opposition. The Opposition is living in hope that some day it may have a responsibility. As of now, everything the Government is doing is wrong but the Opposition does not know what it would do if it were in office. I would be much more interested if I heard its proposals. What does it propose to do? Governments make decisions and they prioritise.

Mr. U. Burke: They make promises and renege.

Mr. Minihan: We can go through some of the points made and debate them. I would like to speak about some of the points raised. Nobody would disagree with the Government in regard to its strategic decision *vis-à-vis* investing in special needs and disadvantage. Nobody would disagree with how our society has changed so dramatically in the past ten years with the multicultural society and the strains that puts on our educational system. Those challenges had to be met and responded to.

Senator O'Toole raised the issue of the pupil-teacher ratio. We must address this issue. As Senator Quinn said, we need substantial investment in education and a major increase in the budget allocation for education. We need a front-loaded major adjustment in Government spending to cater for our educational needs. It is not good enough to speak about a knowledge-based economy and a well educated workforce unless the resources are put in place locally. Having addressed the changes in society and the integration of special needs in recent years, the time is ripe for that to be done. I welcome the commitments given in the national development plan but I would like more front-line investment in the annual budget.

With regard to the pupil-teacher ratio, we can argue figures upside down and inside out. However, we must also be conscious of the changing structures in schools where non-teaching principals and language resource teachers are included in the numbers. The time has come for us to look at the actual teacher in the classroom with the actual class, assisted by the other professionals who are in a supportive role. We must be real about how we do that. I welcome the appointment of 800 new teachers in September, 500 of whom will be for mainstream classes and 300 for language tuition and so on.

I wish to raise the issue of special needs education. The reason I raise this is because I have called for a debate on the area of special needs education and I am not sure if there will be time for that debate. Therefore, I will piggyback on the Fine Gael motion and use my time to address the points I would like to address in the debate.

I fully acknowledge and support the work we have done but I have genuine concerns. These arise having looked at the issue internationally and the methodology used in other countries. Are we doing it right? I do not want to come back in 20 years' time and say we got it wrong. One of the problems in this area — one has to be careful how one says this — is that the special education we give to children with special needs must be focused on the best interests of the child, not necessarily on what the parents want. That is a politically dangerous statement to make but in some cases I fear parents are so concerned with having their children in mainstream schooling

[Mr. Minihan.]

that it may not necessarily be in the best interests of the child. Whatever assessment process is put in place, and I am not playing politics here, we must ensure that what is suitable for the child is in the child's interest.

In that regard I am concerned about the international research on which the Department bases its approach to special needs. We have the inclusion and eclectic intervention approach. I am genuinely concerned about that because in the US, Canada and the UK there is a move away from that type of intervention and yet we are staying with that system.

We began to address the special needs area 20 years behind the international norm. That norm has moved on but we seem to be starting where they were 20 years ago. In regard to children with autism or those on the autistic spectrum disorder, there are 12 applied behavioural analysis, ABA, pilot projects ongoing for the past seven years. How long is a project a pilot project? When does it become a permanent project? My understanding of any pilot project in anything is that there would be a timeframe and an evaluation, at the end of which one would decide whether to progress with it, abandon it or adjust it. I would like to know from the Department of Education and Science when we will see an evaluation of those pilot projects. Some 12 applications have been made for further ABA initiatives but they are not being considered. I want to know why they are not being considered.

The Department has said that the model it is using is the correct one but on what research is it based? What comparatives in Europe are on the international stage? I do not condemn in any way the approach we have had to special needs. All I am saying is that we should look at international surveys, evaluations and expertise and get it right. We have a golden opportunity so let us not go down a road only for us to have to reverse back in 20 years' time.

Dr. Henry: I welcome the Minister of State to the House. Like Senator Quinn, while I support much of what is contained in the motion, the Minister for Education and Science has done an incredible amount of work. There are great failings within the education system but the Government amendment claims that progress has been made and I applaud the Minister for that. The issues the motion addresses are worthy and another ten could have been added without asking for the removal of the Minister for Education and Science.

The physical condition of some of our schools appears to be extraordinarily bad. Despite the fact that so much money has been spent on them, there are reports and photographs of buildings which I have found unbelievable. There is another issue that I find unbelievable as well, namely, that in this day and age, we are still talking about the lack of facilities for physical edu-

cation in schools in deprived areas. A former Senator, Thérèse Ridge, used to speak about a school in her area of west Dublin area which had been built for 20 years and yet had not got a sports hall. That the position is the same today is depressing. No progress is being made in this area. We have seen reports of how little physical education is done in our schools. It is not as if our children do not enjoy and want it. The facilities must be made available for the children and teachers. Thanks to global warming, there has been an improvement in the weather. At least we are not walking through snow and slush. There is a need for proper indoor facilities.

The issue of reading is serious. I read a survey which showed that children from disadvantaged homes fell badly behind in the age at which they were reading properly, if at all. One 6 o'clock part of the survey which struck me forcefully referred to the reading skills of children in houses where there were ten or less books. I looked at the coffee table in front of me and there were more than ten books on it. There are children who come from homes where there is a serious lack of concern about reading. One passes by bookshops all the time which have special offers and sell paperbacks very cheaply. Obviously, many children come from homes where there is no great emphasis on reading.

We are still talking about class sizes. I know they have been reduced somewhat, but one would have thought that by now, we could have reduced them to more manageable levels. I know all about full-time principals and additional help within the classroom, but very few countries have class sizes as large as we have.

In respect of the early school leaving age, one thing that is constantly brought to my attention is the lack of remedial help, especially for boys going from primary to secondary school. Many of them lose heart at that stage. If they have been behind in primary school and are still behind once they go into secondary school, they feel they are big men who are not going to put up with this. It is very important that they get assistance at this level because it appears that if they do badly in first year at secondary level, it is very likely that some of them will drop out very shortly afterwards. Assistance at this level is badly needed so that boys in particular are encouraged to remain in education.

The computer situation is ridiculous. If there are that many computers beyond repair or use, one wonders why they were there at all.

The last point made in the motion is one that concerns me most. This relates to the lack of access to psychological services. This is not just a vital need for children with special educational needs. It can be a vital need for children with special social needs. Like Senator Minihan, I wonder when a pilot project stops. We have seen surveys which show that psychological assessment and help delivered as early as possible make a huge difference to the progress made by the child.

At first, I thought primary schools could have two psychological assessments per class. I was then told it was two assessments per year. I would be delighted if the Minister can correct me on that, but this is what I have been informed. That is ridiculous. There is no way one could function with that sort of thing. The children who need assessment should get it. It is terrible to discover that the Society of Saint Vincent de Paul pays for psychological assessments for children who are badly in need of them.

I look at the situation of children who come before the courts. If they had been given psychological assessments in the educational system, would we be looking at them before the courts and trying to get psychological assessments for them then? At one stage, I was told that there were no psychologists available to take up additional posts and that this was why greater emphasis was not placed on psychological assessments within the education system. I investigated that and found there was a panel of people waiting to get jobs in the National Educational Psychological Service. Something really odd is going on there. Parents, teachers and child psychiatrists have complained to me about this issue.

One of the worst cases involved a woman who told me she worked in the section of the Courts Service dealing with psychological assessments for children but gave it up some years ago because she found it too distressing to talk to children who, if they talked openly and freely to her about all their problems, thought something would happen when, in fact, nothing happened. This issue is really serious and if we address it, we might not have quite so much discussion about the need for anti-social behaviour orders for children. I am quite sure it would be picked up and they would not find that the educational system fails them.

Earlier today, I mentioned the fact that the Stay Safe programme is not available in 25% of primary schools, which is ridiculous. I do not know when this is going to change.

Senator Minihan discussed autism and attention deficit disorder, which are serious disorders for children. However, one thing we never address is the question of whether families in whom autism is present should be offered genetic counselling. There is the possibility that autism may be genetic in some families. People deserve to be told if this is the situation.

I can see numerous things that should be done to improve the situation in our school service but, as I said previously, I do not know if the removal of the Minister for Education and Science is the most important one.

Ms Ormonde: I welcome the Minister of State to the Seanad and second the Government's amendment. When I read the motion, I thought we were dismantling everything in terms of looking at what the Government has tried to do, acknowledging the progress that has been made

and accepting that much more needs to be done. We cannot do it overnight. As least, we should, as an old line in a book puts it, "praise the ford as you pass it". A considerable amount of work has been done, a considerable amount of commitment has been given and progress has been made.

The motion is a complete dismantling of everything achieved since 1997. It seems to say that nothing has happened since then and that we are a disaster and a failure. Nobody is coming forward to tell us—

Mr. U. Burke: I am delighted the Senator is saying it.

Ms Ormonde: The Opposition is saying this. It has not said anything and has been negative rather than positive about everything, which disturbs me.

Mr. U. Burke: The Senator was not listening.

Ms Ormonde: I listened very carefully to the Opposition. I will discuss three areas which I know best, namely, school building, class sizes and special needs and disadvantage. It was said that the Department has thrown all the responsibility onto boards of management by giving them the allocations, expecting them to get on with it and that this is the way forward. I was a member of a board of management and witnessed situations where a school needed to be extended and where new classrooms and a sports centre were needed. We received such support from the Department in respect of the architect and the building control section and any co-operation that was necessary was given to us the moment the request was made. The line that has come from the opposite side of the House in this debate has been negative. I believe it is the way forward. We should move it to the board of management, which knows the area and the builders in it and can get a local architect to co-operate with the school building programme within the Department. There is no difficulty with that and I welcome it.

The Government has committed more than €540 million for school buildings this year. When one compares this with more than £90 million in 1997, one can see that this is progress. We may not have a 100% success story, but we are moving in that direction. A total of 1,500 projects will be undertaken this year. These projects range from new roofs to windows to large extensions to new schools in some cases. This is a commitment. This is a fact and I like to talk about facts. This is the reality stated by the Minister and I welcome this progress. There is nobody better than the present Minister when it comes to understanding the world of education, given that she has been there herself and understands how it operates inside and outside the building. The Minister is doing her best at this given time. I could not believe that the motion stated that a change in the leader-

[Ms Ormonde.]

ship at the Department of Education and Science is long overdue. That type of thinking is below the belt.

Mr. J. Phelan: I think the report card would say: "Can do better."

Ms Ormonde: I wish to put a few statistics about class sizes on record. In 1997, the average class size was 27 while the average class size is now 24. I would like it to see it reduced to 15. The aim is to reduce it to 20.

Mr. U. Burke: That is only aspirational. The Minister said it. The Senator should quote the Minister.

Ms Ormonde: It does not matter where it is from.

Mr. Fitzgerald: What about disadvantaged areas and class sizes of between 15 and 20?

Ms Ormonde: That is a statement.

Mr. Fitzgerald: The Opposition did not acknowledge that.

Ms Ormonde: It should be acknowledged that there are 4,000 more teachers than in 2002. That is progress and it cannot be denied.

The majority of the extra teachers hired in recent years have been targeted rightly at providing extra support for children with special needs, those from disadvantaged areas and those who need help with English. This is the way forward. That is my interpretation of how class size is being addressed. I hope the Minister will move to reduce class sizes because, ideally, the pupil-teacher ratio should come down further. Nobody would dispute that. That said, teachers are very professional and can do a superb job in the classroom. Whether they have 24 or 26 pupils, the majority of teachers are well able to carry the load and are very good at doing it.

Special needs is an area with which I am very familiar. There are more than 5,000 teachers at primary level dealing directly with children with special needs compared with 1,500 in 1998. We also have 8,200 special needs assistants compared with 300 in 1998. The sum of €50 million has been invested in school transport for pupils with special needs. There are 7,000 special resource teachers who can be accessed by those who need special attention in schools.

I welcome the establishment of the National Educational Welfare Board. It must deal with children who have strayed from the educational pathway at some level. It was set up to work with schools and monitor children at risk. Breakfast mornings have been set up for those who are very much at risk and cannot get to school for whatever reason, especially in disadvantaged areas. Much work remains to be done.

I would like to see more emphasis on early intervention, especially at primary level. It is a benefit if problems are picked up when children are four, five or six. If the National Educational Welfare Board, the home-school-community liaison team, schools and educational psychologists can help children at an early stage, there will be less need for resource teachers at second level and more opportunities for those who are disadvantaged.

A great deal of progress has been made. I am delighted the Minister of State, Deputy Haughey, is present to hear what we have to say. I accept more needs to be done but it cannot be done overnight. The Minister's heart is in the right place. I have great confidence she will get it right.

Mr. U. Burke: Senator Minihan has doubts about that.

Mr. B. Hayes: I welcome the Minister of State, Deputy Haughey. He has been in the House on a number of occasions in recent months.

I pay tribute to our spokesperson on education, Senator Ulick Burke, for tabling this motion on behalf of the Fine Gael group so we can debate the matter at least, for his consistency on all issues concerning education and for being such a strong advocate for children and the education system which we all have a responsibility to cherish and nurture.

It is great to return to primary school and see children start school. In my case, my eldest son, who is five years old, started school last September. We now have smaller classes than we had some years ago or even when I was in school. We have better buildings and many advances have been made by successive Governments in the past 15 to 20 years. That must be acknowledged on all sides.

The reality is we have not done enough to root out educational disadvantage which is the major impediment against which many children must work. My five year old son is in a class of 20. That is a fantastic start for any five year old. The problem is next year he will be in a class of 30. One invariably takes a greater interest in these matters when one's children are in that situation. Schools should not be forced to carve up resources such as pupil-teacher ratios as a means of trying to present an opportunity for one year to a child at that age.

I issue a warning to all political parties not to make ridiculous promises they cannot keep the other side of a general election. One of the problems with which the Minister for Education and Science is currently faced is one of her own making, namely, that she promised to deliver class sizes of 20 and under for children aged under nine. She now claims that is aspirational but originally it was a promise. The reason she looks foolish is she made a promise she could not keep. The advice for all political parties is not to follow what the Minister, Deputy Hanafin, and Fianna Fáil

have done. We should be honest and realistic about what we want to achieve as a society. There is no point in making promises that are not achievable either in the short term or the medium term. We must keep this at the forefront of our minds as we approach the general election.

New communities are a significant issue in my area. In recent years, 2,000 or 3,000 new homes often have been built in areas in a short period. We find that virtually no planning has taken place between developers and the local authority or the Department of Education and Science to provide for the educational needs of children living in these areas. This is leading to an increase in commuting times and to traffic gridlock because, invariably, parents in these new estates have to bus their children out on a daily basis as a means of accessing educational opportunities.

I wish to make a proposal to the House and to the Government concerning the current social housing provisions whereby 15% or 20% of land must be used for social and affordable housing. It is entirely appropriate that those who have gained so much, either through land speculation or the building of houses in new suburban Ireland, would be asked to contribute funds towards the establishment of those new schools. In Adamstown in west Dublin, we have an example that should be replicated in other parts of the country. The primary school and the secondary school there are an integral part of the planning process. It is a condition of the masterplan that after 1,500 houses are built, the school is built by the developer. That is the way to go.

Mr. Ryan: Hear, hear.

Mr. B. Hayes: If we are serious about delivering new, quality schools, we must stitch it into planning applications because it will not happen if —

Ms Ormonde: South Dublin County Council is doing it.

Mr. B. Hayes: Yes, but it will not happen if it is left to the Department of Education and Science.

Ms Ormonde: That is part of the development plan.

Mr. B. Hayes: That is the way to proceed in terms of developing schools.

Ms Ormonde: It is in place.

Mr. B. Hayes: That is the point I am making. I am suggesting it should be extended to other areas. The reason it has happened in Adamstown is due to the integrated area action plan which has been designated by the Government but it should be replicated in every other part of the country to ensure we have schools built on time. The school building programme is important.

I raised another issue last week in the House that is a real scandal, namely, the failure on the part of the Health Service Executive, HSE, to employ speech and language therapists and other therapists in the Dublin area. We have 25 unfilled posts in Dublin. The money has been provided for them but we cannot find people to fill them to help children in schools and hospitals in other parts of the city of Dublin. I put forward a suggestion last week, and I ask the Government to consider it, that a new junior post would be established for young graduates, 100 of whom are coming from four colleges throughout the country this year, and that those posts should be ring-fenced for those graduates. This would mean that we could establish at least that new posts ready to be filled would be taken on.

St. Joseph's School, a special school in the constituency in which I live, and Coláiste Eoin were allocated a half post between them or a quarter post each on the basis of one week on, one week off. In April 2006, the therapist resigned and the Health Service Executive, HSE, advertised for a replacement in December. No one has been appointed yet because of bureaucracy.

My third proposal is that the Department of Education and Science directly employs speech and language therapists in the schools. There is a mismatch between the HSE, responsible for filling the posts, and the Department of Education and Science which allows the HSE to make these decisions. These are specialist schools, not mainstream schools, where all children have mild intellectual disabilities and require help with speech and language training. The Department of Education and Science could not fill a quarter post. It remained dormant for a year. Why can the Department of Education and Science, with a constitutional obligation to the children in those schools, not effect the appointment of a quarter post to each of those schools in Dublin South-West? It is a scandal and the solution is for the Department of Education and Science to take responsibility for speech and language training within our school system rather than delegating it to the HSE which is not capable of producing the solutions teachers want to see.

We expect far too much from our education system. I admire the young dedicated Irish teachers at primary and secondary level. They do fantastic work but the Oireachtas continually sets them new tasks and asks them to take responsibility for matters that are outside the remit of education. The Oireachtas must get real and ask teachers to teach. That is their function, not to be social workers or take on the burdens of modern society. They need resources and the goodwill that exists toward the education system, especially primary education.

Dr. Mansergh: I welcome the considered tone of Senator Hayes's remarks because the motion is very partisan.

Mr. Ryan: What a dreadful thing to do six weeks before a general election.

Dr. Mansergh: This Chamber is meant to be reflective as well as political.

Mr. Ryan: Only when it suits Senator Mansergh.

Mr. U. Burke: It only goes back to 1997.

Dr. Mansergh: I hate to think we would degenerate into partisan slinging at one another. There will be some of that all the time.

Mr. Ryan: I was in the House when Fianna Fáil was in Opposition.

Dr. Mansergh: I have made my point which is a perfectly legitimate one. A great deal of progress has been made and we are fortunate to have the current Minister for Education and Science. She ranks equal with the Leader as the best Minister with responsibility for education in the past 20 years. When she is opening a new school, one can see how well she relates to children, parents and teachers. The first item of the motion refers to new classrooms and buildings. There is a tremendous number of projects under way.

Mr. U. Burke: After 20 years waiting.

Dr. Mansergh: I take pleasure in the new gael-scoil in Tipperary town, the new gael-scoil in Annacarthy, the new school in Ballyporeen and the extension at Grange. The chairman of the board there is Mr. Liam Ahearn, the brother of the late, lamented Mrs. Theresa Ahearn.

Mr. J. Phelan: He is her husband, not her brother.

Dr. Mansergh: The level of spending on building and improvement is far beyond what was possible in the past. There is much more to do, at least as much in the next five years as there was in the past five, and we are aware of many things that need to be done.

One political point of debate, with the unions as much as the Opposition, is whether emphasis should be placed on reducing the pupil-teacher ratio or tackling disadvantage and special needs. The Minister has correctly chosen to provide funding for resource teachers and special needs teachers. Not enough has been done yet. A resource teacher looking after three children reduces the pupil-teacher ratio in that class for the time involved. It removes some of the burden. I would like to see the general ratio reduced. One may find small classes co-existing with large classes. We must provide teachers to even this out as well as to cater for our growing population.

During the 2002 election campaign it was not clear where the demographic of the country was going.

Mr. U. Burke: It has not become much clearer since.

Dr. Mansergh: A teacher told me she wished the Government would impose natural family planning because she needed to fill her junior infants class. She would have no trouble filling the class today. I quoted the European social survey, a good external reality check, on the Order of Business and will quote from it again now. It is a comparative benchmark of facilities in the local area, giving the percentage that find the facilities satisfactory by country.

Mr. U. Burke: Nil.

Dr. Mansergh: Ireland comes high on the list, sixth out of 27, with 78% finding facilities satisfactory. Cyprus, Belgium, Finland are higher but the majority of countries are lower. The UK, our nearest neighbour, is at 62%, suggesting that we are not doing everything wrong. One of the good aspects of the Irish education system is that we pay our teachers a decent wage and give them social respect. It is not regarded as a downbeat, dead end job. Everybody recognises the social value of education.

I agree with Senator Hayes that while all parties need to be ambitious for education in terms of setting targets for the next five years, we should not make unrealistic promises. That only leads to disappointment. There should be a greater emphasis on physical education facilities. Children need and deserve them. Schools in rural areas will often have access to a field around the school in which children can play. However, we have not given enough attention to this issue. It has sometimes fallen between the two stools of the Department of Education and Science and the Department of Arts, Sport and Tourism. The Department of Education and Science should take responsibility for it, but in liaison with another Department. There is nothing wrong with Departments liaising.

Sometimes good school facilities, especially in small villages, can serve the community and there are cases where good community facilities can serve neighbouring schools. There is the example of a school in Clerihan, four miles outside Clonmel. The school is building a sports hall because the parents believe it is necessary. It is a new town that is growing exponentially. The parents are providing the sports hall from their own resources. They are not applying for Government aid because they know they will not get it.

I welcome this debate. It is always important to debate education.

Mr. Ryan: Cuirim fáilte speisialta roimh an Aire Stáit atá sa suíochán sin den chéad uair. The Minister of State, Deputy Haughey, is welcome. It is the first time I have seen him in that seat.

Whenever we discuss education we should first acknowledge how fortunate we are in the quality of our teachers. Many of the populist phone-in shows focus on bad teachers. Of course, no profession is without problems and perhaps the process for dealing with a bad teacher is extremely cumbersome. However, the majority of teachers are superb.

It is well known that old fellows, including myself, will, if let, moan about the younger generation. In fact, all older teachers I have spoken to, especially in the primary sector, have nothing but praise for the quality of young new national teachers. It is an astonishing reversal of the usual practice whereby older people tend to complain that the young people are not interested. The enthusiasm of new teachers in schools of various sizes to do new things, change things and broaden their teaching is wonderful.

Another issue is the impression that is given that our schools work for a small number of hours and weeks. One of today's newspapers — I cannot remember whether it was the *Irish Examiner* or *The Irish Times* — carried an interview with a 17 year old German girl, who is spending a year in Castleisland, County Kerry. She was asked what was different about Ireland. She said that the length of the school day was striking. We have all heard about the hard-working Germans but she said that in Germany, she went to school at 8 a.m. but finished at 12.30 p.m. The 9 a.m. to 4 p.m. school day was a real shock for her. Let us not do silly sums about the school year and utter silly talk about teachers' holidays. The evidence is that, overall, the number of hours an Irish teacher spends in contact with a pupil is among the highest in the developed world. Perhaps the school day is too long or the academic day should be shorter with more time allocated for sport and so forth.

The real issue before us is whether significantly more could have been achieved in the last ten years. Undoubtedly, the answer is "Yes". I do not dispute that a great deal is being done now. However, according to the Minister's figures, in 1997, there were 190,000 pupils in classes of more than 30; now the number is 110,000. That is a reduction but given that, as the Taoiseach said, this country achieved a level of economic growth in ten years that most countries barely managed in 30, it would have been a reasonable aspiration effectively to have got rid of that problem. It is disappointing, to put it mildly, that it still exists.

The same applies in other areas. Sometimes economists get into a tizzy about the fact that public expenditure will drive up prices. There is a limitless world supply of information technology equipment of declining price. One in five school computers, or 20%, is more than six years old. In computer terms that means they are probably using not XP or Windows 2000 but Windows 98 which cannot use half the software schoolchildren should be using. There is no reason for every computer in every primary school not being

replaced, as a matter of budgetary planning, every two or three years. However, there is an unwillingness to make that financial commitment on a continuing basis. Schools should be able routinely to replace their computers every three years. It should be built into the funding of the schools and it is extraordinary that it is not.

What proportion of our primary schools still do not have access to broadband? Access to broadband is essential to make serious use of information and communications technology in a school. It is ridiculously expensive and painfully slow, if not impossible, to use them otherwise with a group of pupils.

There should not be any bad quality classrooms or school buildings in the primary school system. As soon as money became available, there should have been an aspiration to get rid of all the poor quality buildings. However, a bigger problem is arising with regard to planning. Senator Brian Hayes referred to it and it is troubling. Adamstown is the single spectacular exception and I accept that in South Dublin County Council, similar plans are being made.

Throughout the country villages on the periphery of middle-sized towns are expanding dramatically. There are huge housing estates and despite what some people in these villages think, I believe that is a great sign. Small communities are coming alive. However, there is no sign that anybody in the Department of Education and Science is planning for the inevitable fact that if 500 houses are built in, for example, Watergrasshill, within four or five years between 500 and 1,000 children will be born there. There is a certain inevitability to that which does not require elaboration.

If houses are being built, the obvious conclusion is that more or larger schools will be required. However, every September crises of such a scale arise that they are featured in the newspapers. Other crises of a smaller scale result in extra prefabs or rooms being added to schools. That is the problem with planning. I considered, more in jest than otherwise, complaining to the Advertising Standards Authority during the last census campaign. We were told that the census data were needed so we could plan for the needs of children in the future. That was the most misleading advertising I have seen in years because we do not plan. I do not believe the Department of Education and Science reads the census figures other than to see what happened a number of years ago. I do not believe there is any serious effort on the part of the Department of Education and Science to plan for the growing populations of our villages and towns.

I support the motion not because a great deal has not happened — much has improved — but because a wonderful education system and its personnel have been let down by the failure to use unprecedented wealth to rid the schools system of all its physical fabric problems. A guarantee of preschool education for all children

[Mr. Ryan.]

is one of the Labour Party's commitments when it is in Government after the general election. Such a move would make an enormous difference to disadvantage.

Minister of State at the Department of Education and Science (Mr. Haughey): This has been a robust and lively debate on education. The Government has prioritised education like no other in recent decades. In 1997, it took over from an Administration in which the current leaders of the two main Opposition parties had voted to freeze direct school funding and cut teacher numbers. The education system and our children were suffering the consequences of their neglect and lack of foresight. The Government set out to return education to the centre of policy, to increase investment and to improve outcomes. As the amendment to the motion sets out, we have succeeded in this.

The Government is proud to have hired thousands of extra teachers, brought class sizes to their lowest level and provided greater support for children with special needs and those from disadvantaged areas. The Government is equally proud that under the largest school building programme, thousands of existing schools have been modernised while new ones have also been built.

The improvement in outcomes is what matters most to the Government. More young people are finishing school with the creation of 45,000 extra college places and the success of targeted access initiatives. Real breakthroughs have been made in the participation of students from disadvantaged areas in third level education. At the same time, the foundations have been laid for a vibrant fourth level sector as the key to attracting greater investment. The Government is aware of the many needs which have to be addressed still, but it is proud to have provided for the most sustained increase in funding and participation.

This motion raises several issues from class sizes to reading levels, school completion rates, buildings and ICT. There were 80,000 more children in classes of more than 30 pupils when the Government came into office. The previous Administration, far from being committed to reducing class sizes, had actually voted to cut teacher numbers. Over the past ten years, a revolution has taken place in our schools, with the largest increase in teacher numbers. An extra 7,000 primary teachers have been hired. The average class size has fallen from 27 to 24 pupils. With all the extra support teachers, there is one teacher for every 17 pupils, down from one for 22 in 1997.

What signifies the major difference in class size between 1997 and today is major drop in the number of children in large classes. In the 2005-06 school year, there were 80,000 fewer children in classes of 30 or more than in 1997. Last year, the number of children in classes of 35 plus was just a fifth of the 1997 level. The improvement in

the Dublin City Council area is even more dramatic. In 1997, nearly 6,000 children in Dublin city were in classes of 35 or more. By 2005-06, this had been slashed to fewer than 400 children. While there is more to be done to reduce class sizes further, the progress made in this area in recent years must be acknowledged.

In providing 4,000 extra primary teachers since 2002, the Government had to decide how best to use these posts. If all 4,000 had gone into classroom teaching, our class sizes would be much smaller. The Government, however, decided to target the majority of extra teachers at providing extra support for children with special needs and those from disadvantaged areas. It was decided to reverse the past neglect of children with special needs and to ensure they received the extra help needed to reach their full potential. More than 5,000 resource teachers and more than 6,000 special needs assistants work in our primary schools. Not only are these extra staff making an immeasurable difference to the lives of children with special needs, they are providing vital back-up for their classroom teachers.

Extra posts have also been used to ensure more than 50,000 pupils in disadvantaged areas are in classes of 15 or 20 at junior levels and 20 or 24 at senior level. It was decided to target children with special needs and those from disadvantaged areas in the first instance. Doing so has greatly improved the teaching support available to such pupils. With these areas addressed, in the current school year extra teachers were provided to reduce class sizes. The Government has already committed to providing another 800 primary schoolteachers next September, approximately 500 of whom will be classroom teachers.

The goal must be to enable each child to reach his or her full potential and to equip him or her with skills that will help him or her to live a happy and fulfilled life. Increasing the number of young people with at least upper second level education or equivalent is central to this. To this end, the Government has pursued a dual strategy of encouraging more young people to finish school and ensuring much greater second-chance and further education opportunities for those who left school early.

The National Educational Welfare Board was established to tackle absenteeism problems that lead to early school leaving. The board's budget in 2007 is €9.8 million, an increase of 20% on the 2006 allocation and of 50% on the 2004 level. It has been given approval to hire 15 extra staff in 2007. A further 25 staff are to be provided between 2008 and 2009 under Towards 2016. In addition to providing increased staffing for the board, we have also targeted a range of extra supports at young people in disadvantaged areas to encourage them to finish school. These include extra educational supports and services such as breakfast clubs. Working with parents to promote school attendance is also an important part of the work of the home-school-community liaison

officers appointed to disadvantaged schools. Access to these services is being increased under the DEIS action plan.

For those who leave school without completing the leaving certificate, the available statistical evidence indicates the increasing range of further education and training opportunities available for these students is having a positive impact. Central Statistics Office, CSO, data shows that the educational profile of 20 to 24 year olds has improved steadily over the past five years as increasing opportunities have been made available in the further education and training sector. By 2005, 85.8% of 20 to 24 year olds had attained upper second level education or equivalent, up from 82.6% in 2000 and putting Ireland ahead of the EU average of 77.5%.

This real progress is reflected in the number of young people from areas such as Finglas, Ballymun and the inner city attending third level institutions, which doubled between 1998 and 2004. More needs to be done to improve school completion rates in disadvantaged areas, but under DEIS, real progress has been made in recent years.

The Private Members' motion also raises the issue of staffing for the National Educational Psychological Service and the number of schools served by the service at present. Senators will be aware that all schools have access to psychological assessments for their students, either through NEPS or through the scheme for commissioning private assessments, of which NEPS covers the cost. More than 4,000 such private assessments were funded in the 2005-06 academic year. Therefore, the number of schools served directly by NEPS is only half the picture.

Nonetheless, the Government is committed to expanding NEPS. Before we set up the service, there were only 43 psychologists in the Department of Education and Science. We have increased that level dramatically, to 127 psychologists in NEPS, with a further 16 whole-time equivalents in the Dublin city and county VEC service.

Towards 2016 provided for increases in NEPS staffing over a three-year period. The Minister for Education and Science, Deputy Hanafin, has already announced the recruitment of an extra 31 NEPS psychologists this year, to be followed by another 35 between 2008 and 2009. The Government has set out an expansion plan for NEPS that will bring the number of psychologists to 193. Taken with the 16 in the Dublin VEC service, that will bring the total complement of psychologists in the Department to 209.

Regarding demand for assessments, it should be noted that since the Government provided for a guaranteed allocation of resource teaching hours to all primary schools in 2005, the majority of primary schoolchildren have no longer needed psychological assessments to secure extra support. As well as increasing the number of educational psychologists, the Government has taken

steps to reduce the need for assessments so that children can get appropriate help at the earliest possible stage.

I am pleased to advise the House that the national development plan provides for investment of €252 million in ICT in schools to give effect to a new comprehensive ICT strategy to be published this year. That strategy will aim to develop an e-learning culture in schools and ensure ICT use is embedded in teaching and learning across the curriculum. It will address teachers' professional development, the maintenance of a national broadband network for schools, technical maintenance and support requirements, and the upgrading and renewal of hardware along with the provision of software and digital content.

The new ICT strategy will build on recent investment under the ICT in schools programme in the provision of networking grants to schools and the schools broadband access programme. It will also build on the 10,000 training places provided annually by the National Council for Technology in Education to meet the specific needs of teachers in their use of ICT, including technical courses, subject-specific courses, and Internet, web design and digital media courses.

The Government accepts the need for further investment in ICT in schools, and I am pleased with the provision in the NDP in that regard. The development of strong ICT literacy in all children will be an essential life skill as they seek to participate in the opportunities of the global knowledge economy. It is imperative that schools provide opportunities for all children to develop to their full potential in that regard.

Furthermore, the integrated use of ICT in the classroom can also enhance the quality of the educational experience. It can enrich learning and teaching activities, increase pupils' motivation to learn, and facilitate new ways of learning for children with special educational needs.

We have had a very robust debate and I thank Senators for their contributions. Several other issues were mentioned, including that of school buildings, which I have not gone into, although it is in my script if Senators are interested in learning what has been achieved in that regard. Several constructive proposals have been put forward.

There is a genuine consciousness in the Department that we must undertake real school planning. In my constituency and that of Senator Fitzgerald, on the north fringe in particular, Dublin City Council is very active in planning in association and partnership with the Department of Education and Science. That is a model other local authorities might follow. School planning is central to the Department's priorities and I would not like Senators to think otherwise.

The Government has prioritised education. As our amendment to the Private Members' motion sets out, great progress has been made in a wide range of areas. While challenges remain, we are

[Mr. Haughey.]

also confident that we have put the investment and policies in place to address them.

Mr. U. Burke: I thank the Minister of State, Deputy Haughey, my seconder, and all those Senators who have contributed to this debate. It is unfortunate that the Government has failed to address the real problems of education today. While the Minister of State says we are having a revolution in primary schools, with fewer pupils in classes of 30 or more, the sad reality is that we have more than 101,000 students in classes of 30 or more. We are at the bottom of the class size league table in the OECD report. There may be some who do not wish to hear that, but it is the sad reality for many students. We speak of planning school buildings for the future of education, but 58,000 new students will enter primary school within a few years. If we already have such class sizes, how will it be then? We have had no sign from the Government that we might possibly have adequate facilities or accommodation for them.

We heard Senators' comments in support of the Government's view on class sizes, but we are not tackling the issue, despite the fact that we have had probably the greatest opportunity under any Government in this nation's history in terms of available resources. I reiterate for Government supporters that the OECD report, *A Glance at Education*, published last September, shows Ireland trailing other countries when it comes to education spending relative to our economic wealth. Our *per capita* gross domestic product spending is lower than that in most other countries. We are 29th of 30 countries in spending terms. Some Senators on the Government side said that we had not recognised what had been done in the shape of the new teacher appointments for special needs. The record will show that I warmly welcomed that as one positive Government contribution towards alleviating difficulties.

Senator O'Toole said that we should not use the fact that we prioritised special needs as an excuse for failure in other areas. We all welcomed that initiative, but the Government had to do it because it was forced to meet special needs by legislation. It was not the case that the Government decided to prioritise it; it had no option.

Senator Minihan said that we should get things right, and I agree with him. Across the board, we must get them right. There are situations in the Department of Education and Science and the Government generally where matters are not right, and that is why people say that there are no policies.

One of the most important policy areas we will set about changing if we form the next Government is the planning section of the Department of Education and Science responsible for school buildings. That section is totally wrong. It does not function as a normal enterprise would in the real world. It proceeds at a snail's pace. The Minister herself has visited Aughrim and Ballinasloe where she witnessed the complaints personally. People have been waiting there for ten years. Coincidentally, I will raise a matter on the Adjournment later concerning a school that has been the subject of dithering for eight years about what to do with it. As long as we have such indecision we will have failure and doubt. I agree with Senator Minihan on that issue.

In 2002, we were promised that every school-teacher would have a computer. Our party leader, Deputy Kenny, has clearly outlined the importance of IT facilities in many educational disciplines, but particularly in mathematics and science. On many occasions, the Minister has mentioned the importance of tackling both those subjects but they would have been greatly enhanced if every child had access to a computer at school. The provision of IT facilities helps the educational process enormously.

As regards the other areas that have been mentioned, it should be noted that money was never as available for supporting education as is currently the case. Senators have repeatedly pointed out that our economic boom has been built on education. At the Minister's programme launch yesterday, the need for investment in all levels of education was made quite clear to her. If we do not get it right at primary level, however, the plan will collapse and we will not have the transition from second to third level the Minister expects. Such a developing transition to tertiary education is required in order that the current economic boom can continue. That is the sad reality facing us today.

Amendment put.

The Seanad divided: Tá, 27; Níl, 15.

Tá

Bohan, Eddie.
Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.

Kenneally, Brendan.
Kett, Tony.
Leyden, Terry.
Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Moynan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.

Tá—*continued*

O'Rourke, Mary.
Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.

Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Nil

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

Hayes, Brian.
Norris, David.
O'Toole, Joe.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators U. Burke and B. Hayes.

Amendment declared carried.

Motion, as amended, put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: Tuesday, 20 March 2007 at 2.30 p.m.

Adjournment Matters.

Decentralisation Programme.

Mr. Finucane: I welcome the Minister of State at the Department of Finance, Deputy Parlon, to the House. I have raised the issue of decentralisation and Newcastle West many times since the programme was first announced. I raise the matter in a different context today because the decentralisation project in Newcastle West appears scheduled for some time in 2008. Commitments were given to many staff based in the Office of the Revenue Commissioners in Limerick and being trained for work in the office in Newcastle West. The staff are now getting understandably impatient at being housed in temporary premises in the city.

To put this in context, in March 2005 Revenue's decentralisation implementation plan gave the indicative timescale for the move to Newcastle West as September 2006. In June 2005 the first round of letters was issued formally offering positions in the decentralised Newcastle West office to those who had applied through the central applications facility. These applicants were advised that the move was scheduled to take place in the fourth quarter of 2006 and were given five working days to respond. Those who decided to accept the offer did so on the basis that they would be working in Newcastle West by the end of 2006.

In the decentralisation update of March 2006 the date for the final move to Newcastle West was pushed out to early 2007. The subsequent decentralisation update in October 2006 stated that work was scheduled to commence early in 2007, with a projected completion date of the final quarter of 2008. It transpires that in December 2006 Limerick County Council raised queries on the planning application and these have further delayed commencement of construction of the building in Newcastle West. As of today, replies to these queries appear to be outstanding.

In July 2006, the Newcastle West bound staff were relocated for training purposes to temporary accommodation in Estuary House, Henry Street, Limerick, in advance of the final move which was scheduled to take place in early 2007. Training is now complete. Owing to the delay in the project, many requests have been made to the Revenue Commissioners to have temporary accommodation provided in Newcastle West. The staff in question are located in the west Limerick area and some have moved to west Limerick in the expectation that the move would have been completed by this stage. It is understandable that Revenue employees have formed an action committee as they are extremely irate with the long delay in the process.

Some time ago, the Minister of State had a hoarding erected on the old council building in Newcastle West and arranged a photo call with Progressive Democrats Party colleagues. None of those who featured in the resulting photograph is from west Limerick. Other parties were not informed but the event clearly amounted to good public relations from the Minister of State's point of view.

If the Revenue Commissioners have informed the Minister of State that they are unable to find a temporary premises in Newcastle West, I assure him I will find a premises suitable for Revenue staff. The delay in this project is grossly unjust and unfair. We want action.

[Mr. Finucane.]

I hope I will not be given the customary bland response describing the history of decentralisation because I am only interested in Newcastle West, the town in which I live. I hope the Minister of State's response will give me some positive news to give to the individuals who met last night to discuss the delay in the project. I fully appreciate and empathise with their impatience.

Minister of State at the Department of Finance (Mr. Parlon): I thank Senator Finucane for raising this issue and hope my response will not be bland. While waiting outside the Chamber for Senators to arrive, I touched it up a little to ensure it did not appear bland. I am pleased to inform the House of the progress being made in the decentralisation programme about which the news is positive, particularly with regard to the 50 Revenue posts to Newcastle West.

In budget 2004 the Minister for Finance announced a decentralisation programme for 10,300 public servants to more than 50 locations nationwide. The programme which, as the Government has emphasised throughout, is voluntary, has received a tremendous response. To date, more than 10,000 civil servants have applied to decentralise and new applications continue to come forward. More than 2,400 staff have been assigned to decentralising posts and some 700 of these are already in place in 15 locations. The remainder are being trained in advance of decentralisation to new locations and at the end of 2007 it is anticipated that approximately 2,000 staff will have transferred to 33 decentralisation locations. The property programme is well advanced and the schedule of accommodation allows for the planned movement of up to 6,800 staff in the next three years in line with the timeframes set out in the June 2005 report of the decentralisation implementation group, DIG.

Included in the Government decision was a requirement for Revenue to decentralise 50 staff to Newcastle West, together with two similar sized moves in the mid-west to Listowel and Kiltrush. Following consultation with the management advisory committee and Revenue's partnership committee, the board of the Revenue Commissioners decided that all debt management functions in Dublin would be decentralised, with the exception of a small number of staff who would be retained on insolvency work to the greater mid-west region, including Newcastle West.

In considering a property solution the Office of Public Works examined a range of options. After detailed evaluations a number of proposals were short-listed and the Limerick County Council site at Bishop Street, Newcastle West, was chosen as being the most suitable for Revenue's requirements. I understand that having examined available options a decision was taken by my office,

the Office of Public Works, to procure the new accommodation in Newcastle West on the basis of a design-build solution. My office has identified a preferred tenderer and a planning application for the new offices was lodged with Limerick County Council in October 2006. The council requested further information in December 2006 covering such matters as site boundaries, front elevation and sewers. It also requested a comprehensive historical study and other information relating to certain buildings on the site at the time of purchase.

In the interests of moving forward the project my office assisted the preferred tenderer in providing the additional information which, contrary to the Senator's statement, has been submitted to the council. A decision on the planning application is due by the end of March 2007, although this will be open for appeal to An Bord Pleanála in the normal course.

On receipt of a satisfactory planning permission, my office and the preferred tenderer will endeavour to move quickly to a position where the building work will commence at the earliest possible date. The tender documentation provides for a construction period of 14 months from the date of placing a contract. On completion of construction, the building will be handed over for occupation by staff of the Revenue Commissioners.

Pending the availability of accommodation in Newcastle West, it was decided that the operation to be relocated to the town would be established on a temporary basis in Limerick. The decision to proceed with a temporary solution in Limerick was taken on the basis that this would be the optimum approach to ensuring the Newcastle West team and replacement staff in the debt management division in Limerick could be provided with appropriate training, while minimising disruption to the ongoing business of the division. The decision also had regard to the fact that the majority of staff who had elected to transfer to Newcastle West were currently serving in Limerick and, therefore, could be brought together in that location without significant disturbance. This approach was approved by the decentralisation implementation group and my Department.

I am assured by the Revenue Commissioners that as soon as the new accommodation becomes available in Newcastle West, Revenue will be in a position to commence operations in the office with immediate effect. Forty-seven officers, equating to slightly more than 43 full-time equivalents, of the 50 officers due to decentralise to Newcastle West are working in this temporary accommodation. Intensive training is being given to staff with a view to having a well trained, fully operational team moving to the Newcastle West location. Revenue does not anticipate any difficulty in fully staffing the office.

The current temporary accommodation is leased to the Commissioners of Public Works under a short-term agreement. If a further temporary accommodation were to be considered, the OPW would first have to identify what suitable building might be available. This would involve a formal approach in accordance with public tender requirements. In the event of suitable accommodation being found, the OPW would have to take on another short-term lease, thereby duplicating costs. The fitting out of the accommodation would also require considerable time and involve significant cost duplication, particularly as regards information technology requirements. This entire process would take many months at best.

Given the indicative timeframe of early 2008 for provision of permanent accommodation and for logistical and business risk reasons, Revenue considers it completely impractical to move staff at this stage to temporary accommodation in Newcastle West. In particular, Revenue would be concerned that such an approach would carry with it unnecessary risks of a negative impact on core elements of its work programme encompassed by the proposed Newcastle West operations. This work involves maximising timely tax compliance and ensuring timely and accurate processing of pay, tax and PRSI details for more than 2.2 million employees whose details are being returned by employers.

Revenue's decentralisation plans for all its locations have been the subject of formal discussion and agreement with the decentralisation central policy unit of the Department of Finance, the Office of Public Works and the decentralisation implementation group, most recently in January 2007 when the Revenue Chairman met the DIG. Preparations have been made in accordance with these plans.

Revenue has been successful in decentralising functions which are critical not only for the organisation but also for the Exchequer. It has succeeded by carefully balancing business risk with decentralisation progress. In this context, the Revenue Commissioners and my office remain firmly focused on having the permanent accommodation completed and the staff moved to Newcastle West in the earliest possible timeframe.

Mr. Finucane: I am disappointed with the Minister of State's response, which confirms my expectations in this matter. Notwithstanding the professional advice offered by the Revenue, I do not agree that staff could not be relocated temporarily before transferring to the permanent location in Newcastle West. I am confident premises would be found in the town. The Revenue Commissioners have pursued a cluster concept throughout the mid-west region and further afield by establishing a number of offices operating as

separate entities. The action committee, which is pushing for this move, will be bitterly disappointed by the Minister of State's response. I am aware the OPW has applied for planning permission and is awaiting the county council's response. I understand there is some concern that the building may contain asbestos and that this may lead to further delays. In the interim, the staff would be extremely pleased if accommodation could be found in Newcastle West. They will be bitterly disappointed at this confirmation of further significant delay.

Mr. Parlon: I recently met with representatives of the staff and community in Newcastle West and with the Collector General to discuss this issue. Their view of the situation is reasonable. I find it strange that Senator Finucane is so concerned and upset. It is the planning process that is causing the delay. The OPW bought the site in question from Limerick County Council following consultation in regard to its suitability.

I am confident, having supplied the necessary further information, that the project is ready to go. There is an indicative timeframe of 14 months for completion and I do not expect it will take that long. I understand the Senator is suggesting we should seek new accommodation, move people into that temporary accommodation for 14 months and fit it out at substantial cost. I do not agree with that and nor do the Revenue Commissioners and the OPW. Provided there are no further difficulties with planning, which I do not foresee, I am confident everything will be up and running within 12 months.

Mr. Finucane: I live in Newcastle West and am part of the community. I was not involved in the discussions on this move but I assure the Minister of State that the staff who attended last night's emergency meeting are certainly not in agreement with what he said. They are absolutely disgusted and disappointed with the Revenue on this issue.

An Leas-Chathaoirleach: I have given the Senator ample time to make his point.

Mr. Finucane: I will convey what the Minister of State said to those involved.

Higher Education Grants.

Mr. J. Phelan: I welcome the Minister of State, Deputy Haughey. He has become a regular visitor to the House in his few months in the Department of Education and Science. Like the issue I raised on the Adjournment yesterday, the matter I raise today relates to a small proportion of the population.

I am aware of a student from my own area in County Kilkenny who is in her first year of stud-

[Mr. J. Phelan.]

ies in Trinity College, Dublin, and whose sister will complete her second level education this year. Their father is above pension age and entitled to the State pension. However, because his State pension coupled with his wife's modest income pushes their earnings over the eligibility threshold for a third level grant, he was obliged to return to the workforce to ensure his daughter can avail of a third level education. It is inspiring that this man is prepared to go back to work to ensure his daughter can take advantage of an opportunity that was not available to him. It is also sad, however, that he is forced into this position. His second daughter is interested in attending college in Dublin in September if she gets the necessary points.

A change in this regard is worthwhile given the small numbers affected and the negligible impact on Exchequer funding for the Department of Education and Science. Children with one or more parents in receipt of the State pension should be automatically entitled to a third level grant. My father was above pension age when I went to college and I did not qualify for the third level grant. My younger sister is in the same boat. I do not raise this issue purely out of a selfish personal interest. The small numbers involved and the minimal impact in terms of funding mean there is a strong case for ensuring parents above pension age are not forced back into the workforce because they want to give their children the best possible education. The State should step in at that point and provide support. The grant system itself must be reformed and is not sufficient to cover the costs of attending college. However, the children of those eligible for the State pension should receive assistance as a matter of course.

Minister of State at the Department of Education and Science (Mr. Haughey): I thank the Senator for raising the issue of third level grants on the Adjournment this evening. The Department of Education and Science funds four maintenance grant schemes for third level and further education students, which are administered by local authorities and vocational education committees on its behalf. The higher education grant scheme operates under the Local Authorities (Higher Education Grants) Acts 1968 to 1992.

Generally speaking, students who enter approved courses for the first time are eligible for maintenance grants where they satisfy the relevant conditions as to age, residence, means, nationality and previous academic attainment. An approved course for the purpose of the grant scheme is a full-time undergraduate course of not less than two years duration or a full-time post-graduate course of not less than one year's duration, pursued in an approved institution. Under the Department's free fees initiative, the

Exchequer meets the tuition fees of eligible first-time undergraduate students attending approved full-time courses.

In addition to the ordinary maintenance grant, students may be also eligible for the special rate of maintenance grant, sometimes known as the "top-up grant". Eligibility for this grant is determined by reference to an income threshold and receipt of a long-term social welfare payment, which includes the State contributory pension. To qualify for the special rate of maintenance grant, applicants must first qualify for the ordinary maintenance grant for the relevant academic year. Total reckonable income in the relevant tax year must not exceed a specified lower income threshold, which is net of standard exclusions, as set out in the maintenance grant schemes, and, where applicable, net of the social welfare child dependants increase payments. In addition, as at 31 December of the relevant tax year, the source of income must include one of the specified social welfare payments.

The special rate of maintenance grant is in place to assist the most needy students. It is increased annually in line with increases in the rate of unemployment assistance. For the current academic year 2006-07, a candidate who is eligible for the special rate of maintenance grant receives the ordinary full rate of maintenance grant of €3,110 plus the special rate of €2,860, giving a total grant of €5,970.

Apart from the maintenance grants schemes and the free fees initiative, financial support is also available to third level students through the student assistance fund. The objective of the fund is to assist students who, due to their financial circumstances, might be unable to continue their third level studies. Information on this fund is available from the access officer in the approved colleges. In addition, the millennium partnership fund for disadvantage supports students from disadvantaged areas attending further or higher education courses. Partnership companies and community groups manage the fund locally. Information on partnership and community groups can be obtained from Pobal.

The means test arrangements of the student support schemes have been in operation since 1983 and are applied nationally. In the case of both the employed and self-employed, gross income is assessed with certain deductions for specified social welfare and Health Service Executive payments. Any proposal to introduce a different method of means assessment or to abandon the means testing requirement for students dependent on those in receipt of State contributory pensions would have significant financial implications in addition to equity issues that would have to be addressed. There are no immediate plans to change the method of means assessment or to remove the means assessment for certain individuals such as those suggested by

the Senator. I thank the Senator for raising this matter.

Mr. J. Phelan: I would not argue with the Minister of State's response except for the last point about appreciating that the proposal to move to introduce a different method of means assessment or to abandon the means testing requirement for students dependent on those in receipt of State contributory pensions would have significant financial implications. I do not know the figure in terms of the numbers of third level students who are dependent on those in receipt of State pensions but I cannot accept that the sum would be significant in terms of the overall cost. I would think it is a very small proportion of the overall spend on third level fees for people going to college. I would say a small proportion of those students are dependent on people in receipt of the State contributory pension. I understand what the Minister of State said but in terms of what I would regard as a very small group of people, the Government could examine some initiative for the future. Perhaps the next Government will get the opportunity to examine it sooner rather than later.

Schools Building Projects.

Mr. U. Burke: I thank the Cathaoirleach for selecting this item and I thank the Minister of State for taking it in the House.

In a debate earlier I mentioned the slow pace of progress in dealing with applications from national schools throughout the country and the response from the Department of Education and Science, particularly the planning section. I instanced the case of Killimor national school, Ballinasloe, County Galway. That case is a classic example of where indecision has led to frustration on the part of the board of management, the staff and the parents of the students attending Killimor national school. This project is eight years in progress but no progress as yet is indicated from the Department.

The first indication was that the Department would provide extra facilities to extend the existing school. That was abandoned approximately three years later. The Department then indicated it would examine the sites that were available. It selected a site and had full investigation of the site planned but after an extensive period of approximately two and a half years it decided the site was unsuitable. It has recently decided to go back to the original site for the construction of a new school. I do not believe any board of management or other staff group would have had the patience to listen to the reasoning behind the Department's dithering in this instance.

While all of that was going on, completely oblivious to those in the planning section of the Department of Education and Science, there were serious consequences from the inadequacies

of the facilities for the provision of proper education to the children who needed it in Killimor national school. A special disadvantaged class for approximately 17 children was established. The school had to make provision also for the special needs children in the school. During all that time every space in the existing school, which was totally inadequate for the initial enrolment, was provided to those children at great cost and inconvenience. To its credit, the school has given first class primary level education to the students involved.

I ask the Minister for a definitive statement with regard to a timescale to ensure that everybody can work to a programme which will eliminate the terrible situation in Killimor. With the best wishes in the world we know the students and staff will have to endure the current conditions for several years before they move into the new school premises proposed for the area. I ask the Minister to expedite the application and that firm dates of commencement and completion would be given. There is an expanding population and an increasing school enrolment year after year — the records show that — in this national school and it deserves an urgent response from the Minister and the Department.

Mr. Haughey: I thank Senator Burke for giving me the opportunity of outlining to the House the position of the Department of Education and Science regarding Killimor national school, Ballinasloe, County Galway. In 2005, the Department of Education and Science announced details of 89 primary schools and 33 post-primary schools that were allowed to progress to tender and construction. Killimor national school was among the primary schools listed in that announcement.

Initially, the school management undertook to identify a suitable site for the school and to carry out negotiations for its acquisition subject to its subsequent purchase by the Department. On that basis the school applied for planning permission for a new six classroom school and it was the intention of the Department to proceed to tender and construction as soon as site conveyancing was complete. Subsequently, however, the acquisition of the site ran into difficulty.

The acquisition of the site for the school will now be concluded by the Office of Public Works, which generally acts on behalf of the Department on site acquisitions for schools. The site comprises of one larger plot, the acquisition of which is currently at contract-conveyancing stage, and a smaller plot which is required for access and in the ownership of the local authority. The local authority has confirmed to the school management its willingness, subject to criteria, to transfer the requisite portion of lands to facilitate the school building and the OPW will shortly be contacting the local authority with a view to finalising arrangements.

[Mr. Haughey.]

In February 2005, representatives of the school attended a meeting in Tullamore organised by the building unit in the Department which outlined the steps a school should take to advance a building project through tender and construction phases. In November 2004, the school obtained planning permission for a new six classroom school and it is the Department's intention that this is the school that will be built once site conveyancing is completed.

In February 2007, a letter issued from the building unit to the board of management requesting a revised cost plan for the project plus an updated mechanical and electrical submission.

Once this revised documentation is received and approved by the Department and the site acquisition finalised, the school will be given devolved authority to prepare tender documentation and to invite tenders prior to the commencement of construction.

I assure the Senator that the Department is fully committed to providing suitable high quality accommodation for Killimor national school at the earliest possible date. I again thank the Senator for raising this matter.

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

The Seanad adjourned at 7.50 p.m. until 2.30 p.m. on Tuesday, 20 March 2007.