



## SEANAD ÉIREANN

—  
*Dé Máirt, 27 Márta 2007.*  
*Tuesday, 27 March 2007.*  
 —

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

—  
*Paidir.*  
*Prayer.*  
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### Business of Seanad.

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

The need for the Minister for Education and Science to give an update on the situation regarding forward planning for Clonbonny national school, Athlone, County Westmeath.

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 an extension, refurbishment and sports hall at Holy Rosary College, Mountbellew, County Galway, which first applied in 1968 and has made little progress since.

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

The need for the Minister for Foreign Affairs to take immediate action within the European Union to end the dictatorship of Robert Mugabe in Zimbabwe.

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

The need for the Minister for Enterprise, Trade and Employment to give an update on the 1999 task force report for County Donegal and the July 2006 interdepartmental report on jobs.

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

The need for the Minister for Health and Children to outline the reason there is a 12 to 18 month waiting list for children to see a speech and language therapist in the Carlow area; the number on the waiting list for County Carlow; if there are private speech and language therapists in the Carlow area; and if a similar situation also exists for children waiting to see an occupational therapist in County Carlow.

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

Before I call the Leader I wish to alert the House that a photographer will be in the Chamber tomorrow on the Order of Business between 11.15 a.m. and 11.45 a.m. regarding the production of a supplement to *The Irish Times* on 17 April. The supplement will feature the Houses of the Oireachtas. The matter was agreed by the Houses of the Oireachtas Commission and will not interfere with Seanad business or the decorum of the House.

### Order of Business.

**Ms O'Rourke:** I thought we were going to be in a play or a cabaret. The Order of Business is No. 1, Health Bill 2006 — Committee Stage, to be taken on the conclusion of the Order of Business and conclude no later than 5.30 p.m., No. 2, Foyle and Carlingford Fisheries Bill 2006 — Second Stage, to be taken at 5.30 p.m. and to conclude no later than 7.30 p.m., with the contributions of spokespersons not to exceed 12 minutes, those of all other Senators not to exceed eight minutes and the Minister to be called on to reply no later than ten minutes before the conclusion of Second Stage; and No. 3, Social Welfare and Pensions Bill 2007 — Second Stage, to be taken at 7.30 p.m. and to conclude no later than 9.30 p.m., with the contributions of spokespersons not to exceed 12 minutes, those of all other Senators not to exceed eight minutes and the Minister to be called on to reply no later than ten minutes before the conclusion of Second Stage.

**Mr. B. Hayes:** When the Good Friday Agreement was negotiated and endorsed in 1998 by the Irish people on both parts of this island, it was hoped reconciliation between green and orange could be achieved through the working together, particularly in Northern Ireland, of people who had been in conflict with each other for many years. I recognise on today's Order of Business the historic — there is no other word one can use to describe it — agreement yesterday between Sinn Féin and the Democratic Unionist Party.

The advantages of this agreement are that we have absolute certainty that the powersharing executive will be restored on 8 May 2007 and that the work of the assembly can continue. The great advantage is that it was brokered between the two parties. It was brokered between very significant people like Mr. Peter Robinson, MLA, and Mr. Martin McGuinness, MLA, who come from two very different sides of the political equation. This agreement bodes well for the future and our

[Mr. B. Hayes.]

role in this House and that of Irish democracy is to support that process and wish it well.

We all have a duty to recognise there are more than just two parties in Northern Ireland and that the role played by the SDLP, the Ulster Unionist Party, the Alliance Party, the Progressive Unionist Party and Independents is also important in the new assembly. We hope this new agreement will allow the Executive and Assembly to be put back together, reformed and established and that it is the start of a new beginning in Northern Ireland to which those of us in Dublin and London will give full support in the days and weeks ahead.

I will briefly raise the issue of the appalling carnage we saw on the M9 and M7 this morning. We hope there are no fatalities from this terrible scene where I understand 40 collisions occurred. People are still being brought to hospital. It is appalling. It is important that we determine from this whether it is possible to find adjustable speed limits on our motorways. Of course, motorists must show restraint, particularly where fog emerges, but we also need better information for drivers and adjustable speed limits. I ask the Leader to bring this point to the attention of the Minister for Transport because the scene in County Kildare, which we have watched on television or heard about on the radio today, is deplorable and we need to reflect on that.

**Mr. O'Toole:** This issue was brought to the attention of the Minister for Transport during the debate on the last road safety Bill. We outlined to him that it works in France and Germany, where speed limits differ depending on the roads, but it was just ignored, as I am sure it will be again.

I support some of the points made by Senator Brian Hayes regarding Northern Ireland and recall that this 20-year process was very difficult to move along. It is almost 20 years since I recall meeting a very lonely John Hume in this House at a time when no leader of any of the parties would speak with him because he had opened up talks with Sinn Féin. It is worth remembering this today. It is also worth remembering that he took the initiative and risk and that the SDLP continued to take that risk after him. As Senator Brian Hayes said, the SDLP has probably paid the price for that to some extent. I felt yesterday that it was the people in the SDLP whom I most wanted to recognise at this point, without taking anything away from the people who have delivered this agreement, particularly over the weekend.

My final point is hugely important and should be enjoyed by every member of Parliament. At the end of the day, this agreement was delivered by politicians. It proves that the political process can work, however long it takes. People of all parties and none should lose no opportunity to make it clear to a sceptical and cynical population

that, given a chance and the support of the people, politics can work.

A very disturbing report concerning cancer sufferers, and how they are affected in the west as opposed to the east, appeared in the media in the past 24 hours. It is easy to understand what the reaction might be but I ask colleagues on all sides to consider this matter. Politicians have a major responsibility in this regard. It teaches us that the multidisciplinary approach with a thorough throughput of patients is the best way of dealing with cancer. Rather than fighting for hospitals in every quarter of the country, we should look at the provinces to select locations for multidisciplinary centres. We should demand and defend such centres as a priority. Lives are being lost because of the political argumentation that is taking place on this issue.

**Mr. Ryan:** One could not let the occasion pass without paying enormous tribute to all those involved in the Northern peace process. I am glad Senator O'Toole mentioned politicians. We should stop apologising to the media for the fact that they find politics boring. The wonderful thing about politics is that it is boring. We are not threatening, fighting, shooting or kidnapping each other. It is a boring life in which we gradually resolve issues.

**Mr. Norris:** No, it is not.

**Mr. Ryan:** It would be even more boring if Senator Norris were not here.

**Mr. Dardis:** Senator Ryan is speaking for himself.

**Mr. Ryan:** It would be much easier, however, if Senator Norris did not feel the need to interrupt me.

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

**Mr. Ryan:** Ever since I said something rude about Trinity College he has never forgiven me.

**Mr. Norris:** The dear Senator has an inferiority complex.

**Mr. Ryan:** The unforgivable sin.

**An Cathaoirleach:** The Senator is aware that there is a time limit for his contribution.

**Mr. Ryan:** When Senator Norris starts calling me "dear" I have to ask for your protection, a Chathaoirligh.

**Mr. Norris:** He is in no danger.

**Ms O'Rourke:** Is that a threat or a promise?

**An Cathaoirleach:** Senator Ryan is wasting time. Order, please.

**Mr. Ryan:** We should note that politics works, and more often than many of its trivial critics would suggest. I was lucky that I diverted from Abbeyleix this morning or I would not be in the Chamber because I would have been stuck in a traffic jam.

**Mr. Dardis:** The Senator was lucky but we were unlucky.

**Mr. Ryan:** There are many questions to be asked. Speed limits are not absolutes. They are the maximum permissible speed, but not the speed at which it is always safe to drive. Drivers must remember that they are not allowed to drive at 120 km/h on a fog-bound motorway. They do not have a legal right to drive at that speed in those conditions, and if they do so, they can and should be prosecuted for driving dangerously. I wish to extend my sympathies to those who were injured in the road accidents earlier today.

It is a disgrace when the Minister for Health and Children brands a group of nurses as being motivated by greed.

**Mr. B. Hayes:** Hear, hear.

**Mr. Ryan:** I want to say that clearly and unequivocally. The Minister for Health and Children said the reason the new maternity hospital in Cork had not opened was because of money. She also said that it was a disgrace. If that were the case, of course, it would be. I know people who are going to work in that hospital and it was not about money.

**Ms Ormonde:** It was.

**Mr. Ryan:** It was about the fact that those nurses were genuinely concerned that the hospital could not be run safely with the proposed numbers. Like every other parent in Cork, I have seen the quality of the city's maternity services, including midwifery and nursing care. The suggestion that those people are being greedy is a gross insult to them. It is even more offensive to the people of Cork, including mothers-to-be, to suggest that a €75 million hospital might be handed over to the private sector to be used for some other reason simply because the nurses refuse to work in conditions which they believe to be unsafe. It is time the Minister and the Health Service Executive climbed off this high horse and sorted the matter out. It is management's function to reassure staff in any employment that they are working in a safe environment. It is not the function of management to call people names just because a prestigious hospital opening was postponed. It is time the hospital opened under conditions acceptable to those who worked there.

**Mr. Dardis:** It is important that we recognise the scale of the achievement this weekend when Sinn Féin and the Democratic Unionist Party, DUP, sat down together to agree a way forward for a power-sharing Executive and the continuation of the Assembly. On Friday, when I took the Order of Business, I expressed the hope that we would have the Executive in place by today and, while that has not happened, I think in the context of what has gone on for 30 years, a few weeks' delay can be tolerated.

It is important to recognise the role of Mr. John Hume and others in bringing us to this day. One such person was a Member of this House, Senator Gordon Wilson, who contributed to peace on this island.

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

**Mr. Dardis:** I also feel the Taoiseach and the British Prime Minister should be saluted for the extraordinary patience and determination they brought to the peace process. We are fortunate to have those leaders in place to bring us to the point we have reached. In the past we frequently characterised events such as the Good Friday Agreement as historic, and they were in their time, but I was always cautious about applying such a term because we often found such events to be false dawns. In this case it is fair to describe the event as historic and I believe it heralds a new future for Northern Ireland which will see ordinary, democratic politics prevailing with people managing their affairs.

It was striking that much of the discussion over the weekend saw people get down to the nitty gritty of democratic politics on topics such as infrastructure, education, health and so on. These are the matters that should concern politicians in Northern Ireland and it is extraordinary to think they would not want to take control of such matters in their country.

I live about 200 yards from where the events on the M7 occurred this morning. Several people I have spoken to have told me about the way people were driving before the accidents took place. It seems many cars were weaving in and out trying to get lorries out of their way. The one lesson from this relates to something that is common in all other countries but not at all common here, that is signs over motorways that light up to tell people of problems ahead or to slow down. I agree that speed limit signs are not always effective but signs that light up, change frequently and provide warning notices should be considered. The National Roads Authority, NRA, has a signage programme that is about to begin and it should consider this type of sign.

**Ms Terry:** I also want to highlight the report published today on the treatment of cancer in this country. It is clear, if we did not already know, that one's chances of surviving cancer in Ireland depend on where one lives in the country. We

[Ms Terry.]

have known this for some time and it has often been discussed in this Chamber. One of the best ways to treat cancer is to detect it in the early stages. BreastCheck and cervical and prostate screening services are not available throughout the country. If these services were available to everyone, there would be early detection of these forms of cancer. There is great inequality in how screening services are provided in the country, although I realise that the Leader will inform me that these services are to be rolled out later this year. I welcome this but delays in implementing screening services have caused inequalities in our system.

Early detection is not the only factor in treating cancer and much depends on the type of treatment provided by specialists. People in the medical service have informed me that funding is a factor. Some people are offered chemotherapy and radiotherapy, others are not and this is a funding and equality issue that must be addressed. Everyone in the country must be treated in a similar fashion.

I listened to the Taoiseach's speech at the Fianna Fáil Ard-Fheis.

**Ms O'Rourke:** Good.

**Ms Terry:** I hope he will not be in a position to implement his proposal to cut PRSI because it is tantamount to raiding the social fund.

**Mr. B. Hayes:** It is irresponsible.

**Ms Terry:** The Taoiseach proposed a reduction in PRSI contributions and an increase in pensions. How would the Government pay for its plans?

**Ms O'Rourke:** How would Fine Gael pay for what it is offering?

**Ms Terry:** While I welcome proposals to increase pensions, I have never heard anyone argue that we pay too much PRSI.

**An Cathaoirleach:** We cannot have a debate on the Order of Business.

**Ms Terry:** People are willing to pay their PRSI contributions provided they receive proper services. Perhaps that is the problem. Cutting PRSI would mean raiding the social fund. My party has been lectured about raiding the National Pensions Reserve Fund. The Fianna Fáil proposal is another form of raiding the fund.

**Ms Ormonde:** I recognise the new agreement reached yesterday and echo the sentiments of other speakers regarding the effort politicians have invested in trying to achieve a new beginning in the North. Many politicians were involved in the process prior to the signing of the Good Friday Agreement. Following the Agreement, the

Taoiseach, Prime Minister and many politicians invested a great deal of time and effort trying to bring the process to a conclusion. Yesterday was a great day for politicians and I hope the media will take stock and recognise that we work hard behind the scenes, spending long hours negotiating and getting involved in a wide range of projects and discussions.

While it may not be possible to arrange a debate on excess packaging before the election, it is an issue about which I am concerned. Recently, I read a newspaper article which referred specifically to the Easter eggs that appear on shop shelves at this time of year. When one removes all the cardboard and plastic one is left with only a few sweets, which is excessive, misleading and costly.

**Mr. Browne:** It is like the Fianna Fáil Party manifesto.

**Ms Ormonde:** Companies which produce this packaging have a role to play in reducing it. Perhaps the Leader will arrange for a debate on this environmental problem.

**Mr. Ross:** I echo the tributes paid to people here and in Northern Ireland following the extraordinary agreement reached yesterday between the two largest parties. One or two individuals were not singled out for their contribution to this amazing achievement over the years. One of the sad results of yesterday's agreement is that many of the moderates have been sidelined. Whereas the extremists may have been moderated, those who have been responsible for the process — Senator O'Toole and others have mentioned John Hume — have found that their parties have been marginalised. I refer specifically to the Ulster Unionist Party and SDLP, which were, to a large extent, the creators of the agreement but have, to some extent, been made redundant. This is a pity, although the price is well worth paying. Nevertheless, we should not forget those who built this amazing historic agreement.

In this Parliament, we should also pay tribute to the Taoiseach for his incredible achievement. We should not forget former Taoiseach, Albert Reynolds, one of the great unsung heroes of this agreement who took the issue by the scruff of the neck and had the nerve to do things other politicians did not. It may be that he was not burdened by ideology, in the sense that many in all parties throughout this island are burdened. He had incredible courage and while his language of taking risks for peace was to some extent rhetorical, it was also true. Today, it is as much his creation as anybody's. We should remember that and we should remember other moderates who are already forgotten in this historic agreement.

**Mr. Leyden:** I would like to be associated with the remarks on the wonderful achievements in the North yesterday. It is extraordinary to live to

a stage where we see this happening. The consequences are far-reaching for the united approach to the ministerial council and for the country at large.

Like others, I feel we should recognise the work of Dr. Ian Paisley, Gerry Adams, Tony Blair, Peter Hain, the Taoiseach, Deputy Bertie Ahern, the Minister for Foreign Affairs, Deputy Dermot Ahern, and, indeed, former Taoisigh such as Albert Reynolds and Charles J. Haughey, who was one of the first initiators of dialogue, as well as our colleague, Senator Mansergh, who played a very important role. Many people played many roles behind the scenes, including civil servants who dedicated themselves to this process. We look forward to 8 May. We will combine our efforts with regard to selling Ireland Incorporated, North and South, to the international community with reference to trade, tourism and industrial development. It is a momentous time.

On another issue, will the Leader devote time to the question of competitiveness in the economy, particularly in regard to the proposal by Eircom to raise the price of the rental of fixed lines by 4.5% from €24.18 per month from the end of this year? Eircom has a monopoly position which it is abusing — it is rip-off Ireland. I find the service provided by Eircom does not rate compared to the position when the State was in charge of post and telegraphs during my time in the 1980s. My own telephone is out of order since last week but I hope Eircom will restore it quickly as I have made a case to it. I went through so many different—

**An Cathaoirleach:** The Senator's point has been adequately made.

**Mr. Leyden:** I hope "Oireachtas Report" will pick up my plea. I went through so many telephone exchanges and pressed so many buttons yesterday to try to contact somebody who would talk to me instead of a recording machine.

**Mr. U. Burke:** The Senator showed scant regard during his time in that office.

**Mr. Leyden:** On a final point, the Department of Social and Family Affairs has 320,000 recipients of free telephone rental. The Department will have to pay €3 million extra to Eircom per annum.

**An Cathaoirleach:** These points can be made during the debate.

**Mr. Leyden:** The matter should be highlighted. I hope ComReg will refuse the application for the increase and tell Eircom to get its act together.

**An Cathaoirleach:** Please, Senator. Many Senators are offering and there is a time restraint. I would like co-operation and, while I do not wish to curtail them, I would like Senators to be as

brief as possible so we can accommodate everyone who is offering. I call Senator Browne.

**Mr. Browne:** I agree with previous speakers with regard to Northern Ireland. Politics has won out and the one thing we can all learn is that violence led to nowhere except to polarisation. It will be remembered that, unfortunately, thousands of people paid with their lives during the Troubles. I was born in the same year as the Sunningdale Agreement. I often wonder why we are only reaching this point now when it could have been reached 30 years ago. It is regrettable that so many people paid with their lives in the meantime. We need to reiterate, in particular to the generation who have grown up in peaceful times and who might mistakenly think violence is the way forward in the future, that there is no role for violence in politics. While it is possible it will return, I hope it does not.

I agree with Senator Terry with regard to PRSI contributions. This is the biggest issue since I became involved in politics. We hear of the pensions timebomb. When I was paying for staff in my office, I never had any objection to paying the PRSI rates because PRSI is so important later. There is nothing worse than having people come to public representatives when they are looking for benefits only to discover they have inadequate stamps and so on. If extra money is left over, why not expand the scheme to improve dental, optical and other benefits? What the Taoiseach said last week was irresponsible.

**Dr. M. Hayes:** Most of what I wanted to say has been said so there is no point reiterating it. However, from the standpoint of one who was born, grew up and lives in the North, and knows both communities from the inside, yesterday was a most moving day. What moved me more than anything else were the words of Dr. Paisley and Gerry Adams, the tone in which they were spoken, the things that were not said and the body language. For the first time, there was respect and a willingness to work together. In particular, I thought there was a willingness on the part of Dr. Paisley to put behind a terrible past. That was echoed by Mr. Adams. I hope people will be able to draw a line under the past. I regard this as a sort of relay race. While it is right to salute the people who breasted the tape, it is also right to remember the people who carried the baton through the years, even for a short distance. We should also remember the victims over all the years. I am glad to be here today to salute those who brought about this.

I know it is a fond hope, but I ask the Leader whether it is possible for the House to recognise and debate at some stage the report of the Oireachtas committee on the sponsorship of sports by alcohol related industries. This is the antithesis of sport and is something we should spend some time discussing.

**Mr. Norris:** I join my colleagues in paying tribute to the remarkable agreement reached yesterday in Belfast. In particular, I thought Mr. Adams played a fine game. He could have stymied the whole thing if he wanted to be petty and could have refused Dr. Paisley the room for manoeuvre he sought. This was a type of last-gasp saloon for Dr. Paisley, who was christened “Dr. No” by newspapers. If he ever wanted to achieve his ambition of becoming First Minister, this was the moment it had to be done. I am glad agreement was reached. Senator Maurice Hayes is right in saying the body language was important. The visual impact of seeing on television the two of them sitting almost side by side was very interesting. I hope that in the general feeling of well-being we do not forget the cost, the tragic loss of almost 4,000 lives and a large number of people crippled for ever. I hope those still suffering will not be forgotten when the new arrangement comes into being.

The situation is hopeful and perhaps it can be used as a model for other parts of the world, for example, the Middle East. I seek a debate on the Middle East because we do not have the same standards in dealing with Israel and Palestine. It is important we also include in debate areas like Iran and the taking “into detention”, to use a neutral phrase, of 15 United Kingdom sailors. I noted the extraordinary arrogance of the spokesman who described the boat as being in “our waters”. I wonder how the sea around Iraq has suddenly become British territorial waters. I have considerable hesitation about accepting the United Kingdom’s version of events, particularly since the local Iraqi commander said clearly the sailors were in Iranian waters. In 2004, we had a similar provocative incident and it was determined then those involved were in fact in Iranian waters. I hope they are not attempting to provoke another military adventure by Mr. Bush.

I support Senator Terry’s comments on the Taoiseach’s speech. I was out protesting the war, but I heard his speech in the evening and found it a fantastic performance. It was real barnstorming and he hit all the right notes. I have no doubt there will be a bounce. I have just one hesitation and I am sure the Cathaoirleach supports me on this. When the Taoiseach said he believed in attacking problems, not personalities, I had a sudden flashback and remembered his attack on Deputy Joe Higgins in the Dáil. Then I remembered——

**An Cathaoirleach:** Order please. Many other Senators are offering.

**Mr. Norris:** He said very clearly that Deputy Higgins was a failed person. Therefore, he was not a person, just a problem and it was all right for the Taoiseach to attack him because he is a problem, not a person.

**Mr. Leyden:** That was in the past. We have got over that.

**Mr. Mooney:** It is right for the House to acknowledge what happened yesterday in the North. It is a humbling experience to feel part of living history and be aware that what happened yesterday will probably form the last chapter of future history books on the Peace Process. What is significant about yesterday is that it is the ending of a partition of the mind, as inferred by Senator Maurice Hayes, in that two mindsets have mellowed to a point where they can now sit together. As the body language indicated, they are anxious and willing to work together.

I also agree with the points made about those who have contributed throughout the process, back to the late Charles Haughey. It is also right and proper, in referring to the late Senator Wilson, to mention the current representative from the North, Senator Maurice Hayes, who is such a modest man. He was a member of the Patten Commission and in his myriad other activities, including his excellent, regular articles, opened a window on the political thinking in the North.

There is the exciting prospect in store for someone coming from Border county that, coupled with the setting up of the new executive and of Northern Ministers engaging with the collective minds of the political establishment on the island of Ireland, the Republic can now contribute significant resources to the economic development of the Border counties and the North. Will the Leader consider having a debate on the promises and commitments made by the Taoiseach last weekend to the establishment or creation under the infrastructural programme into the next Government and beyond of a new east-west road corridor? This will prove to be of significant economic benefit to the Southern and Northern Border counties.

**Mr. Coghlan:** I too salute the politicians in the North and the two Governments on yesterday’s wonderful achievement. Can the Leader spell out the details of the Government’s proposals to co-locate eight private hospital on public hospital campuses? What is the deal? How is it proposed to pay for these hospitals? How will they fit in with the present public health system? There is an obligation on the Government and the Minister to explain the details. Democracy needs transparency on this issue. Unless there is all-party agreement the contracts should not be signed in advance of an impending general election.

**Mr. Leyden:** Sign away.

**Labhrás Ó Murchú:** I join the other Senators in commenting on yesterday’s development. It was one of the most historic events in the long and turbulent history of Ireland. We witnessed

the laying aside of tags such as “nationalist” and “unionist” and their replacement with the common name of Irishmen and women. Nobody could fail to be struck by the unity of purpose evident in the statements of the two leaders which also manifested unity among communities. After all that we have heard and experienced over the years it was particularly edifying to see what might be regarded as two opposing leaders singing from the same hymn sheet. Party ideologies were left to one side and people became paramount once again.

There was a positive undertone in the edition of “Questions and Answers” broadcast from the North of Ireland. It was no longer a question of the South talking to the North or *vice versa* but of action on behalf of all communities. There is no doubt that we have a solid foundation on which to build and we should salute everyone, without singling anyone out, who over the decades contributed to that development.

**Dr. Henry:** Whatever about the rights and wrongs of the situation affecting the maternity services in Cork, at least women there receive treatment. In Galway University Hospital and in Our Lady of Lourdes Hospital in Drogheda there are delays, in some cases of up to 20 weeks, for pregnant women to have their first visit. That is two to three months later than the recommended time for good treatment. How has this been allowed to arise? Will the Leader ask some Minister in the Department of Health and Children to attend the House to address the issue?

While the Minister is here we could also discuss the cancer strategy which has made no progress since it was introduced nearly a year ago? Could this be because some small hospitals will be advised they are doing inadequate work in the provision of good cancer treatment and that it should no longer be provided therein, and because the Government fears local hospital candidates may be put forward for election?

**Ms White:** As a passionate advocate of combating ageism, as exemplified in my document “A New Approach to Ageing and Ageism”, my heart lifted on Saturday night when the Taoiseach announced an increase in the pension to €300 per week.

**Ms Terry:** After five years.

*(Interruptions).*

**Mr. Browne:** It is €20 a year.

**An Cathaoirleach:** Order, please. Senator White without interruption.

**Mr. Norris:** He has not read it.

**Ms White:** He did actually. He used it in his speech because I lobbied hard.

**Mr. Ross:** Hear, hear.

**Ms White:** As Senator Ó Murchú said, not to name names——

**Mr. Norris:** Ah, go on.

**Ms White:** I was honoured in 1993 to have been elected to the Fianna Fáil national executive.

**Mr. Ross:** Hear, hear.

**Ms White:** At that time, Albert Reynolds was Taoiseach and he told us every month at our national executive meeting——

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

**Ms White:** This is very important for historical reference. He said he was reaching out to the republicans and loyalists.

**Mr. Ross:** Hear, hear.

**Mr. U. Burke:** As far as Colombia.

**Ms White:** Nobody in that room believed in what he was doing but he brought a businessman’s pragmatic approach to politics and banged the heads of both sides together.

I have two other small points, but they are not small in significance. We should always remember the lives of the thousands of innocent victims of the Troubles. Margaret Thatcher was very slow in dealing with the issue.

**An Cathaoirleach:** We cannot go back over history.

**Mr. B. Hayes:** The Anglo-Irish Agreement.

**Ms White:** I was a volunteer on the ground during the peace process.

**An Cathaoirleach:** An agreement has been reached and we cannot go back over it.

*(Interruptions).*

**Ms White:** Owing to the political failure of Mrs. Thatcher, people died on hunger strike and violence escalated.

**An Cathaoirleach:** I call Senator Ulick Burke.

**Ms White:** I was there and was involved as a volunteer.

**Mr. Browne:** Violence leads to violence.

**Mr. U. Burke:** I support my colleagues who have called on the NRA to take immediate action to provide safety alert mechanisms for our national motorways, bearing in mind the incident that occurred today. It is unacceptable that roadways are being built throughout the country with-



[Mr. U. Burke.]

out proper and complete planning. Although the emergency services were on hand very quickly today, which is a credit to all involved, there was nobody in place to prevent the ongoing traffic build-up. It should have been diverted at a much earlier stage. The accident happened immediately after 9 a.m. and even at 11 a.m. traffic was still being trapped on the road.

When one considers all the resources invested in the national routes, one will realise it is very important that the Minister for the Environment, Heritage and Local Government instruct, as a matter of urgency, the NRA to incorporate into its plans for roads presently under construction provision for safety alert mechanisms to alleviate future traffic problems.

**Mr. Glynn:** I, too, appreciate the deal that has been brokered. It is an historic deal and I never thought I would see the day on which it was made. Now that I have, I am very pleased to be a Member of this House, and to have shared membership of the Oireachtas with individuals who have pushed out the boat and trod where others feared to tread. It is a great day, and long may the new developments last.

**Mr. Bradford:** I want to associate myself with the many tributes paid to all those involved in yesterday's progress in Northern Ireland. It is always important to recognise that no agreement is set in stone forever, but a major step forward was made yesterday. A significant number of people deserve credit. It is 22 years since the Anglo-Irish Agreement of 1985 and it is almost 14 years since the IRA ceasefire of the summer of 1994. We must appreciate that in conflicts which have been ongoing for as long as the one in Northern Ireland, progress takes time, effort and patience. I hope something truly effective and long lasting will stem from yesterday's events.

I support Senator Ryan's remarks on the dispute surrounding the opening of the new maternity hospital in Cork. The comments of the Minister for Health and Children, Deputy Harney, and HSE personnel in recent days have not been helpful. The nurses to whom I have spoken made it abundantly clear they wish to be in the new hospital at the earliest possible opportunity but they feel staffing levels as originally announced are not sufficient. As far as I am aware, that is their one and only concern. A little goodwill on the part of the Minister and the HSE could resolve this problem. The matter needs to be resolved in the near future.

**Mr. Ryan:** Hear, hear.

**Mr. McHugh:** I wish to be associated with the remarks made about the historic day yesterday in Northern Ireland. No doubt there will be a clamour to pinpoint the origins of the process but I

will leave that to the historians. They will know where to attribute its genesis.

**Mr. B. Hayes:** Hear, hear.

**Mr. McHugh:** I salute the people who have been involved at community level in Northern Ireland and the Border counties. Senator Mooney will be aware of them. All the capacity building that has gone on, not just in the past ten years, but in the past 30 years when the conflict was ongoing, is due to people who decided to take risks within their communities and to reach out across the Border, and to different religions—

**Mr. Mooney:** Including the former Senator McGowan.

**Mr. McHugh:** —including the former Senator McGowan. I salute all those who have worked at a community level and the agencies, including the INTERREG I, II and III initiatives, the EU Peace & Reconciliation Fund, the International Fund for Ireland, Co-operation Ireland and ADM's CPA programmes. The people involved in these organisations are the real risk-takers at a cross-Border level.

I also wish to include the members of local authorities, my former colleagues from Donegal County Council of which I was a member in 1999. They were involved in cross-Border groups with councillors from counties Monaghan, Cavan, Louth, Leitrim and Sligo. The process originated with every person who was involved in taking risks at a local level. That is where it started and we, as politicians, should acknowledge that.

The job does not stop here, it starts here, be it in regard to infrastructural projects or cross-Border health projects. We must fund the cross-Border plans that are in place, face up to the realities of the challenges and acknowledge that we have to continue into the future the work that has begun.

**Ms O'Rourke:** I thank the Cathaoirleach, who in view of the day that is in it, allowed great leeway to Members to speak on the Northern peace process. In referring to the historic agreement yesterday, Senator Brian Hayes harked back to the Good Friday Agreement. He spoke about reconciliation between green and orange. He also made the point that there are more than just two parties in Northern Ireland. He referred to John Hume and many others who may have slipped our mind, in particular, the former US Senator George Mitchell, who was pivotal at extraordinary times in that process. We should salute him.

I am sure it affected us all in different ways. Senator Maurice Hayes referred to what a moving day it was. I sat and looked at the television and I am not ashamed to say I had tears in my eyes. I thought back to all that had happened and all of the people who were affected and the significant event that had just taken place. As I was

on my own at the time, I was able to indulge myself. It was stirring and wonderful to see the two men side by side.

He also raised the carnage on the M7 and the M9. I was listening to the radio on the way here and I heard a woman speak who was in the car behind the last car that crashed. She described the speed at which the cars were travelling and that they did not have their lights on in the fog. We have great sympathy for those who were injured but we all have to take extra care.

On Senator O'Toole's remarks, I have one concern about the Northern process and that is that nothing untoward should happen in the next five weeks. Senator O'Toole is right. This achievement was delivered by politicians. We all talk about this, that and the other but very few people say politicians brought about this. If politicians had not shown leadership, the work we have seen would not have been done. I acknowledge that the civil servants and the Northern team were wonderful to all of those politicians but leadership had to be given and it was political leadership on the part of all parties from different countries at all times that brought about this achievement.

The Senator raised the matter of cancer care. If one thing is evident from the report he mentioned it is that centres of excellence are necessary because that is where the multi-disciplinary teams and all the experts can be located. It is at those centres that one can get the proper treatment. We all fight for cancer treatment services at particular hospitals and so on but we should provide those only in centres of excellence.

Senator Ryan said that politics works. He also spoke about the speed limit on our roads. People see the 120 km/h sign and seem to think they have to travel at that speed, which is not the case. The Senator was also concerned about the midwives in Cork and described what the Minister is alleged to have called them, which he said was an insult to the nurses. He said he hopes the new hospital opens under proper conditions.

Senator Dardis raised the events in the North and remembered the late Senator Gordon Wilson. He paid proper tribute to the Taoiseach and to the British Prime Minister. The intensity of effort and time put into the Northern peace process by both those men can never be underestimated. They are now discussing everyday matters. Perhaps that is what they will spend the next five weeks doing; I hope so.

The Senator also raised the issue of lit signs on motorways warning of potential dangers, which is a good idea. I am aware the National Roads Authority is working on such signs.

Senator Terry raised the issue of cancer treatment and said the chance of survival depends on where one lives. It depends on having proper centres of excellence where all treatment can be carried out on the one campus. It is vitally important that happens. She said that breast

cancer screening is not available countrywide but that will be the case, and not before time.

The Senator mentioned the Taoiseach's speech on Saturday. I am glad she watched it. At least she was honest about it. I promise to watch Deputy Enda Kenny next Saturday—

**Mr. Browne:** With an open mind.

**Ms Terry:** It is very sad that we watched something like that on Saturday night.

**Mr. B. Hayes:** Does the Leader not do anything on Saturday nights?

**An Cathaoirleach:** The Leader to reply to the Order of Business.

**Ms O'Rourke:** I delayed going out to dinner. I go out on Saturday nights but I delayed going out that night.

Senator Ormonde recognised the agreement in the North and the role of politicians. She raised also the matter of excess packaging. A woman friend of mine removes all the packaging from products she buys, hands it back to the person behind the counter, says "Thank you" and marches out.

**Ms Ormonde:** She is right.

**Mr. Dardis:** How does she do that with Cornflakes?

**Ms O'Rourke:** Senator Ross will raise the issue of President Mugabe on the Adjournment tonight. He also referred to the extraordinary agreement in the North and said the Unionist Party and the SDLP might feel sidelined. They all paid the price. There is always fallout from such agreements. The Senator praised both the Taoiseach and a previous Taoiseach, Albert Reynolds, who he rightly said was underrated and an unsung hero in the process.

Senator Leyden mentioned the late former Taoiseach, Charles Haughey, and his part in the process. He also referred to Eircom increasing the cost of line rentals. I imagine the regulator is the person in charge of that. He also mentioned a cost of €3 million on the Exchequer for the people who have free telephone lines.

Senator Browne spoke about the futility of violence and brought up the question of PRSI. We will see what Deputy Kenny comes up with. Senator Maurice Hayes said yesterday was a most moving day, which it was. I did not think that, at this stage of my life and after all I have gone through, I would be so moved, as everybody was. He mentioned the victims over the years and called for a debate on the report on sport.

Senator Norris referred to the tragic cost of 4,000 lives lost and called for a debate on the Middle East. He also asked whose waters the 15 UK sailors were in when they were apprehended by the Iranians. He referred to the Taoiseach's

[Ms O'Rourke.]

speech, which seems to have had a very avid listenership. Senator Paschal Mooney called yesterday a humbling experience and said the partition of the mind between the green and the orange had disappeared. He complimented Senator Maurice Hayes and called for a debate on Northern Ireland, which would be worthwhile and may be possible.

I cannot give Senator Coghlan any details as to how collocation of private hospitals on public land will take place. We will have to wait for the Minister for Health and Children to come to the House to tell us. The Senator said nothing should be signed. Do I take it from that that Fine Gael is not in favour?

**Mr. Coghlan:** I was talking about transparency.

**Ms O'Rourke:** So it is in favour.

**Mr. B. Hayes:** We are not in favour.

**Mr. Minihan:** Fine Gael is not sure. Its Members have changed their opinions a few times.

**Mr. B. Hayes:** The Labour Party and Fine Gael are *ad idem* on this issue, unlike the Government parties.

**Mr. Dardis:** Whatever it is they are against it.

**Ms O'Rourke:** Senator Ó Murchú spoke of the unity of purpose of the two Northern leaders and said ideology had been put to one side. Senator Henry referred to the situation in Galway and Drogheda, where expectant mothers have to wait five months for their first appointment. They are nearly ready to give birth at that stage and it cannot be right from a medical point of view.

Senator White was laudatory of the increase in the old age pension, which she recommended in her report. She referred to 1993 and said the then Taoiseach, Albert Reynolds, had knocked heads together. She also remembered the hunger strikes.

Senator Ulick Burke urged the National Roads Authority to take action on signage. While that was not a factor in today's accident, it is worth noting. I heard very praiseworthy comments about the emergency teams in Naas General Hospital and how they had worked very effectively to take in the wounded and attend to them.

**Mr. Browne:** Some were off duty at the time.

**Ms O'Rourke:** Senator Glynn welcomed the Northern deal, as did Senator Bradford, who also raised the dispute at Cork University Maternity Hospital and spoke of the nurses involved.

Senator McHugh said yesterday was an historic day and saluted people who work in the community in Northern Ireland. He also praised the INTERREG I, II and III programmes, which

were brokered by politicians in Europe. They did not appear in Donegal or Monaghan by magic.

**Mr. Mooney:** Some people think they did.

**Ms O'Rourke:** He said that, while yesterday was historic and very stirring, the real work started now.

Order of Business agreed to.

#### **Request to Move Adjournment of the Seanad under Standing Order 29.**

**An Cathaoirleach:** I have notice from Senator Cox of a motion she wishes to table under Standing Order 29. I call on Senator Cox to give notice of her motion before I give my ruling.

**Ms Cox:** I wish to move a motion under Standing Order 29 for the Adjournment of the House on a specific and important matter of public interest, namely, the water supply crisis in Galway. More than 90,000 people are affected by the contamination of the water supply in Galway, resulting in 93 cases so far of serious gastric illnesses and the people of the county being denied their basic human right of access to water. The former Secretary General of the United Nations, Mr. Kofi Annan, has said, "Access to safe water is a fundamental human need and, therefore, a basic human right." Contaminated water jeopardises both the physical and social health of all people.

**An Cathaoirleach:** That is not the motion I have in front of me.

**Ms Cox:** I thought I was allowed to speak.

**Mr. B. Hayes:** The Senator is only allowed to speak if she is selected.

**An Cathaoirleach:** I must make a ruling first.

**Ms Cox:** How then can I convince the Cathaoirleach that the matter is of national importance?

**An Cathaoirleach:** I have given careful consideration to the matter raised by Senator Cox and cannot consider it a matter contemplated by Standing Order 29. I regret, therefore, that I must rule it out of order.

**Mr. B. Hayes:** Good try.

#### **Health Bill 2006: Committee Stage.**

Section 1 agreed to.

#### **SECTION 2.**

Government amendment No. 1:

In page 10, lines 4 and 5, to delete “provided by the Executive or a service provider” and substitute the following:

“provided by the Executive, a service provider or a person that is not a service provider but who receives assistance under section 39 of the Health Act 2004 or under section 10 of the Child Care Act 1991”.

**Minister of State at the Department of Health and Children (Mr. S. Power):** Under the Bill, the Chief Inspector of Social Services has responsibility for inspecting and registering designated centres. Designated centres are defined as private nursing homes and institutions, homes or centres at which residential services are provided by the Health Service Executive or a service provider for children, people with disabilities or other dependent persons. The term “service provider” also covers a person who enters into an arrangement under section 38 of the Health Act 2004 to provide a health or personal social service on behalf of the Health Service Executive. It also means a person who is in receipt of assistance from the Health Service Executive under section 39 of the Health Act 2004 or section 10 of the Child Care Act 1991 in excess of an amount prescribed by regulation.

It is possible, however, that some residential services for children or people with disabilities may be provided by agencies which, by virtue of the small scale of the operation, may be in receipt of funding under section 10 of the Child Care Act 1991 or section 39 of the Health Act 2004 which is less than the amount prescribed. Such residential services are not included in the current definition of designated centre. Clearly, it is important that all residential centres are respected and, for this reason, we propose to amend the definition so that there is no question but that all residential services funded by the Health Service Executive are inspected.

Amendment agreed to.

**Acting Chairman (Mr. Dardis):** Amendments Nos. 2 to 5, inclusive, are ruled out of order as they involve a potential charge on the Revenue.

Section 2, as amended, agreed to.

### SECTION 3.

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

**Mr. Ryan:** I wish to record my eternal objection to legislation which gives the Minister *carte blanche* to ignore the legislation, which is what this section involves. Every Bill which contains an open-ended timeframe for its implementation is, essentially, handing over to the Government the legislative role of the Oireachtas. I have always objected to this practice, and I wish to put my objection on the record again. It is surely not

beyond the wit of man or woman to work out when it is possible to implement legislation, even if it is a year hence. A Mental Health Bill was passed in 1981 but it was never brought into force. As the Government did not have to bring it into force, it was 20 years before revised legislation was introduced.

Question put and agreed to.

Sections 4 to 7, inclusive, agreed to.

### SECTION 8.

Amendment No. 6 not moved.

**Mr. Browne:** I move amendment No. 7:

In page 13, subsection (1)(i), line 41, after “population” to insert the following:

“in terms of the provision and delivery of services and the regulation of—

- (i) the demand for,
- (ii) supply of, and
- (iii) number of,

residential places throughout the State”.

We propose this amendment because the Bill does not go far enough in specifying the centres that will be under the authority’s remit.

**Mr. S. Power:** The objective of HIQA, as set out in section 7, is to promote safety and quality in the provision of health, social and personal services for the benefit of the health and welfare of the public. Section 8 sets out the functions of HIQA. These include its standard setting functions for services and its information functions. Under section 8(1)(i), HIQA must evaluate available information in respect of services provided by the Health Service Executive and service providers and the health and welfare of the population. This is a broad provision which is designed to reflect the complex and extensive environment of health information. HIQA is required under section 8(1)(j) to provide advice and make recommendations to the Minister and the Health Service Executive about deficiencies it has identified in this information.

In other words if HIQA discovers that information available on any aspect of services or on the health and welfare of the population is inadequate or incomplete, it must advise the Minister and the Health Service Executive and make recommendations accordingly. The proposed amendment would limit the scope of the information HIQA might evaluate to information on residential places. This is a far more narrow range than that offered under the Bill, and restricts the information evaluation function to evaluation of a single aspect of the services. In view of the wider range offered in the existing provisions, it is not proposed to accept the amendment.

Amendment put and declared lost.

Section 8 agreed to.

Section 9 agreed to.

#### NEW SECTION.

**Mr. Browne:** I move amendment No. 8:

In page 15, before section 10, to insert the following new section:

10.—In any investigation under *section 9*—

(a) the report of the investigation shall be absolutely privileged,

(b) due process and fair procedures shall be observed,

(c) any person called to give evidence, shall be allowed legal representation if he or she so requests, and there shall be a duty on any person conducting an investigation to inform such a person of his or her right in that respect, and

(d) there shall be a duty of cooperation on any member of staff of the service provider save where such a person receives legal advice to the contrary.”.

This relates to the procedures observed during an investigation. It provides that the report be absolutely privileged. The amendment also provides for legal representation for people called to give evidence, if they wish it, and that people be informed of their right in that respect. It provides for a duty of co-operation on a member of staff of the service provider in an investigation, except where legal advice is suggested to the contrary.

**Dr. Henry:** I presume this amendment is proposed as a result of the problems that were encountered in the Leas Cross investigation. Anything that would prevent the delays and discomfitures that were experienced in that case is worth considering.

**Mr. S. Power:** The amendment proposes that the report of an investigation carried out by the HIQA should be absolutely privileged. Absolute privilege gives a complete defence to a defamation action. The legal advice is that absolute privilege applies even where the words complained of are published with knowledge of their falsehood and with the intention of injuring another. Although the Minister has every confidence that reports by HIQA of investigations will be objective, fact based and free of deliberate falsehood, the Minister is reluctant to include such a wide provision as absolute legal privilege in the Bill.

However, in view of the debate on this issue in the Dáil, legal advice was sought in regard to what provisions, if any, might be included. Following this consultation, a new section 78 was

inserted in the Bill on Report Stage in the Dáil to expressly provide for qualified privilege in respect of reports or documents prepared by, or communications made by, HIQA, an authorised person, the chief inspector, inspectorate and qualified persons. As is normal in this area, such reports, documents and communications must be made in good faith with regard to the carrying out of relevant functions by the persons concerned.

The Senator's amendment also proposes that due process and fair procedures be observed, that any person called to give evidence shall be allowed legal representation and told of this right and that there shall be a duty on a staff member to co-operate with an investigation, except where the staff member receives legal advice to the contrary. The legal advice on due process and fair procedures is that these are implicit under common law and the specific inclusion of this provision would be redundant and perhaps even result in an unintentional effect on common law. Any person connected with an investigation can have access to legal representation if he or she wishes. If the Bill is silent on this matter, the right to legal representation is part of due process and common law.

With regard to a duty to co-operate save where the staff member receives legal advice to the contrary, the legal advice is that this provision would weaken the Bill. It would be odd if the legal advice was that somebody should not co-operate given the obligations under the Bill for co-operation. In this regard, a person in charge of a premises or service or who possesses or is in charge of relevant records is required to furnish any information required by an authorised person appointed by HIQA to carry out an investigation. There is also a requirement under the Bill to provide an explanation of any record or other information provided or of other matters which are the subject of the functions being exercised by the authorised person. Moreover, section 77 provides that authorised persons cannot be obstructed or impeded when conducting an investigation and that false and misleading information must not be given to an authorised person. Contraventions of these provisions are offences under the Bill.

On the basis of the foregoing, I do not intend to accept the amendment.

**Mr. Ryan:** Last week in the Pharmacy Bill absolute privilege was extended to what is essentially a private body, the Pharmaceutical Society of Ireland, in terms of its procedures for investigating complaints against pharmacists. I am at a loss to understand why the concept of absolute privilege should apply in the case of the Pharmaceutical Society of Ireland but not in the case of a body established by the State to look after the rights of patients. Nasty and unpleasant threats of litigation by sometimes powerful figures could be directed against well intentioned and conscientious public servants. That is the

reason the concept of absolute privilege is necessary in these cases. It is a pity there will be what appears to be two different regimes.

**Mr. S. Power:** In response to Senator Henry, section 78 provides for qualified privilege to cover reports such as the Leas Cross report mentioned by the Senator. Qualified privilege means the person is protected from defamation proceedings provided they prepared their report or document in good faith. We sought legal advice on this and we are happy that absolute privilege is not necessary in this instance.

**Mr. Ryan:** The problem with qualified privilege is that there is no absolute way to determine it other than by way of a court case, in which case the individual can be accused of saying something defamatory and, depending on how the court rules, it may or may not be adjudicated upon. A defendant may be left with a substantial legal bill if he or she is not indemnified, whereas absolute privilege means the person cannot be sued. A person cannot bring me to court on the grounds that I defamed him or her in this House because I have absolute privilege. If the privilege extended to me while speaking here was in any way qualified, I could be sued and it would be up to the courts to decide. That is the difference. I do not want to hold up the House unnecessarily. I do not understand why two different regimes are in place.

**Dr. Henry:** I share the Senator's concerns. A person of lesser moral fibre and toughness than Professor Des O'Neill might have buckled under the pressure of that issue. I cannot understand why people cannot be afforded absolute privilege. It is very serious for individuals to be sued and it could be a terrible brake on making sure we had proper reports and that people felt confident enough to stand behind what they knew to be the truth.

**Mr. S. Power:** Senator Ryan mentioned the Pharmacy Bill, which is different. That Bill dealt with fitness to practice hearings, which are privileged and are treated in a similar fashion to hearings of a court. We would be anxious to ensure sufficient protection and, based on legal advice, anyone who publishes a report in good faith on behalf of the authorities should have no cause for concern. We are satisfied that what is proposed is sufficient and there is no need to provide the absolute privilege Members have sought.

Amendment, by leave, withdrawn.

Section 10 agreed to.

Sections 11 and 12 agreed to.

## SECTION 13.

Question proposed: "That section 13 stand part of the Bill."

**Mr. Glynn:** Section 13(3) refers to people who cannot be members of the board and section 13(3)(c) specifically excludes a member of a local authority, which is unjust.

**Mr. Ryan:** Hear, hear.

**Mr. Glynn:** Is there something inherently wrong with being a member of a local authority? Are they great big ogres? They are the finest people who give the greatest service to the people in the interest of democracy as they have done since the inception of the State and beforehand. This is unfair and I ask the Minister of State to reconsider it with a view to introducing an amendment on Report Stage. It is totally unjustified. I do not agree with it. It is wrong.

**Mr. Browne:** While I am not suggesting elected representatives should be on the board, it is not necessary to specify their exclusion in legislation. There is no crime in being a politician. The same applied with the Pharmacy Bill last week. I would love to see a court challenge under equality legislation, as I am sure the courts might take a different view on the matter. This unnecessary provision has been inserted in all recent legislation. Membership should be based on merit. Guidelines can be drawn up here when members are elected. However, inserting this provision automatically is not appropriate. We are doing our best to discuss the pros and cons of democracy and during the Order of Business today we spoke about how politics won out in the end in Northern Ireland. We are encouraging people to enter politics and take part in the democratic process and yet we insert this provision on a regular basis. I resent it and object to it. There is no need for it. While I do not suggest they should be on the board, it is not necessary to bar people from participation. It flies in the face of all our equality legislation.

**Mr. Leyden:** On Friday, I spoke on Second Stage of the Bill. I reiterate my opposition to the debarment of local representatives as outlined at section 13(3)(c). I request the insertion of a simple amendment to correct this. I met the Minister of State, Deputy Seán Power, whom I welcome to the House, at Citywest at the end of the very successful ard fheis on Saturday evening. I expressed my view in this regard. I also conveyed my view to the Minister for Health and Children, Deputy Harney, on Friday and I expressed it to her office today. I remind her and inform the Department that on 13 February 2007, the Fianna Fáil parliamentary party unanimously passed a motion calling on the Government to exclude

[Mr. Leyden.]

from all future legislation provisions automatically debarring—

**Mr. Ryan:** Is this in order?

**Mr. Leyden:** —public representatives from membership of national boards and authorities. The Minister for Foreign Affairs, Deputy Dermot Ahern, responded by saying he always searched legislation from his Department to ensure that provision was excluded. The Chief Parliamentary Counsel inserts this provision automatically. Members of the Houses of the Oireachtas and Members of the European Parliament are generally excluded. The Personal Injuries Assessment Board Act 2003 does not have such an exclusion because one of our Members is vice-chairperson of the board.

**Mr. Browne:** And doing an excellent job.

**Mr. Leyden:** He is doing an excellent job and there is no reason he should be excluded. The only other people excluded are those serving a term of imprisonment and members of local authorities. Members of local authorities put themselves forward for election. Many of them have numerous qualifications as community workers, social workers, doctors etc., which could be of assistance to the Health Information and Quality Authority. The provision is debarring quality people from serving in another way on state boards.

I previously have been in the position in which the Minister of State finds himself. I appreciate he is dealing with the Bill in the House as the Minister is not available today. I  
4 o'clock appeal to the Minister of State, Deputy Power, between now and Report Stage on Thursday, to communicate the view expressed by Senators Browne, Glynn and myself in this regard. We feel that retaining this provision would be prejudicial against the best interests of local authorities. Local authority members have been elected since 1899, which was long before the State was founded. They have served the State very well for more than 100 years. Dropping the provision would not mean local authority members would need to be members of the authority, but would allow it to happen. The provision makes it less attractive for people to become local authority members, as doing so would exclude them from serving on this and many other boards. On behalf of local authority members, I discussed the matter at the Fianna Fáil ard-fheis and I conveyed my concern at the provision. I know the Acting Chairman will ask how many times the Fianna Fáil ard-fheis has been mentioned.

**Acting Chairman:** We have moved from the parliamentary party to the ard fheis. I wonder where we are heading next.

**Mr. Browne:** The ardchomhairle.

**Mr. Leyden:** Senator Ryan will not face the electorate at local authority level.

**Mr. Ryan:** I most certainly will.

**Acting Chairman:** I remind Senator Leyden that we are on Committee Stage of the Bill and not Second Stage.

**Mr. Leyden:** I appreciate that and as one who sometimes chairs this Chamber, I would do the same.

**Mr. Ryan:** I most certainly will face the electorate. It is a course and malicious charge.

**Mr. Leyden:** I will try to elaborate, express and extend the situation. We will face the electorate in July 2007. I am not sure about Senator Browne, but Senator Glynn is certainly looking forward to it. Senator Ryan will go before his electorate.

**Mr. Ryan:** Yes. This is a correction of what Senator Leyden said a minute ago.

**Mr. Leyden:** Senator Ryan is not going before the same electorate as us.

**Acting Chairman:** Will Senator Leyden concentrate on the relevant section of the Bill?

**Mr. Leyden:** We must face 833 or 834 councillors to whom we would do a disservice if we did not express our views in this regard in this Chamber. I appeal to the Minister of State and the Minister for Health and Children to exclude the debarment of local authority members from membership of the Health Information and Quality Authority. We will discuss this matter at a meeting of the Fianna Fáil parliamentary party this evening because we feel so strongly about it.

**Mr. Ryan:** Based on what Senator Leyden said, it is clear how much influence Fianna Fáil backbenchers have over Fianna Fáil policy. It makes no sense to exclude members of local authorities from membership of a body such as this. There is an active citizenship commission travelling around the country trying to persuade people to get involved, and we know that people are reluctant to get involved in politics.

Politics has a bad name and if I was in a cranky humour, I could say who caused it but I will not do so. As I have often said, when my children were in their late teens, they would always say that their father was a lecturer in an institute of technology rather than a politician. That was safer territory because they did not know what they would get into if they said otherwise.

I would love the Minister of State to give me a reason there would be some significant conflict of interest between the role and activities of a

member of a local authority and the activities of the body in question. If there is a reason, I will listen to it. I am also intrigued by the fact that, as usual and as noted by Senator Browne, Members of the Oireachtas and the European Parliament cannot be appointed to this body.

However, according to section 14, if a member of the body subsequently becomes a Member of the Oireachtas, he or she does not have to leave office. There is no mention of that in section 14. Reference is made to bankrupts, criminals and all the other things. It is usually bankrupts, criminals and Members of the Houses of Oireachtas, but somebody has found a cleaner way of dealing with it. As it stands, under section 14, the reasons somebody must leave office once he or she is appointed do not include membership of the Houses of Oireachtas. They cannot be appointed to the authority, but once they are members, they do not have to leave and this is also true of members of local authorities. It is partly because these sections are simply being cut and pasted from one place to another. I have missed it but I could not find mention of becoming a Member of the Houses of the Oireachtas in section 14. A person cannot be appointed by the Minister if he or she is a dreadful thing like a Deputy, Senator or councillor, but once he or she is a member of the body, if he or she becomes one of these dreadful things, he or she cannot be removed.

**Mr. Glynn:** It is worth bearing in mind that many well-qualified people of all persuasions are members of local authorities. One finds doctors, nurses, surgeons and dentists. Need I go on? As has been said, and I think the case speaks for itself, we are not saying that they should become members of the Health Information and Quality Authority, but it should not be enshrined in law that they be debarred. This conveys the impression that if one is a member of a local authority, there is something wrong with one and that one has done something awful.

There is a very famous film called "The Singer Not the Song". There is no reason an individual, irrespective of whether he or she is a member of a local authority, the Dáil, the Seanad, the European Parliament or any other trade or profession, should be excluded from membership of the Health Information and Quality Authority. The fact that it is contained in this Bill is ludicrous. I again appeal to the Minister of State to drop this provision.

**Dr. Henry:** As everyone has said, it is difficult enough to get people involved in public and political life at the moment. It is very odd that local authorities have been included in the legislation. The Minister will appoint the people. We do not want it to be said that one simply needs to be a friend of the Minister to be appointed. Nobody wants to see this sort of thing happen.

The chief executive cannot be any of these dreadful people, be it a Member of the Houses of

the Oireachtas or the European Parliament or a member of a local authority, but employees can be members of local authorities. As Senator Ryan said, if one becomes a member of a local authority, the Dáil or the European Parliament after one has been appointed to the board, one is all right because, apparently, one will not be dismissed. Does the chief inspector, to whom a section is devoted, fall inside or outside this category? There is nothing in that section to say that the chief inspector cannot be a Member of the Houses of the Oireachtas or the European Parliament or a member of a local authority?

There is very little consistency in this part of the legislation. Perhaps those who wrote it meant that it was fine once one was elected and that one could use it as a platform for becoming an MEP and continue on with what one was doing. It is a great pity that membership of local authorities is involved, whatever about the other two bodies where one might be considered so busy that one did not have time to do anything other than legislate. Is the chief inspector covered by it?

**Mr. Leyden:** It is well recorded in section 82 that if one is nominated as a Member of Seanad Éireann, elected as a Member of Dáil Éireann or becomes a member of a local authority, one is precluded from membership of the board of the authority or a committee of the board. Senator Moylan brought to my attention the fact that section 82 states that one must resign on the day on which one is nominated, as opposed to the day on which one is elected. I will not jump ahead but will clarify for my colleagues the provisions in section 82 which make this possible. I will not repeat what I said already. I simply ask the Minister of State to consult the Minister before Report Stage on Thursday so that she may decide to leave out that section. There are Independents——

**Mr. Ryan:** If one becomes a bankrupt, a criminal or a member of a local authority or the Houses of the Oireachtas, one loses one's seat.

**Mr. Leyden:** Independent, Labour, Fine Gael and Fianna Fáil Members are asking the Minister to reconsider the matter, so it is a pretty strong appeal.

**Labhrás Ó Murchú:** It will be interesting to hear the Minister of State's view on local authority members. Perhaps there is some argument we should hear. I understand why there might be reasons for excluding Members of the Houses of the Oireachtas due to conflicts of interest. Based on my experience with local authority members over the years, I can say that they are people with an ear to ground who are exposed to a considerable amount of relevant experience. I would have thought that an appointment of this kind would be based on merit.



[Labhrás Ó Murchú.]

I listened to the other Senators, especially the contribution of Senator Ryan who argued that it could be interpreted that a local authority member is not, for some reason, a quality candidate and is inferior in some way. I cannot find any other logical reason for it. The same prohibition does not exist in other legislation where appointments are in question, especially in sensitive areas.

It is wrong if a lobby group is in some way making the pace on this and saying it does not want local authority members because we are the legislators. No outside group should be entitled to make such a case because we will not be able to cross-examine it. We will not have an opportunity to hear why it is making that case. The Minister's situation is different because she is at our disposal, not just in the Chamber but outside as well. I would be particularly interested because I think there is an implication there which is serious for local democracy. For that reason, it has to be teased out and we must get an explanation as to why it is there in the first place.

**Mr. S. Power:** I thank Senators for their contributions. This is not the first legislation in which local authority members have been barred from membership of particular boards. I am reminded of a former Member of the Dáil who was critical of such matters. In criticising some legislation he said that when first elected, back in the 1960s, if a postman's job became vacant in his constituency it was only a matter of nominating "his man" and he would get the job. Things had changed so much over the years with the introduction of new legislation, however, he said that if 100 people applied for such a job now, the only way he could guarantee it for his nominee would be to recommend the other 99. I suppose there is some truth in what he said.

I listened attentively to what the Senator said. I will discuss the matter with the Minister, Deputy Harney, and we will consider it for Report Stage.

**Mr. Leyden:** I thank the Minister of State.

Question put and agreed to.

Section 14 agreed to.

#### SECTION 15.

Question proposed: "That section 15 stand part of the Bill."

**Mr. Ryan:** Section 15(2) states:

A member of the Board ceases to hold office if the member—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors,
- (c) is convicted of an indictable offence,

(d) is convicted of an offence involving fraud or dishonesty,

(e) is the subject of an order under section 160 of the Companies Act 1990,

(f) is sentenced to a term of imprisonment by a court of competent jurisdiction, or

(g) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession.

One may as well add to that list — because it is in section 85 — "or becomes a Member of the Seanad, the Dáil or the European Parliament". Some one had the sensitivity to separate them, and I apologise to the House for my mistake in that regard. The fact is, however, that the disqualifications are twofold: either one is involved in a representative role in politics, or one is a crook or bankrupt. I do not like the company into which the Parliamentary Counsel is putting me.

**Mr. Glynn:** Absolutely.

**Mr. Ryan:** Some Minister will have to attend the House to give a reason for this, other than saying that it is in every other piece of legislation. If there is a constitutional, institutional or "good practice" reason why this should be the case, let us hear it and sort it out with a single Bill. We have a significant body that deals with insurance and people who seek to avoid using the courts to apply for damages. A Member of the Oireachtas is vice-chair of that body, so somebody made an exception in that case, although it is not being made for any other body. I would like to know why a Member of the Oireachtas is on the board of the Personal Injuries Assessment Board. Why is that body different from every other one? It is not really different, except that the Government took another view. I do not want to hold up the work of the House with this matter, but it is not right.

Question put and agreed to.

Section 16 agreed to.

#### SECTION 17.

Question proposed: "That section 17 stand part of the Bill."

**Mr. Ryan:** I promise I will sit down for a while after this. Section 17(1)(a)(b)(c) and (d) are fine. However, section 17(2) states

If, in the Minister's opinion, the Board is not performing its functions in an effective manner, the Minister may appoint a person to—

- (a) conduct an independent review of any matter giving rise to that opinion, and

(b) submit a report to the Minister on the results of the review.

It does not say that even if the report vindicates the board, the Minister must not then dismiss the board. If the Minister is of the opinion, under subsection (1)(d), that the board “is not performing its functions in an effective manner”, and the Minister appoints a person to conduct an independent review, and that independent person comes to the conclusion that it is doing a reasonable job, why does the Minister apparently still retain the right to sack the board? Legislation is increasingly being drafted to ensure that the Minister can do what he or she wishes, rather than what it is appropriate to do.

**Mr. S. Power:** The Senator is entitled to his opinion but ultimately, we are putting in place a board with a particular job to do. We must insert safeguards to ensure that the Minister can get involved if the board is not operating effectively. There is no desire on the part of Ministers to impose themselves and become involved in the day-to-day running of boards. It is important, however, that when we appoint a board it is run properly.

**Mr. Ryan:** Why do we want these powers anyway? Amending legislation can go through the Oireachtas in a day if necessary.

**Mr. Browne:** We will all be going before the electorate in July, apart from Senator Henry who has sense.

**Acting Chairman:** A renegade.

**Mr. Browne:** Senator Dardis could be back again, no doubt. If I fail to be elected, I can then join the boards of such bodies, although I was not chosen by the people. Yet elected candidates who receive a public mandate are excluded from membership of such bodies. It is nonsensical.

Question put and agreed to.

Section 18 agreed to.

#### SECTION 19.

Question proposed: “That section 19 stand part of the Bill.”

**Acting Chairman:** Is section 19 agreed?

**Mr. Ryan:** I wish to comment on section 19.

**Acting Chairman:** I thought the Senator said he was not going to contribute.

**Mr. Ryan:** I changed my mind. I am irrepresible. Earlier, we discussed the eligibility criteria for membership of boards or committees of boards. Section 19 states:

(1) The Board may—

(a) establish committees to provide assistance and advice to the Board in relation to the performance of its functions, and

(b) determine the membership and terms of reference of each committee.

(2) The Board may appoint persons to a committee who are not members of the Board but have special knowledge and experience related to the purpose of the committee.

That could mean anything because the board could set up as many committees as it likes. However, members of local authorities are also precluded from membership of such committees. That is carrying the matter too far. Under the provisions we discussed earlier, a member of a local authority is precluded from membership of a specialist committee established, for example, to deal with concerns over planning in an area, where such specialists may be required. If the Minister of State wants an additional argument to use with the Minister, Deputy Harney, he should examine the section for establishing such specialised committees. The idea that a member of a local authority would be precluded from membership, when they might have particular expertise, is carrying it too far.

Question put and agreed to.

Sections 20 to 25, inclusive, agreed to.

#### SECTION 26.

Government amendment No. 9:

In page 24, between lines 15 and 16, to insert the following subsection:

“(3) *Subsection (2)* does not apply to employees appointed under this section during the 3 months beginning on the establishment day or during a shorter period that the Minister may specify.”.

Under section 26, HIQA is required to recruit its employees in accordance with the Public Service Management (Recruitment and Appointments) Act 2004. This amendment allows a transitional arrangement lasting three months, or a lesser time specified by the Minister, where the provisions of the Public Service Management (Recruitment and Appointments) Act 2004 do not apply. Senators will appreciate that HIQA will need to recruit personnel immediately it is established. Under this amendment it will be in a position to do so pending its obtaining a recruitment licence under the Public Service Management (Recruitment and Appointments) Act 2004. In addition, the interim HIQA has already begun the recruitment process for certain staff with a view to having as much preparatory work carried out as possible ahead of HIQA’s establishment.

The amendment will allow HIQA to appoint such staff if the recruitment process has not been completed by the interim HIQA before the establishment of HIQA itself.

Amendment agreed to.

Section 26, as amended, agreed to.

Sections 27 to 39, inclusive, agreed to.

#### SECTION 40.

**Mr. Browne:** I move amendment No. 10:

In page 31, subsection (2), line 27, to delete “Authority” and substitute “Minister”.

We believe the Minister, not the authority, should appoint the chief inspector.

**Mr. S. Power:** Section 40 provides for the establishment of the office of the chief inspector of social services as a statutory office within the authority and for the holder of that office, the chief inspector of social services, to be an employee of the authority. Specifically, the section provides that the chief inspector shall be appointed by the authority in accordance with the provisions of section 26 which deals with employees of the authority. The authority will determine his or her remuneration, terms, conditions and period of office with the approval of the Minister, given the consent of the Minister for Finance. It is further provided that the authority may dismiss the chief inspector on specified grounds.

The proposed amendment would make the Minister responsible for appointing chief inspectors, other than the first chief inspector. The Minister believes this to be inappropriate given that the chief inspector will be an employee of the Health Information and Quality Authority, HIQA, albeit an employee with specific statutory functions. For this reason the Minister decided not to accept the amendment.

Amendment, by leave, withdrawn.

Section 40 agreed to.

#### SECTION 41.

Government amendment No. 11:

In page 32, paragraph (a), to delete line 16 and substitute the following:

“(i) sections 39 to 42 and 53 of the Child Care Act 1991, and”.

**Mr. S. Power:** In addition to statutory responsibilities for inspecting and registering residential centres the chief inspector of social services is given statutory responsibility for other matters under the Bill. These include overseeing the performance of the Health Service Executive,

HSE, of its functions under sections 39, 41 and 53 of the Child Care Act 1991 in respect of fostering and preschool services and section 10 of the Health (Nursing Homes) Act 1990 in respect of the boarding of elderly people.

In keeping with these responsibilities it is proposed to clarify the legislation so that the chief inspector will oversee the performance of the executive’s functions under sections 40 and 42 of the Child Care Act 1991. These sections both relate to the functions of the Health Service Executive in respect of children in its care.

Section 40 refers to the Health Service Executive’s function in the placing of children in residential care, securing their welfare and the form of contract to be entered into by the executive with persons providing residential care. The section also refers to the supervision and visiting by the executive of children in residential care.

Section 42 of the Child Care Act 1991 deals with how the executive should review the case of each child in its care. Given the role assigned to the chief inspector relating to the inspection of residential services for children and the oversight role in regard to the other functions of the Health Service Executive under the Child Care Act 1991 it is, of course, also appropriate for the chief inspector to have an oversight role in respect of sections 40 and 42 of the Child Care Act 1991.

Amendment agreed to.

**Acting Chairman:** Amendments 12, 14, 15, 16, 18, 19 and 22 are related and may be discussed together by agreement.

Government amendment No. 12:

In page 32, paragraph (c), to delete lines 22 to 24 and substitute the following:

“(i) regulations, and”.

**Mr. S. Power:** The Bill provides for the chief inspector to inspect residential centres against standards set by HIQA and regulations made by the Minister. Regulations for private nursing homes are currently made under the Health (Nursing Homes) Act 1990 and regulations for children’s residential centres are made under sections 38 and 63 of the Child Care Act 1991.

Regulations for private nursing homes will now be made under the Health Bill rather than the Health (Nursing Homes) Act 1990. However, it had been intended that while regulations in respect of the registration requirements for children’s residential centres would be made under the Health Bill, regulations in respect of standards of care at children’s residential centres would continue to be made under the Child Care Act 1991. Offence provisions relating to the operation of children’s residential centres would, therefore, be split between the Child Care Act 1991 and the Health Bill, with prosecutions taken

by the chief inspector under both sets of legislation.

Following further consideration of this matter and in consultation with the Parliamentary Counsel, it has been decided that the best approach would be to ensure that all of the relevant regulations on standards are made under the Health Bill. This would result in a more easily understood system of regulation overall. The change in approach advocated by the Parliamentary Counsel necessitated some amendments to the Health Bill and, consequently, some amendments to the Child Care Act 1991 which I will now outline.

Amendment No. 12 is a technical amendment to section 41. Section 41 sets out the functions of the chief inspector of social services, one of whose functions, under paragraph (c), is to assess whether the registered provider of a designated centre is in compliance with regulations made under the Bill or under any other Act that provides for the regulations of such centres. As all regulations in respect of standards will now be made under the Bill, it is proposed to delete the reference made to regulations made under any other Act in paragraph (c).

Amendment No. 14 amends section 45. As Senators may be aware, the Health Service Executive currently carries out inspections of children's residential centres provided by the voluntary sector. The executive also inspects private nursing homes and under section 45 the Bill provides for a transitional arrangement whereby the Minister may require the Health Service Executive to continue to carry out inspections of children's residential centres and private nursing homes. This is intended as a temporary arrangement to facilitate the continued inspection of the relevant services pending the finalising of all necessary arrangements, such as the transfer of staff and resources to the authority. Amendment No. 14 is, therefore, a technical amendment to section 45 to take account of amendments to the Child Care Act.

Section 50 deals with the granting or refusal by the chief inspector of social services of applications for registration of designated centres or applications for renewal of registration. In granting registration the chief inspector must be satisfied that the designated centre complies with standards set by HIQA and regulations made by the Minister. Amendment No. 15 is a technical amendment to section 50 to delete references to regulations made under the Child Care Act 1991 and ensure that all references to regulations in the section are to regulations made under the Bill.

Section 79 provides for offences and subsection (2) of that section sets out the offences committed by a registered provider of a designated centre if the registered provider fails to discharge a duty to which he or she is subject or contravenes a provision of the regulations made in respect of a designated centre. Amendment No. 16 to section 79 is a technical drafting amendment to ensure

that all relevant regulations made under the Bill are taken into account.

Section 101 allow the Minister to make regulations with respect to designated centres and amendment No. 18 ensures that such regulations will now be applicable to children's residential centres. The Bill currently deletes those sections of the Child Care Act 1991 that provide for the registration of children's residential centres operated by the voluntary sector as, along with the Health Service Executive residential centres, registration of these centres will now be regulated under the Health Bill.

Amendment No. 19 to Schedule 1 and amendment No. 22 to Schedule 2 are further technical amendments to the Child Care Act 1991 to delete provisions relating to the making of regulations for residential centres and related offences under that Act. These deletions are consequential to changes made to the Health Bill as all regulations relating to residential centres will now be made under the Bill and offences against the regulations will be prosecuted under the Bill.

Amendment agreed to.

Government amendment No. 13:

In page 32, between lines 38 and 39, to insert the following subsection:

“(2) If the chief inspector is absent or the position of chief inspector is vacant, the functions of the chief inspector under this section may be performed by an Inspector of Social Services designated by the Authority for the purpose of this subsection.”.

**Mr. S. Power:** This is a technical amendment. In view of the significant statutory role of the chief inspector of social services it is important there be no dispute over the validity of registration decisions or other decisions made in respect of designated centres that are made at a time when the chief inspector is absent for a period or the position is vacant. This amendment empowers the authority to appoint an inspector to perform the functions of the chief inspector on a temporary basis in such circumstances.

Amendment agreed to.

Question proposed: “That section 41, as amended, stand part of the Bill.”

**Mr. Browne:** I wonder if subsection (3) of section 42 is somewhat vague. It would be very easy for the chief inspector to refuse to answer questions on difficult topics if legal cases are pending but these are the topics that will be raised at meetings. Easy questions will not be raised at committees, even if the chief inspector is before the Oireachtas Joint Committee on Health and Children or a sub-committee. The provision is too vague as it would allow the chief inspector

[Mr. Browne.]

to refuse to answer questions on the basis that a matter may at some time in the future come before a court. That is not the intention.

**Mr. Ryan:** I record my usual objection to the meaningless provision in section 42(8). How could the chief inspector answer a question in an open manner while, at the same time, not questioning or expressing “an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy”? I would love to dig out a manual on quality assurance, of which I have several in my office in Cork, to find out how one can have a genuine quality assurance system in which a senior manager who is part of the quality loop is not permitted to talk freely about another participant in the quality loop, in this case, the Government. Quality assurance in public provision is not possible without Government commitment and it starts at the top rather than bottom.

In my experience, while most public sector managers believe quality assurance is a great idea for the minions, they are reluctant to operate under such procedures themselves. It is a pity the elaborate academic quality assurance system operating in the institutes of technology does not have an equivalent in the non-academic sections, which are obviously staffed by important people.

To be more apposite to the section, the procedure for resolving a dispute through the High Court appears cumbersome. Section 42(3) states: “The chief inspector shall not be required to give an account before a Committee of any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.” While I thank God for the High Court, we demand a great deal of their lordships when we ask them to forecast the future. I have no problem precluding matters from discussion when good legal advice shows they have been or will be the subject of litigation. However, the insertion in legislation of the words, “may at a future time be the subject of proceedings before a court or tribunal”, is wrong because courts, by definition and as constitutional agencies, exist at all times.

Does the word “tribunal” encompass the Employment Appeals Tribunal? Given that many tribunals are established to perform a specific function, they do not have a permanent institutional existence. For this reason, I am curious to ascertain what the word “tribunal” means in this context.

How does the Minister of State envisage the courts will adjudicate on what may happen in the undefined future? Instead of the words “at a future time”, if we were to specify a timeframe of six or 12 months, I might have some sympathy with the provision. However, I would love to know how the courts will interpret it because it

cannot be interpreted and is unenforceable. The courts will send it straight back to the Oireachtas asking us to sort it out.

**Dr. Henry:** I share the concerns expressed by Senators Browne and Ryan. I expect section 42(3) will result in more court cases and tribunals because the chief inspector may opt to state he expects a matter to be the subject of proceedings rather than having simple matters settled by giving an account before a committee.

**Mr. S. Power:** I listened to Senators’ criticisms of the section. I believe most people would regard as normal the provision in section 42(3) that a matter before or likely to come before the courts would be——

**Mr. Ryan:** Those are not the words used in the subsection.

**Mr. S. Power:** That is what the subsection amounts to. Its purpose is to ensure a case is not prejudiced as a result of discussions which may take place. Section 42(8) is a standard provision.

**Mr. Ryan:** One of the Minister of State’s predecessors who removed an identical provision from a Bill before the Seanad lost his job as a result.

**Mr. S. Power:** It is a matter for Government Ministers to account for Government policy. Officials should not be required to listen to abuse from Members regarding specific Government policies. The chief inspector will have to account for his or her actions, whereas the Minister will defend Government policy.

**Mr. Ryan:** I cannot permit a Minister to argue that the words “may at a future time” are the same as the word “likely”. They do not have the same meaning. I repeat my question to the Minister of State. How will the High Court adjudicate on whether a matter “may at a future time be the subject of proceedings before a court or tribunal”? I am also entitled to an explanation of the meaning of the word “tribunal” in this context.

**Mr. S. Power:** Matters on which proceedings are initiated do not always come to court. Section 42(3) is a standard provision. I will consider the Senator’s point regarding the meaning of “tribunal” because it may require clarification.

Question put and agreed to.

Sections 42 to 44, inclusive, agreed to.

#### SECTION 45.

Government amendment No. 14:

In page 34, subsection (1), lines 26 and 27, to delete paragraph (a) and substitute the following:

“(a) children’s residential centres, as defined in section 2(1) of the Child Care Act 1991, which are provided in accordance with section 38(1) of that Act, or”.

Amendment agreed to.

Section 45, as amended, agreed to.

Sections 46 to 49, inclusive agreed to.

#### SECTION 50.

Government amendment No. 15:

In page 36, subsection (1)(b), to delete lines 36 to 41 and substitute the following:

“(ii) regulations under *section 101*, and”.

Amendment agreed to.

Section 50, as amended, agreed to.

Sections 51 to 78, inclusive, agreed to.

#### SECTION 79.

Government amendment No. 16:

In page 52, subsection (2), lines 19 to 21, to delete paragraph (d) and substitute the following:

“(d) contravenes a provision of the regulations, or”.

Amendment agreed to.

Section 79, as amended, agreed to.

#### SECTION 80.

Government amendment No. 17:

In page 53, lines 5 and 6, to delete subsection (2) and substitute the following:

“(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be commenced any time within—

(a) 12 months after the date of the offence, or

(b) 6 months after the date on which evidence first comes to the knowledge of the Authority or the chief inspector that is sufficient, in the opinion of the Authority or the chief inspector, to justify the bringing of the proceedings, provided that the proceedings are commenced not later than 2 years after the date of the offence.

(3) A document, purporting to have been issued by the Authority, in the case of a contravention of *section 77* described in *section 80(1)(a)*, or by the chief inspector, in any other case, certifying the date on which the evidence described in *subsection (2)* first came to the knowledge of the Authority or the chief inspector—

(a) is admissible without proof of the signature or official character of the person appearing to have signed the document, and

(b) in the absence of evidence to the contrary, is proof of the matters certified in the document.”.

**Mr. S. Power:** Proceedings for offences are set out under section 80. The majority of offences under the Bill relate to designated centres and are prosecuted by the chief inspector. However, the HIQA may prosecute in cases where a person appointed to carry out an investigation under section 9 or to monitor compliance with standards set in accordance with section 8 has been refused entry to a premises. Subsection (2) provides that summary proceedings for an offence under the Bill may be instituted within 12 months after the date of the offence. Amendment No. 17 retains this principle but also enables the prosecution of an offence up to six months after the date on which evidence first comes to the knowledge of the HIQA or the chief inspector that is sufficient in the opinion of the authority or the chief inspector to justify the bringing of the proceedings. This allows the chief inspector or the HIQA, as the case may be, to prosecute where evidence of the offence only came to light some time after the offence was committed. However, in line with similar provisions in other legislation proceedings must be commenced not later than two years after the date of the offence.

Amendment No. 17 also provides for the admissibility of certificates certifying the date on which evidence first came to the knowledge of the chief inspector or the HIQA. Again, this is a standard provision.

Amendment agreed to.

Section 80, as amended, agreed to.

Sections 81 to 83, inclusive, agreed to.

#### SECTION 84.

Question proposed: “That section 84 stand part of the Bill.”

**Mr. Ryan:** I have no problem with a prohibition on the disclosure of confidential information but such information should be information which is exempted under the Freedom of Information Act. If we were in earnest about it, we would decide information is confidential if it is exempt

[Mr. Ryan.]

information under the terms of the Freedom of Information Act.

I would like the Minister to explain how something could be confidential and yet be capable of being disclosed under the Freedom of Information Act. There is no fit. It seems the existence of the Freedom of Information Act, and its definition of exempt information which is not covered by freedom of information, is not something that has got through to the Parliamentary Counsel, so we have a ridiculous situation where confidential information means “information that is expressed by the Authority to be confidential”. That is like *Alice in Wonderland* where a word means what I say it means.

The Bill ought to state that confidential information is information which is exempt from the provisions of the Freedom of Information Act, in which case the procedures of the Act will adjudicate, not the internal ramifications of the body. That ought to be the operating procedure. I have no objection to genuinely confidential information being confidential. It should be taken seriously and should never be disclosed because it can be sensitive information. However, I have an objection to sloppiness of drafting.

**Mr. S. Power:** Drafting is a difficult job at the best of times. It is difficult to satisfy everybody.

**Mr. Ryan:** It is difficult to satisfy me.

**Mr. S. Power:** When we are finished discussing this, it might be appropriate to contact Rentokil because there must be fleas in Senator Ryan’s seat the way he is hopping up. On the question, information must be released if it is required by law.

**An Cathaoirleach:** Is the section agreed?

**Mr. Ryan:** No. I would call a vote but I will not embarrass the Members opposite.

Question put and declared carried.

#### SECTION 85.

Question proposed: “That section 85 stand part of the Bill.”

**Mr. Glynn:** I ask the Minister to take cognisance of what I and others have said in regard to section 85(1)(d). The section states: “A member of the Board of the Authority or a member of a committee of the Board of the Authority immediately ceases to hold office on ... becoming a member of a local authority.” It is not a reasonable provision and I ask that it be deleted.

Question put and agreed to.

Sections 86 to 100, inclusive, agreed to.

#### SECTION 101.

Government amendment No. 18:

In page 61, lines 35 to 37, to delete subsection (1).

Amendment agreed to.

Section 101, as amended, agreed to.

Sections 102 to 105, inclusive, agreed to.

#### SCHEDULE 1.

Government amendment No. 19:

In page 78, column (3), lines 12 and 13, to delete “Sections 59, 60, 61, 62, 63(4), 63(5) and 65” and substitute “Sections 38(3) and 59 to 65”.

Amendment agreed to.

Schedule 1, as amended, agreed to.

#### SCHEDULE 2.

**An Cathaoirleach:** Amendments Nos. 20 and 21 are related and may be discussed together.

Government amendment No. 20:

In page 79, in the third column, line 24, to delete “children’s detention school” and substitute “children detention school”.

**Mr. S. Power:** These are technical drafting amendments to ensure all references are correct.

**Mr. Ryan:** Amendment No. 21 is not a minor amendment. As it stands, it is the executive of the body that would make arrangements with suitable persons. It is as well “The Health Service Executive” was inserted instead of “The Executive”. I have no problem with that.

Amendment agreed to.

Government amendment No. 21:

In page 79, in the third column, line 48, to delete “The Executive” and substitute “The Health Service Executive”.

Amendment agreed to.

Government amendment No. 22:

In page 80, to delete lines 8 to 16.

Amendment agreed to.

Government amendment No. 23:

In page 86, between lines 34 and 35, to insert the following:

“

		<p>(c) In the definition of “connected person”, in paragraph (b), by inserting “or the county registrar concerned, as the case requires,” after “Wards of Court”.</p>
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”.

**Mr. S. Power:** The Health (Repayment Scheme) Act 2006 came into effect on 30 June last and provides a legal framework to repay recoverable health charges for publicly funded long-term care. The Act also applies a legislative framework to the operation of patient private property accounts which, at the request of the patient, may be operated by the Health Service Executive. The executive may invest the funds to obtain interest for the patient. Patients at all times have access to the funds and may draw on them as they wish. The system provides the patients with an ability to exercise autonomy towards such activities as choice of clothing, recreation activities and so on.

Section 9 of the Health (Repayment Scheme) Act 2006 is being amended in Schedule 2, Part 7 of the Bill to allow the Health Service Executive to invest such funds with the National Treasury Management Agency on behalf of patients. Previously, under section 9, the Health Service Executive was authorised to invest money with institutions authorised by the Irish Financial Services Regulatory Authority but the provisions did not allow for investment with the National Treasury Management Agency because it is not covered by the Irish Financial Services Regulatory Authority legislation. The National Treasury Management Agency is involved with investing money on behalf of the State and deposits with that agency are not covered by the Taxes Acts provisions which require deposit takers to deduct deposit interest retention tax. Money invested will also be Government-backed, with competitive rates and no fees.

Amendment No. 23 is a further amendment to the Schedule and is a technical amendment to deal with an issue where a patient to whom the Act applies is a ward of court. The Circuit Court has concurrent jurisdiction with the High Court in wardship matters. This concurrent jurisdiction is conferred by section 22(2) of the Courts (Supplemental Provisions) Act 1961. The registrar of the wards of the High Court only has responsibility for wards who have property with a value in excess of €6,350 or an income from interest on savings or investments in excess of €380 per annum. A patient whose property value or income from interest on savings or investments

are below either of the thresholds to which I have just referred could only be made a ward of the Circuit Court and the registrar of the wards of the High Court has no authority to act in such cases. The authority in this instance rests with the relevant county registrar. The amendment amends the definition of a connected person in the Act to include county registrars. This puts beyond doubt the right of patients who are wards of the Circuit Court to have the county registrars apply for repayment of funds, in line with the provisions of the Act.

Amendment agreed to.

Schedule 2, as amended, agreed to.

Title agreed to.

Bill reported with amendments.

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

**Mr. Glynn:** Next Thursday.

Report Stage ordered for Thursday, 29 March 2007.

*Sitting suspended at 4.55 p.m. and resumed at 5.30 p.m.*

**Foyle and Carlingford Fisheries Bill 2006:  
Second Stage.**

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

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** Molaim Bille Iascaigh an Fheabhail agus Chairlinn don Teach. I commend the Foyle and Carlingford Fisheries Bill to the House. I am very pleased to have this opportunity to present the Foyle and Carlingford Fisheries Bill 2006 for consideration by the House.

Our debate this evening takes on a new significance in light of yesterday’s unprecedented developments in Northern Ireland. The agreement between the DUP and Sinn Féin to share power from 8 May next has allowed us to move closer to sustainable and genuine partnership government in Northern Ireland than we have ever been before. The Government is firmly committed to doing everything possible to encourage the parties along the path to government. We all stand ready to assist the incoming Ministers in the Executive in whatever way we can. I look forward very much to the opportunity to work with my new counterpart in the coming months. Through partnership and co-operation, we can move forward together on the practical issues that affect the people on this island, North and South.

The Good Friday Agreement provided for the establishment of six North-South bodies to take



[Mr. Browne.]

forward co-operation in specific areas, including aquaculture and fisheries in the Foyle and Carlingford areas. The Foyle, Carlingford and Irish Lights Commission, which I will refer to as the commission, is one of the North-South bodies envisaged in the Agreement and was established under the British-Irish Agreement Act of March 1999. The commission carries out its functions in respect of the Foyle and Carlingford Areas through the Loughs Agency. The commission replaced the Foyle Fisheries Commission, which was established in 1952 to manage the fisheries resources of the Foyle area. Under the Good Friday Agreement, the functions of the former Foyle Fisheries Commission in regard to the Foyle area were transferred to the Loughs Agency of the commission. These functions were also extended to the Carlingford area.

The Agreement also provided that the Loughs Agency would be given responsibility for aquaculture and fisheries related matters and should have powers for the promotion of development of Lough Foyle and Carlingford Lough for commercial and recreational purposes.

The purpose of this Bill, which was initiated in the Dáil in December last year, is to give effect to the provisions of the Good Friday Agreement in so far as the Loughs Agency is concerned. Equivalent legislation is required in Northern Ireland. In the absence of an Assembly in Northern Ireland, the legislation for that jurisdiction was introduced by means of an order in council through the parliamentary process in Westminster.

For the convenience of the House a detailed explanatory memorandum has been published and this provides a synopsis of the Bill's provisions. The Bill, when enacted, will provide for a robust regime for the regulation of aquaculture in Lough Foyle for the first time, the introduction of an appeals system in respect of decisions on aquaculture matters, and generally for the modernisation of the fisheries provisions of the Foyle Fisheries Acts.

I stress that the Bill is the result of a long and detailed negotiation process across a range of Departments and agencies North and South. Given that the Northern Ireland Order in Council has progressed through the parliamentary process in the United Kingdom the scope for making changes to the Bill before the House is restricted to changes necessitated by local law requirements.

I will bring forward three minor technical amendments on Committee Stage to correct drafting errors in the text and to clarify the provisions in relation to the transitional arrangements for licences relating to the Carlingford area. Given the necessity for identical legislation North and South, however, I will be severely restricted in terms of accepting amendments

which impact on the operational nature of the Bill.

I will now deal with the contents of the Bill. Section 2 provides for the commencement on specified days of different provisions of the Act. It also provides that the commencement of any provision of the Act may be limited to a particular geographical area. Part 2 inserts a new Part VI A, sections 53A to 53W, into the Foyle Fisheries Act 1952. This Part provides for the introduction of an aquaculture licensing system in Lough Foyle to be overseen by the Loughs Agency. It also transfers the existing aquaculture licensing powers of the Minister for Communications, Marine and Natural Resources within the Carlingford area to the agency.

One of the key provisions, section 53A, confers powers on the Loughs Agency to grant aquaculture licences, notwithstanding any public right to fish. It also creates two offences. The first is the carrying out of aquaculture operations without a licence and the second is failure to comply with the terms and conditions of an aquaculture licence. The section also provides that aquaculture licences granted in respect of part of the foreshore, the bed of the sea or of an estuary, which is owned or lawfully occupied by another person, or which is within the limits of a several or private fishery, can be granted only with the consent of the owner, or lawful occupier, of the area or fishery in question.

Section 53B empowers the Loughs Agency to prescribe matters of procedure for the licence application process and the type of information to be provided by applicants, including information relating to the potential impact of aquaculture on the environment. Section 53C covers the determination of licence applications. It provides for the consideration of written representations, including those relating to the impact of aquaculture on the environment, in respect of such applications, notification of the decision to the applicant and publication of the notice of decision.

In section 53D, it is provided that an aquaculture licence shall define the position and limits of the licensed area and shall be subject to such conditions as may be determined by the Loughs Agency. The section lists examples of the types of conditions that may be imposed. Under section 53E licences may be granted for a period of between ten and 20 years and may be renewed for a further period not exceeding 20 years. An aquaculture licence confers, on its holders, exclusive rights to conduct aquaculture but protects existing legal rights enjoyed, for example, by any person under a local or personal Act or under charter. Section 53F also provides that ownership of the stock cultivated under a licence vests in the licensee. It makes it an offence for another person to interfere with a licensee's operations. Section 53G allows the agency to vary an aquaculture licence in the public interest and to pay compensation to the licensee for loss or damage

arising from such a variation. The Loughs Agency is enabled, under the new section 53I, to revoke a licence for reasons of non-operation or breach of conditions.

Sections 53H, J, K and L make provisions for the variation of licences, the surrender of licences, the death of a licence holder, bankruptcy of the licensee, the transfer of aquaculture licences and the procedures to apply in each of these cases. Section 53M provides for the establishment and maintenance of a register of licences and related provisions, including, where practical, making the register available to the public for inspection by electronic means. Section 53N enables the Loughs Agency to make regulations providing for the payment of fees in respect of applications for aquaculture licences. It also provides for the variation, transfer, surrender and subsistence of aquaculture licences. Regulations made under this part of the Bill must be approved by the North-South Ministerial Council.

The Bill also provides for the establishment of the Foyle and Carlingford Aquaculture Licensing Appeals Board, and the appointment of members and a chairperson to the board by the North-South Ministerial Council. Any aggrieved persons may appeal to this board against licensing decisions, including decisions on revocations, transfer, variations and compensation. Both the agency and the appeals board are obliged to give reasons for their decisions under section 53Q. The Bill contains a number of provisions on aquaculture in Carlingford and provides that existing licence applications shall continue to have effect as if made under section 53A.

Part 3 of the Bill contains the proposed amendments to the Foyle Fisheries Act 1952. "Fish", for the purpose of this Part, is defined in section 5 of the Bill. By virtue of the definition of "fish" in section 5, the agency will have responsibility for the regulation of the wild mussel and oyster fisheries, eels, all freshwater fish, salmon and other fish of a kind that migrates to and from the sea, in addition to sea bass and tope. The amendment was made to address concerns expressed about the definition of "fish" and particularly concerns that the agency should regulate the wild oyster and mussel fisheries.

Section 6 amends the functions of the agency, as laid out in section 11 of the 1952 Act. This is to take account of the additional functions conferred on the Foyle, Carlingford and Irish Lights Commission by the British-Irish Agreement Act 1999. Section 7 amends the 1952 Act and confers additional regulation-making powers on the Loughs Agency. These relate to the prohibition of the sale of fish caught by rod and line, concessionary fees, exemption from payment of fees, the nature of documentation to accompany applications, conditions attaching to fishing licences, the transfer of fishing licences and the tagging of fish. It also makes provision in regard to the publication of such regulations.

Section 8 amends section 14 of the 1952 Act and enables the agency to restrict the number of licences for commercial netting within a particular prescribed area of the Foyle or Carlingford areas. This section also provides for how the allocation of licences by the agency is undertaken in instances where the number of applications exceeds the maximum number of licences prescribed. These new provisions, when enacted, will play an important role in the introduction of any new management regime for wild salmon in Lough Foyle that may be required to comply with the habitats directive.

A new section, section 14A, in the 1952 Act is inserted by section 9 of this Bill. It allows the Loughs Agency to acquire, by agreement, fishing rights in any waters for the purpose of developing and improving facilities for angling. It also provides for the development of these waters by the agency.

Section 11 amends section 28 of the 1952 Act so the agency may prescribe different times for the closure of the seasons for different species of fish. Section 12 inserts a new section, section 35A, in the 1952 Act to prohibit unlicensed fishing.

Section 15 inserts a new section in the 1952 Act, which section makes it an offence to cause or knowingly permit any deleterious matter to pollute a river. Provision is also made for the Loughs Agency to carry out necessary works for the reinstatement of the waters to restore the fish population after such an incident. This section also provides for the recovery of costs from the person convicted of discharging the pollution. Section 16 extends the prohibition on the use of certain devices to facilitate the unlawful taking of fish, including electrical or acoustical apparatus. It also prohibits the use of a gaff.

Section 21 updates the procedures for the appointment of river watchers. The two new sections added to section 56 of the 1952 Act oblige the agency to maintain a register of the names and addresses of those entitled to act as river watchers. It also imposes a five-year limit on the period for which a river watcher may be appointed and allows for the re-appointment of river watchers.

Section 22 amends section 59(1) to enable an authorised person to seize any equipment that has been or is being used to facilitate the unlawful taking of fish. This section also amends section 65 of the 1952 Act and allows the courts to order the forfeiture of equipment seized.

Section 23 also amends section 59 of the 1952 Act and allows authorised persons to cross any land on foot, and where there is a suitable roadway, lane or path, to use motor vehicles to assist in the pursuit and apprehension of offenders. The provision also requires authorised persons not to cause obstruction and to re-secure any land against trespass when exercising such powers.

Section 27 provides for the revision of penalties in respect of offences committed under the Act.

[Mr. Browne.]

The penalties are set out in Schedule 2 to the Bill. This section also provides for the recoupment by the Loughs Agency of the cost of prosecutions by the insertion of section 69A in the 1952 Act.

Section 28 amends section 70 of the 1952 Act to provide that work that might otherwise be prohibited under the 1952 Act may be carried out by the agency or any person to whom a permit is issued, provided that such work is for artificial propagation, scientific purposes or for the improvement of the fisheries. The amendment also details procedures on permits issued for this purpose.

Section 29 amends section 76 of the 1952 Act by amending the existing statutory forfeiture provisions to allow the courts to adjudicate on forfeiture. This section also repeals section 77 of the 1952 Act. Section 30 inserts a new section 73A in the 1952 Act. It provides that applications for judicial review of decisions of the Loughs Agency about aquaculture, or of the appeals board in appeals, may be made only in accordance with Order 84 of the Rules of the Superior Courts. Provision is also made in order that the High Court may not decline jurisdiction in a case by reason only that the decision was made in an area that is outside the State, or relates to a place that is outside the State. This is one of the provisions that is included in this Bill but not in the draft Northern Ireland Order in Council, the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007. This section is included on the advice of the Attorney General.

Section 32 confers powers on the agency to provide, subject to the payment of such fees as it may determine, services relating to fisheries and amends paragraph 2 of the Third Schedule to the 1952 Act. Section 34 provides that the Fisheries (Amendment) Act 1997 shall not apply to the Louth area. To date, aquaculture operations in this area have been licensed under the 1997 Act. Section 35 amends the Foreshore Act 1933 so the Minister may grant a foreshore licence to the Loughs Agency. This will allow aquaculture licensees to conduct aquaculture operations on the foreshore.

Schedule 1 inserts new Schedules 3A and 3B in the 1952 Act. These make provision for the incorporation, membership and staffing of the Aquaculture Licences Appeals Board and set out the procedures for appeals. There are eight articles in Schedule 3A which I will briefly outline. Schedule 2 contains the details of the new penalties as provided in section 27. The penalties in the North and the South have been made as consistent as possible allowing for local law conditions so that offenders should be subject to similar penalties in either jurisdiction.

The Bill is an important measure in the delivery of service by a North-South body established under the Good Friday Agreement. It will equip the agency with the powers to regulate aquacul-

ture and it modernises its powers over inland fisheries. In turn, this will enhance the commission's scope for conserving and managing these fisheries. I look forward to the assistance of Members of the House in progressing the Bill into law.

**Mr. McHugh:** I welcome the Minister of State, Deputy John Browne, and his officials to the debate on this important Bill. As he stated, this debate is symbolic in light of yesterday's events. On the Order of Business this morning I referred to the hard work that is required after yesterday's historic events and Senator O'Rourke replied the hard work starts now. We are undertaking a significant project and it will not be any less difficult because it is to do with salmon fishing. The Bill relates to traditional, established rights in different parts of the jurisdictions on both sides of the Border. This will not be an easy challenge but I welcome the fact we are discussing something as important and pertinent to the Border areas in Carlingford and Lough Foyle, especially in the aftermath of yesterday's events.

I have nothing negative to say about my dealings with the Loughs Agency because I have had no difficulties when seeking anecdotal or other information from it. I have experienced nothing untoward in terms of consultation, transparency or information. I organised a public meeting in Greencastle in January with my colleague, Deputy Perry. The meeting was both significant and interesting. The idea was to meet with fishermen from County Donegal dealing with aquaculture, salmon, angling, commercial, pelagic and other types of fishing.

What happened on the night was extremely significant and is pertinent to what we are discussing; many fishermen turned up from Strabane and County Derry. They were vexed because of the lack of information available to them. It was a tough public meeting because Deputy Perry and I were not in a position to give answers on behalf of the Loughs Agency. We did not have the authority to do so as there had not been any prior consultation. It emerged that there is a serious information deficit in terms of transparency in regard to the application dates for licences for draft nets or whether licences will be issued at all.

This time last year draft net licences were issued. I received anecdotal information from the Loughs Agency stating the licences would be issued shortly. Communication between the Department and the agency would be helpful. People seeking the licences must be made aware when they will be issued or whether they will be issued at all. The closing date I received anecdotally is 15 April and it is already close to the end of March.

Anecdotally, the information I received from the Loughs Agency regarding drift net fishing is that these licences would be given out inshore. Currently, approximately 112 drift net licences are in use on the Foyle, and it is intended to

reduce that number to between 30 and 35. I welcome the fact the scheme is voluntary. As the Minister of State is aware, some concern and discontent was been created in Donegal by the involuntary nature of the approach taken by the Department to the same issue.

I welcome the inclusion of wild mussels and wild oysters into the Bill, as there is significant activity in this respect on the River Foyle. The Minister of State will be aware of the difficulties that exist and present significant challenges. I do not refer to the issue on a cross-Border basis, this is a local issue and must be addressed as such. Plans for coastal management systems look good on paper but the only way we can get something to work is to bring all sides together. There is a significant divide on the Foyle in terms of bad history between different sectors. If we are to incorporate the Loughs Agency as a watchdog for future development on the Foyle, we should take this matter into account. The Department should get in touch with all who are involved in the different sectors on Lough Foyle to address the serious difficulties that exist at present.

The Minister of State will be aware of the anomalies that exist in regard to seed mussels. I hope the new agency will put in place a level playing field in terms of the allocation of seed mussels. In Wales, for instance, anomalies remain in regard to seed mussels and we should not have to play second fiddle in this regard.

I also welcome the measures intended to combat poaching. Traditionally, this has been a difficult challenge for every administration. The acknowledgement that poaching is a problem is welcome. During the debate on drift net licences I made the point that poaching is a major issue. I have limited experience of the problem from Donegal to Mayo. From what I hear, the poaching of salmon from rivers is a serious problem and we have to give the Loughs Agency every assistance in terms of resources and advice.

The pollution element of the Bill is also welcome. It deals with individuals and groups. I do not wish to castigate my local authority.

6 o'clock However, due to years of lack of investment, infrastructure such as sewerage schemes have fallen into disrepair and local authorities may be at risk of having heavy fines imposed once the Bill is enacted. There is evidence of raw sewage entering Lough Foyle and Carlingford Lough. We must take cognisance of that and live up to our responsibility to ensure proper investment is made in our local authorities in terms of dealing with the problem of pollution.

To return to what Senator O'Rourke said earlier about hard work, it will not be easy for us to embed co-operation and linkage on every level but the key element is bringing all stakeholders with us on this issue. Pardon the pun but many of them are left outside the loop, and I do not just mean the loop netters. Many fishermen believe

they are in the dark on this issue and that was never more evident than last night when 100 fishermen attended a public meeting in the Highlands Hotel in Glenties. They did not get any answers and they believe they are being disenfranchised in terms of a representative voice.

We are going down the road of cross-Border co-operation, cross-Border institutions and so on but we must be very careful about the people we represent. Senator Maurice Hayes spoke earlier about the poignancy of yesterday's events. All Senators who spoke about that issue today, with the exception of Senator Maurice Hayes, started with the kidology by saying this or that politician brought us to where we are today. Let the historians deal with how we got here. Our job as politicians is not to sit back and say who did what, when they did it or how they did it. Our job, and this is the real task, is to try to bring two communities, and the different communities within the two communities North and South, together on the issues relevant to their lives, namely, economic issues and other issues that will make them and their families think about the type of future they want. That is where our responsibility lies.

On both sides of the Border, the Tyrone, Derry and Donegal fishermen believe they do not have a voice. What message can we send to assure them that we will bring them with us on this issue? They do not trust the existing institutions and the new ones we will transpose on to them. We must be careful not to leave them out of the picture and bring them with us in this regard.

**Mr. Kenneally:** I, too, welcome the Minister of State, Deputy Browne, to the House. I also welcome the introduction of the Bill and hope it has a speedy passage through the House. People in the area have waited a long time for these provisions and it is hoped, now that they are about to be enacted, that it will spell a new era for aquaculture in this area.

It is appropriate in the week in which there appears to be a final settlement of differences in Northern Ireland that we should debate and, hopefully, approve a measure that has something to offer to the people in the two jurisdictions. I digress briefly to mention the significant events that have taken place in Northern Ireland this week. There have been many moments during what we euphemistically call the Troubles which have been described as historic, and the phrase has seen a certain amount of overuse in the past few years. However, watching the breakthrough yesterday, when a date for entering Government has at last been set between the two most extreme parties in Northern Ireland, we might be forgiven for once again using the term "historic". There is a feeling of confidence and achievement this week which is wholly justified, and I congratulate all of the parties that have brought about this ground-breaking agreement. That

[Mr. Kenneally.]

underlines the necessity to work together to prove that not only the two communities in Northern Ireland but also the two jurisdictions can co-operate for everyone's benefit.

Under the terms of the Bill, the Loughs Agency will regulate the fisheries of the Lough Foyle and Carlingford Lough areas. This is one more agency to come under the jurisdiction of the North-South co-operation bodies established under the Good Friday Agreement and, at the risk of repeating myself, shows the potential for co-operation between the two jurisdictions.

Prior to that, Lough Foyle did not have an aquaculture licensing system because of the key jurisdictional issues involved but this measure will allow for what should be a strong and lucrative industry to be given a formal standing. We must face up to the fact that fish stocks have either declined significantly, as one part of the industry claims, or, in the case of cod, are moving much further north because of an increase in sea temperatures. Whether either or both of these arguments is correct, we know there is a shortage of fish at market and that the price has risen enormously. That provides a genuine business opportunity for those who wish to get into this area of endeavour and any boost to the economic fortunes of the communities in the vicinity of both of those bodies of water would be very welcome.

There are genuine business opportunities available, partly because of our growing demand for fish but also because over 80% of the seafood Americans consume is imported and at least 40% of those imports are farmed seafood. The Americans are expanding their fish farming operations but there is no reason we cannot look for a share of what is a growing market.

In parts of my own constituency there is a thriving shellfish industry and we should not deprive the Foyle and Carlingford people of the same opportunity to make a living from this kind of shellfish farming. All species should and must be provided for. Naturally, as with any food producing endeavour, that will be subject to regulation and control and the Bill provides for an aquaculture licensing system in the area. The Loughs Agency will provide these licences to those who abide by the terms defined in the Bill.

I trust that in setting up this joint agency, sufficient cognisance is being taken of the fact that it covers two jurisdictions. In this case, any amending legislation or expansion of the area of operations, or in dealing with any potential new problems as would arise from any new area of endeavour, will need the approval of the two jurisdictions, which may slow down to some extent the taking of any necessary decision and subsequent action, but with co-operation that should not prove to be of major concern.

The agency will be representative of both jurisdictions but I am conscious that we must get this

right first time to avoid any unnecessary pressure or difficulties on the agency and on the industry in due course. Aquaculture in this jurisdiction has proved to be contentious and can pose a health risk for the consumer and a source of pollution in the area of production. It is essential, therefore, that there be a reasonable measure of control and a licensing system appears to be the most reliable way to operate that.

The Bill makes it an offence to pollute a river. I am not sure whether pollution can travel upstream but it is probably wise to provide for that at this stage. It is hardly surprising, therefore, that an environmental impact statement be sought and provided before a licence can be issued and that those who operate outside of the system be subject to the substantial fines and imprisonment as provided for in the Bill.

I am pleased that licences are being granted for substantial periods of between ten and 20 years. It is only proper that those who will be expected to invest large sums of money should have a reasonable time in which to recoup their expenditure and take a profit from their investment.

I am also in agreement with the provision which stipulates that there should be a restriction on the number of licences issued for commercial netting within the two areas. It has long been accepted that there is a limit to the available fish and it would be pointless to have a free for all, with none of the investors gaining a reasonable return on their investment.

Aquaculture licences granted in an estuary owned by another person can only be granted with the consent of the owner. In my own constituency there is ongoing litigation in regard to ownership and fishing rights in the estuary of the River Blackwater, though I feel strongly that, regardless of what inherited rights might allow, the waters of estuaries and foreshores should be in public ownership.

We know from previous experience that tradition and established custom and practice should be taken into account and, in this regard, there should be local consultation with fishing interests to decide the best way forward and to ensure that we do not diminish anyone's established rights or ability to make a living. It is essential that we be sensitive in the introduction of this measure and take cognisance of the established and traditional fishermen in the two areas. It is equally necessary that if we are disturbing people's livelihood in any way, we compensate them appropriately. This would hardly amount to much in view of the relatively small number of established fishermen, or women, involved. The point has been made previously that this measure, or at least the proposed regulation of the industry in both Loughs, was discussed with the fishermen of Northern Ireland and I am anxious that our fishermen be treated in the same fashion.

I can understand the reservations of fishermen, who have been plying these waters for gener-

ations, regarding the prospect of their being subject to penalties and I again urge the Minister to ensure that no one is seriously discommoded in making a living on the loughs. Current fishermen enjoy rights built up over generations and I am anxious that these are not unnecessarily or arbitrarily curtailed in any way.

I also ask the Minister to ensure that those aquafarmers who have already invested heavily in the area are not put at risk by cowboys coming in for a quick buck, who are not particularly concerned for the environment and would not take sufficient precautions in their method of fishing and farming. There are very real dangers, particularly in aquaculture, that disease is introduced to the area and that people who have invested many years and a great deal of money into their particular venture see their investment put at risk because of unscrupulous operators. The Bill provides for what we might, in ordinary circumstances, consider to be significant fines but sometimes the stakes can be very high and, in some cases, these fines and penalties might not be seen as a sufficient deterrent. Provision should be made for an increase in the relevant fines, with discretion in the courts to respond to what might be a minor breach of the regulations while punishing the cowboy operator with a significant maximum.

For a variety of reasons, fish farming in this country has received a bad press, sometimes with good cause. With good husbanding, however, far from being a negative influence on the seabed and other marine life, shellfish farming in particular can be a source of renewal on the seabed and create a habitat for a huge variety of other marine plants and animals. A recent study in the United States has shown that biodiversity may be significantly increased by the presence of deep-water oyster farms. Experts have confirmed that oyster farms provide a habitat for diverse groupings of invertebrates with high abundance and biomass. One oyster string can provide a habitat for up to 3,000 individuals from as many as 80 different species.

Many of the world's natural marine fisheries no longer yield the benefits they once did, due mainly to overfishing. Governments across the world are responding to the fisheries crisis by reducing fishing efforts and protecting fisheries habitats. We have overseen a programme of fleet reduction in this country to try to conserve stocks and there is an onus on this generation, worldwide, to try to expand stocks again and restore the productive possibilities of the world's oceans. This will not necessarily happen in the loughs of Foyle and Carlingford, but there may be scope, in time, for a net contribution to wild stocks and there may well be advances in science of which these areas can avail to help restore and restock the oceans. It can legitimately be asked whether the advances in aquaculture which now enable juveniles of many species to be produced *en*

*masse* can be applied to speed up recovery of some stocks, or increase the production of others.

There is a strong future in aquaculture and advances in science and in methods of release of juvenile stocks into the wild are happening all the time, particularly in northern Europe. The first and second international symposia on stock enhancement and sea ranching, in Norway in 1997 and Japan in 2002, were instrumental in highlighting the technology and approaches needed to release hatchery-reared juveniles in a responsible way. A third such symposium is on the way and the future of fish farming looks bright. There are difficulties in the industry and there is resistance in some areas to the practice, but we must wake up and recognise that fishing as we know it in western Europe is changing and, in some instances, almost dead. This Foyle and Carlingford initiative shows a way forward and I support it wholeheartedly.

We must examine the whole question of the ownership of the seabed and work out with our British counterparts a final and acceptable settlement in this regard. The most important element of the project is the possibility of economic progress for the communities of the Foyle and Carlingford area and, for that reason alone, this Bill must be supported and placed on the Statute Book at an early date.

**Dr. M. Hayes:** I welcome the Minister of State to the House. I do not pose as an expert on fishing but this is a most appropriate Bill in the circumstances of what happened yesterday. I remember the Northern Ireland (Foyle Fisheries) Act 1952 being passed, which was one of the first, if also one of the few, examples of cross-Border co-operation between the Unionist and Irish Governments. There was also an agreement on the Great Northern Railway and another on the drainage of Lough Erne.

The Foyle fisheries arrangement has stood the test of time and has proved itself in the management of this hugely valuable fishery and waterway over the years. It points the way in which North-South bodies can profitably work. The DUP has a suspicion of North-South bodies, especially if its members sense unification by stealth, but they are and will continue to be interested in practical measures to use and conserve resources and manage systems across the Border. The more such schemes can be progressed the better and this is an outstanding example. As the Order in Council has already been passed in the British Parliament it is clear we will have to accept the Bill as it stands but, in any case, I do not believe Members will rush to make amendments.

It is important to recognise the economic value of aquaculture and the Bill points the way forward in the Foyle and Carlingford areas. The Minister may want to leave himself more room in the definition of species of fish. Fish will change

[Dr. M. Hayes.]

over years and if cod are migrating to colder water other fish, which find it too hot where they are, will come into our waters.

The Bill also opens up the possibility of developing aquaculture in both Carlingford Lough and Lough Foyle. I agree with previous speakers that it is important to bear in mind the people of those areas and bring them along with whatever plans there are. The worst thing that could happen would be a North-South body being seen to enter an area with a big stick with which to beat people. That would not only be detrimental to fishing operations but to the very concept of North-South co-operation.

The world has moved on since 1952 and methods and regulations which were thought appropriate at that time are no longer considered acceptable. As Senator McHugh said, the way forward for policymakers nowadays is through discussion, consensus and by bringing people with them. I believe there is a great future for aquaculture in Ireland, partly to replace the stocks that are gone but also to build up a new and lucrative industry.

People involved in that might look at an area in south-west France which I know quite well. The people there live off oysters and mussels. Senator Kenneally might be interested to know that the founding father of the oyster industry there was a sailor from Waterford called Dalton, who was marooned on a rock off the French coast and discovered that it was better to grow these creatures on ropes than on the sea bed. The people in the area have co-operated and developed the industry. They have tight controls.

Tight controls are required with regard to pollution because the industry can be destroyed by it. Pollution can be caused by other aquacultural activities, so they must be watched as well. These species are quite susceptible to viral attacks and attacks by predators so there must be regulation and a deep concern for the health of the operation. There must be control and thoughtful regulation.

This is a good Bill. It addresses a real need. It is important that we march side by side in legislative terms with the legislative provisions in Northern Ireland. It is also important and hugely symbolic that we take this opportunity to advance cross-Border activity in a way that is sensible economically and holds out the possibility of the development of profitable business for people on both sides of the Border. I commend the Bill.

**Dr. Mansergh:** Unfortunately, due to the accident on the M7-M9, I was not present for the Order of Business. I wish to make a few remarks about the general context into which this legislation falls, given that it deals with one of the bodies established under the Good Friday Agreement. Notwithstanding the fact that it was long overdue, there must be great satisfaction at yes-

terday's agreement. At last, there is an inclusivity which means that all major elements in Northern Ireland will now work together.

It vindicates the long and difficult steps that took place previously. On the assumption that the Executive becomes operational on 8 May as promised, this will represent a successful conclusion of the peace process, although not, of course, the end of history. It does not wipe out the pain, grief and suffering of the past 30 years but, taken as a whole, it represents a balanced and comprehensive resolution of many of the principal difficulties. Practically nobody will wish to return to the way things were. It is an enormous tribute to the partnership and co-operation of the Prime Minister, Mr. Tony Blair, and the Taoiseach, Deputy Bertie Ahern. It appears that their historic ten year partnership, which is now drawing to a close, will be crowned with success, subject to what happens on 8 May. That is not to take away from the important advances that were also made in the era of Mr. Albert Reynolds and Mr. John Major.

What has been achieved has an international resonance. Many groups, such as in Sri Lanka, the Basque country and in the occupied territories, will look at it to see what lessons can be learnt from it. Of course, one should not assume that lessons are necessarily easily transferable from one situation to another, given that every situation has its own specifics which make a simplistic transfer difficult. Nonetheless, they will learn what they can from it. It will also be held up internationally as an example of how difficult and seemingly intractable situations can make progress, refuting the pessimism attributed to a former British Prime Minister, Lord Salisbury, who is reputed to have said, apropos of Ireland, that to some problems there is simply no solution.

The Foyle Fisheries Commission was one of the earliest modest forms of North-South co-operation, re-established after a void of practically 30 years. That was not the original intention. In the early 1920s it was intended that substantial all-Ireland co-operation would continue. In fact, it did not, and there were no structures for it. It was not until the late 1940s and early 1950s that modest, almost minimalist, steps were put in place. This was an almost unique example and Senator Maurice Hayes mentioned the other two. However, it showed, even to the most sceptical, that it could be done.

During the 1970s and 1980s Carlingford Lough was the scene of small scale, gunboat diplomacy. There was a British gunboat almost permanently stationed on the northern side of the lough. Matters were not helped by the fact that the line of the Border was not quite agreed. I recall the then Taoiseach, Mr. Charles Haughey, sending an Irish naval vessel to Carlingford Lough in 1982 to keep our end up, as it were. Of course, there were sailors, thoroughly *bona fide* as far as I know, who complained that their vessels were being

boarded by not very polite naval crews. However, in Carlingford Lough, as elsewhere, we are now sailing into calmer waters.

The Minister for Foreign Affairs has a particular interest in Carlingford. I believe he has a home on Carlingford Lough, in addition to his home in Blackrock in Dundalk. For a long time he has held an ambition, which I thoroughly support, to have a bridge constructed across Carlingford Lough to join Carlingford and Rostrevor. The President, having lived in Rostrevor, would probably have an interest in that as well. This is obviously a matter on which there should be co-operation. I do not believe it will be particularly controversial except at a technical level. Fishermen always jibe at regulation and it does not take much for them to find the authorities oppressive in this manner. This is one of the bodies where there is co-operation and I have every hope that in due course the type of co-operation outlined in the Bill will be extended to other areas.

**Mr. Mooney:** I extend a hearty céad míle fáilte to the Minister of State with responsibility for fisheries. I reflect on the historic nature of this day. I am sure it has not been lost on the Minister of State that he is representing the Republic of Ireland steering through legislation with a very strong North-Strong element to it in the aftermath of the events in the North yesterday. This debate has seen contributions from two esteemed Members of the House, Senators Maurice Hayes and Mansergh, both of whom, I am sure, have experienced great happiness and personal reward for their individual contributions to the peace process going back over 25 years. I am sure it is a source of great pride to be in this House today as we embark on a new era. This legislation reflects us embarking on a new phase of political co-operation on the island of Ireland, North and South.

I come from a maritime county, which sometimes surprises people. We do not have any mussels but I believe we have eels. As we have two and a half miles of Atlantic shoreline, I am sure I could have a dialogue with the Minister of State about the various forms of fishing species that are probably off the coast of Tullaghan. I even noticed that my remarks about Leitrim being a maritime county perked up the departmental officials who probably reckoned the Minister of State had not thought of that. We have always been proud of having the shortest shoreline in country because whenever issues regarding to fisheries arise I have received the jibe that I would not know about them coming from County Leitrim. Like many in our immediate vicinity, our county is renowned for our lake fisheries and our course fishing.

This legislation, coming as it does after developments of the past 24 hours, reflects a continuation of a history of co-operation particularly in

Lough Foyle and to a lesser extent in the Carlingford Lough area, to which Senator Maurice Hayes referred, going back to the 1952 Act. I believe that following partition, that Act was probably the only manifestation of co-operation between the North and South authorities, primarily because of the geographical location of Lough Foyle and Carlingford Lough. As Senator Mansergh stated, in these loughs the partition line could not be defined. Even in the worst period of relations between North and South there was recognition by both authorities of a need to regulate the Lough Foyle area. We are now in a new era of co-operation.

Senator Maurice Hayes spoke about the true feelings of many in the DUP. There was a mindset that was reluctant to embrace the concept of North-South bodies. In the ongoing discussions on the Good Friday Agreement, my enduring image is of some on the Unionist side wanting to restrict not only the number of bodies to be agreed to, but also the scope of those bodies. However, I do not believe anybody disagreed with the need to have this particular legislation introduced. We have reached this point following those momentous events at the signing of the Good Friday Agreement.

A DUP delegation attended the British-Irish Inter-Parliamentary Body plenary session held in Killarney last year, at which both Senators Maurice Hayes and Mansergh were present. That event was historic in its own way. I remember asking Peter Robinson about the perception that the DUP was opposed to extending or enlarging the North-South bodies. If memory serves me right, his response was largely positive in that, as Senator Maurice Hayes put it, he was quite satisfied to encourage and support North-South bodies that would have a practical dimension and where there was a real need to regulate on an all-island basis, but he was not prepared to go beyond that. However, that is a debate for another day. At least there was a positive element to it. On that day many of us present at the event felt we were on the verge of a significant political breakthrough, which fortunately has now come about.

I wish to ask about section 5 and amendments on the regulation of stock. Several Members on both sides of the House have referred to the responsibility now imposed on the new agency for the regulation of wild mussels, oyster fisheries, eels, all freshwater fish, salmon and other fish of a kind that migrates to and from the sea as well as sea bass and tope. Given the concerns expressed and increasingly by consumers at what seems to be a reduction and certainly a restriction in the species of traditional fish we have been used to, particularly cod, to which Senator Kenneally referred, what steps will be taken to ensure they are conserved? I presume this section is concerned with the pirating of these fish stocks



[Mr. Mooney.]

apart from the element of developing the aquaculture.

Who will be responsible for enforcement? Senator Mansergh conjured up images of an Irish naval ship operating in Carlingford Lough glaring across at a British naval ship in the same bay. Who will be responsible? Will it be a joint British-Irish operation under an EU flag or how will the enforcement element operate? It is not a matter of great significance as I am sure that sort of enforcement happens already. I have a feeling in answering my own question that the onus might be on the Irish side.

While I know it is not specifically in the scope of the Bill, is the Minister of State confident that fish stocks can be conserved and preserved, particularly those fish to which we have traditionally been used? I would hate to see a day when we could no longer purchase cod which has been a staple of all those of us who enjoy fish. I am glad that the salmon stocks will be regulated, as salmon is one of my favourite fish dishes. I am sure the Minister of State will take the opportunity to encourage as many people as possible to consume more fish. Like my colleagues, I commend the Bill to the House.

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I thank the Senators for their contributions. It was very interesting and enlightening. As I said at the outset we have little room for amendments or changes. I welcome that Senators have not tabled amendments because it is important that the Bill is passed as quickly as possible.

The penalties North and South have been made as consistent as possible, allowing for local conditions, so that offenders should be subject to similar penalties in either jurisdiction. A number of Senators mentioned consultation. The agency's consultation process operates under the oversight of the North-South Ministerial Council. It can be improved if any difficulties arise in its operation at that level. The implementation plan sets out how the agency proposes to regulate aquaculture activities and under this plan consideration will be given to the applicant's history, commitment and experience in the aquaculture sector, including previous financial investments. A number of Senators raised that point.

The rights of tenure of long-standing operators in Lough Foyle was raised. At present, existing operators do not have any legal rights to operate in any particular area in Lough Foyle. The Lough Foyle area is a public fishery and, consequently, individual persons cannot have exclusive rights. This situation will change when the legislation is enacted and the Loughs Agency licenses aquaculture activities in the area. Individual licence holders will then have the exclusive right in the

licence area to cultivate that area and the ownership of any fish it farms will vest in the licensee.

In respect of the designation of Lough Foyle for oyster, mussel and aquaculture activity, it is envisaged that the agency will carry out a full environmental impact statement which will allow it to determine areas where wild shellfisheries, aquaculture and areas requiring to be designated under the EU environmental legislation are. This is the first step towards making decisions on the various designations and will be an open and transparent public process.

Through its statutory advisory forum, the Loughs Agency published its proposals to manage the wild salmon fishery in 2007. The response to these proposals will inform the licensing regime and adequate time will then be allowed for the processing of licence applications for the 2007 season.

Senator McHugh raised the issue of the seed mussel. An all-island system already oversees the allocation of mussel seed and the Loughs Agency participates in decisions regarding such allocations. It is important that this system operates on an all-Ireland basis as it ensures that all operators in need of access to mussel seed are treated fairly, regardless of their location on the island. It is planned to make the agency an authorised officer under the Sea Fisheries and Maritime Jurisdiction Act 2006 to enforce mussel seed allocation regulations in the Foyle area.

In respect of draft net licences, there will be a new licensing regime for salmon in the Foyle area to take account of the habitats directive. The delay in issuing licences is due to the need to introduce new regulations and to allow for decisions on the management of fishing in the area. The EU sea fish species quota will continue to be regulated as at present. Fish for aquaculture purposes includes sea fish, freshwater fish and shellfish and will be regulated by the agency.

I again thank the Senators for their contribution. As I said at the outset, the Bill is the result of a long and detailed negotiation process across a range of Departments and agencies, North and South. I thank my officials, who with me, because they have spent a long time going to and from the North to meet officials there. There have been protracted and sometimes very difficult and tough negotiations, but I am pleased to say that all the difficulties were ironed out during the debate and dialogue that took place over a long period of time.

I hope the Bill will be enacted as quickly as possible. I thank the Acting Chairman and Senators for facilitating this debate and I look forward to moving on to the next Stage.

Question put and agreed to.

**Acting Chairman (Mr. Mooney):** When is it proposed to take Committee Stage?

**Mr. Kenneally:** Tomorrow.

Committee Stage ordered for Wednesday, 28 March 2007.

*Sitting suspended at 6.45 p.m. and resumed at 7.30 p.m.*

### **Social Welfare and Pensions Bill 2007: Second Stage.**

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

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keeffe):** On behalf of the Minister for Social and Family Affairs, Deputy Séamus Brennan, I am pleased to introduce this measure, the second of two Bills intended to implement the largest social welfare package in the history of the State at €1.41 billion, announced in last December's budget. This substantial investment brings total expenditure on social welfare this year to €15.3 billion, or almost €1 for every €3 of current Government expenditure. Ireland is now making solid and steady progress in tackling the core issues that can blight people's lives, blunt opportunities and leave some vulnerable and marginalised in society.

As well as income support improvements of over €970 million which took effect from January, another €430 million — or nearly one third of the total package — is being directed to support a range of significant reform measures. These include confronting and tackling remaining child poverty, increasing income supports for all pensioners, recognising and supporting carers and those with disabilities, as well as increasing the status and incomes of women. These are major structural reforms which, when taken with a number of other reforms implemented in areas such as pensions and lone parent allowances, will contribute greatly to the overall policy reform agenda that the Minister for Social and Family Affairs has been pursuing for the last two years.

These reforms on child poverty, carer's allowance, women's incomes and pensions are about more than just increasing incomes. They are important and necessary reforms that create change, open up fresh opportunities and deliver enlightened social policies.

In recent years, this Government has lifted more than 250,000 people, including 100,000 children, out of poverty, but there is still a distance to travel. It behoves all of us to redouble our efforts and complete the task. Prior to budget 2007, resources were directed towards alleviating child poverty through substantial increases in universal child benefit payments, rather than through increases in qualified child allowances, which are paid to recipients of social welfare payments. From January of this year, the Minister increased the qualified child allowance, for the first time since 1994, to a new single high rate of €22 per week. This has benefited over 340,000 children by targeting those in poorer households.

The shift towards child benefit has been significant in tackling disincentives to employment. In 1994, child benefit represented just 27% of the combined child benefit-qualified child payment for a four-child family. Today, child benefit accounts for over 65% of that combined payment. In other words, when an unemployed welfare recipient moves into full-time employment — or a lone parent moves into a permanent relationship — the family now loses less than 35% of its child income support through loss of qualified child payments. In this Bill, the Minister is increasing child benefit rates by €10 per month. Over 560,000 families will benefit from the increase, in respect of approximately 1,134,000 children, which comes into effect next week. It is expected that expenditure on the child benefit scheme will be €2.15 billion in 2007.

It is well established that child poverty is especially prevalent among the families of those on the one-parent family payment. Last March, the Minister launched a Government discussion paper, *Proposals for Supporting Lone Parents*, which proposed an expansion of the availability and range of education and training opportunities for lone parents, an extension of the national employment action plan to focus on lone parents, and the introduction of a new social assistance payment for low-income families with young children. One of the discussion paper's proposals was that the upper income limit for the proposed new social assistance payment should be set at €400 per week. In budget 2006, the upper income limit for the one-parent family payment was increased from €293 to €375 per week. In the Bill, this element of the proposal is being delivered in full by increasing the upper income limit to €400 per week, which is no mean achievement.

The long-term aim of the proposed new social assistance payment, which is currently being developed by officials in the Department of Social and Family Affairs, is to assist people to achieve financial independence by enabling them to enter the labour force. This route offers the best way out of poverty and social exclusion. It is acknowledged that the proposed new payment cannot be introduced without co-ordinated supports and services being put in place by other Departments and agencies. For that reason, the Government has instructed the senior officials' group on social inclusion to draw up an implementation plan to progress the non-income recommendations to facilitate the introduction of the new payment scheme.

Senators will recall that in the Social Welfare Act 2006, significant progress was made towards achieving the commitment to increase the qualified adult allowance for the spouses and partners of contributory pensioners to the level of the State non-contributory pension. Since January, the budget increase of €23.70 per week in the qualified adult payment has benefited approximately 35,000 couples. That increase brings the

[Mr. B. O'Keefe.]

rate of qualified adult allowance payments for those aged 66 years and over to 86.5% of the target rate referred to in the Government commitment. There is now a €60 million commitment to reach the target rate within the next three years. This Bill includes the provisions necessary to implement in new cases from September the direct payment of increases for qualified adults to the qualified adult for the duration of the entitlement of the State pensioner. It will remain open to any qualified adult to continue to have his or her portion of the pension paid jointly with the personal portion of the pension, if that is his or her preferred option.

Our social welfare system should evolve to reflect the social changes of recent years. The system needs to keep pace with changes in working and living conditions, particularly those of women. Accordingly, provision is made in this Bill to significantly reform the way spouses are assessed as qualified adults in a range of social assistance schemes. Women are generally involved in these instances.

The proposed reform involves removing the differential disregards from employment income which apply to couples on assistance schemes and assessing both members of a couple in a similar manner, with common disregards and assessments applying to both. Additionally, the poverty traps in the current method of assessment, which arise from the way the current disregard operates, will be removed. At certain income levels, if a woman increases her income from part-time employment to more than the current disregard of €100 per week, her spouse can lose €1.20 from his jobseeker's allowance for every €1 she earns in excess of €100. Such a situation, which represents a withdrawal rate of 120% in respect of income, has no place in a modern labour market.

Increases in labour market participation will be rewarded under the proposed reform. This will allow women to move beyond the occupational cul-de-sac of long-term part-time employment with earnings below €100 per week. The current position whereby it is more advantageous for the half of a couple who undertakes part-time work to be a qualified adult will be removed. Both partners will be able to claim jobseeker's allowance in their own right, as long as they satisfy the usual conditions. They will receive the same rate of payment as a couple where one is a claimant and the other is a qualified applicant. This will facilitate women, in particular, to claim jobseeker's allowance in their own right and access the accompanying range of employment supports and training opportunities. As part of this reform, the daily disregard of €12.70 from earned income from employment will be increased to €20 per day and extended to all customers with such income.

This proposal removes the anomaly whereby parents of qualified children cannot avail of the

disregard. It further strengthens the incentive for labour market participation by increasing family income when children are involved. The complexities I have mentioned mean there is potential for some couples to be less well-off under the proposed reform. They will not be less well-off, however, because the Department of Social and Family Affairs will operate a transitional saver system to protect the level of income they have at present from a combination of jobseeker's allowance and employment income. I am confident that the proposals will reduce significantly the complexity in the system and recognise, encourage and reward increased labour market participation.

As carers play a valuable and much appreciated role in our society, it is important that we support and care for them. Since the Government took office in 1997, it has been committed to supporting care in the community to the maximum extent possible. Over that period, weekly payment rates to carers have been greatly increased, qualifying conditions for carer's allowance have been significantly eased, coverage of the scheme has been extended and new schemes such as carer's benefit and the respite care grant have been introduced and extended. As a result of these improvements, almost 28,500 carers now receive either carer's allowance or carer's benefit. Such carers receive a respite care grant, as do approximately 10,000 other carers. Our commitment to carers was further reinforced in the national partnership agreement, Towards 2016, which contains significant commitments in the area of caring. Work is progressing in Government Departments on the development of a national carer's strategy by the end of the year, which will focus on supporting informal and family carers in the community.

The primary objective of the social welfare system is to provide income support. As a general rule, just one weekly social welfare payment is payable to an individual. In practice, people who qualify for two social welfare payments always receive the higher payment to which they are entitled. The Minister is aware that this causes particular concern for people in receipt of one social welfare payment when they become carers.

The Joint Committee on Social and Family Affairs has made some specific and sensible recommendations in this regard. The Minister has responded by introducing in this Bill a fundamental reform relating to payments to carers. From September, people in receipt of certain other social welfare payments, who also provide full-time care and attention to a person, will be able to retain their main welfare payment and receive another payment, subject to their means, up to half the rate of carer's allowance.

The Minister is also including in the Bill provision for an increase of €300 in the rate of the respite care grant to €1,500 from June 2007. This will allow up to 40,000 carers to have a well-

deserved break from their caring duties. The full package of measures for carers included in budget 2007 will cost in excess of €107 million in a full year.

The Bill gives effect to a number of improvements to the supplementary welfare allowance, SWA, rent supplement scheme as part of the overall supplement package announced in budget 2007. These include an extension of the qualifying conditions and an easing of the rent supplement means test. The key objectives of the changes are to simplify the means test, so that a rent supplement recipient can judge the impact of an offer of work, and address disincentives and eliminate poverty traps faced by rent supplement recipients seeking to increase their hours of work or wishing to take up full-time employment.

I am also making provision whereby rent supplement may be withheld in respect of accommodation which fails to meet local authority housing standards and to allow rent supplement to be refused in respect of private rental accommodation located in specified areas of regeneration identified by the Minister for the Environment, Heritage and Local Government. This latter measure supports the State's significant investment on regeneration in areas such as Ballymun. The objective is to achieve a better balance between private, social and affordable housing in these localities. In taking this approach, provision is made to protect existing tenants.

I am also taking the opportunity in the Bill to bring forward enabling legislation which will help to give effect to the Government decision to transfer certain income support and maintenance scheme functions from the Health Service Executive to my Department. At present, the social welfare allowance scheme is delivered by some 700 community welfare officers, CWOs, 59 superintendent community welfare officers and supporting clerical staff in the community welfare service of the HSE. The Social Welfare Consolidation Act 2005 currently stipulates that HSE staff determine entitlement to social welfare allowance.

The legislation I am introducing is a technical change which is necessary to ensure that CWOs may continue to administer the scheme when they transfer out of the HSE to the Department of Social and Family Affairs and will come into operation by means of a commencement order. The legislation required for the transfer of functions will be prepared later this year following full consultation with staff and other stakeholders. The HSE's community welfare service is responsive and flexible in meeting needs and the Minister will ensure these attributes are preserved and built upon as part of the transfer process.

The transfer of functions presents fundamental reform and developmental opportunities for a fully integrated and enhanced income support system, including the restructuring and inte-

gration of income support services within one entity. This presents both a challenge and an opportunity for those within the community welfare service and the Department in supporting those most disadvantaged in society.

The Government is concerned about retirement income in general, now and in the future. I do not need to remind the House of the demographic pressures our pensions system will face. Thankfully, unlike other countries, our position will remain favourable for a number of years yet. As part of the social partnership agreement, Towards 2016, the Government is committed to publishing a Green Paper on pensions outlining the major policy choices and challenges in this area and the views of the social partners. Following a consultation process, the Government will respond to the matters raised by developing a framework for comprehensively addressing the pensions agenda over the longer term. While we face a difficult challenge in securing agreement on a way forward, work on drafting the Green Paper is progressing well and is scheduled for completion within a few weeks.

I will now outline to the House the main provisions of the Bill which includes new measures and amends the Social Welfare Consolidation Act 2005, the Pensions Act 1990 and a small number of other Acts.

Sections 1 and 2 contain the usual provisions for the Short Title, citation and commencement of the Bill, and the definition of certain terms used throughout the Bill. Section 3 contains a technical amendment to clarify the definition of a volunteer development worker for the purposes of the social welfare code. Section 4 provides for an increase of €10 in the monthly rate of child benefit, bringing the lower and higher rates, respectively, to €160 and €195 per month. Families who receive the monthly payment via their bank accounts will receive the budget increase from April 2007, while those who receive payment via personalised payable order books encashable at post offices will be paid in the first week in May 2007, backdated to April 2007. In addition, section 27 provides for a measure of flexibility in the payment arrangements for child benefit by removing the presumption that a child resides with only one person.

Section 5 provides, in addition to a technical amendment, that where a person who was in receipt of illness benefit for at least two years has engaged in employment for less than 26 weeks and subsequently re-applies for that benefit, payment will not be made at a lower rate than that which he or she previously received. This section and section 8 provide that former recipients of carer's benefit or carer's allowance who transfer to illness benefit or jobseeker's benefit may revert to a rate not lower than that previously in payment. Section 5 also removes an obsolete reference to "rules of behaviour".

[Mr. B. O'Keefe.]

Section 6 contains a number of measures to enhance the maternity benefit scheme. These include provision for the payment of maternity benefit to the father of a newborn child on the death of the child's mother without having to satisfy the contribution conditions of the scheme in his own right. This section also provides for the payment of not less than six weeks maternity benefit on the death of the mother, bringing this scheme into line with the after-death payment arrangements of other social welfare schemes. In addition, the section clarifies the position in respect of disqualification for receipt of maternity benefit by providing that benefit will not be payable where a woman engages in any form of insurable employment or self-employment or fails, without good cause, to attend for medical examination.

As the provisions governing adoptive benefit mirror those applicable to maternity benefit, section 7 extends the section 6 enhancements to adoptive benefit. It also clarifies that a person will be disqualified from receiving adoptive benefit if he or she engages in any form of employment or self-employment. As outlined, section 9 contains amendments to the provisions governing the means test and the assessment of spouses' earnings for the purposes of jobseeker's allowance, pre-retirement allowance, farm assist and disability allowance.

Sections 10, 11, 16 and 26 provide for technical amendments to the occupational injuries schemes, including the deletion of an obsolete provision regarding the prescribed time for claiming the cost of medical care. They also provide for the deletion of obsolete references in the Social Welfare Consolidation Act 2005 to "rules of behaviour".

Section 12 provides for the inclusion of education and training, subject to prescribed conditions, in the activities in which a recipient of carer's benefit may engage and still satisfy the conditions for receipt of that benefit. Section 13 provides for a technical amendment to clarify date of entry into social insurance for the purposes of a State pension, contributory.

Section 14 provides for the direct payment of increases for qualified adults payable with the State pensions directly to the qualified adult, for the duration of the period of entitlement of the State pensioner. This provision is applicable to the State pension, contributory, State pension, transition, and the State pension, non-contributory, and will come into effect for new claims made from 24 September 2007.

Section 15 provides that where a recipient of invalidity pension subsequently qualifies for State pension, contributory, or a pension payable under reciprocal arrangements by another state, he or she shall be entitled to receive whichever payment is the most beneficial. Section 17 provides

that guardian's payment, contributory, and guardian's payment, non-contributory, shall not be payable simultaneously with a payment under Part VI of the Child Care Act 1991.

Section 18 provides that, for the purposes of the bereavement grant, "qualified child" shall include a person aged between 16 and 22 who is in receipt of disability allowance. Section 19 contains a technical amendment to clarify that the widowed parent grant is applicable to recipients of widow's and widower's contributory pensions which are payable under the Social Welfare Consolidation Act 2005.

Section 20 provides that where a person who was in receipt of a widow's or widower's payment ceases to be a widow or widower and subsequently applies for jobseeker's allowance, payment of the allowance will commence without the application of the "waiting days" condition normally applicable for that allowance.

Section 21 provides that where a current recipient of carer's allowance has been in receipt of pre-retirement allowance immediately before becoming a carer, such a person will be able to revert to pre-retirement allowance and retain half his or her current personal rate of carer's allowance if it is beneficial for him or her to do so. This is of course subject to continuing to meet the qualifying conditions for pre-retirement allowance in terms of age, retirement and so on. Section 22 provides for an increase in the upper earnings limit for customers in receipt of the one-parent family payment from €375 to €400 per week. This provision is effective from May 2007. Section 23 confers power to make regulations to provide for a transitional payment where a deserted wives benefit beneficiary's entitlement ceases because her earnings have exceeded the prescribed upper limit of €20,000. Section 24 provides for a means-tested payment equivalent to up to half the carer's allowance rate to certain persons who may also be in receipt of another social welfare payment.

Section 25 provides that where a person is unemployed for 12 months and in receipt of rent supplement, he or she may engage in full-time employment, or where a person participates in a community employment or back to work scheme, he or she will continue to receive rent supplement if he or she has been accepted as being in need of accommodation under the rental accommodation scheme. This section also provides at Schedule 1 for the transfer of certain functions from the Health Service Executive to the Department of Social and Family Affairs, as recommended by the Core Functions of the Health Service Report and as agreed by Government, and provides for a number of consequential amendments to existing provisions in the area of appeals, overpayments and recovery of overpayments arising from this. The section also provides for measures to preclude the payment of rent supplement where accommodation standards, as defined by the

Department of the Environment, Heritage and Local Government, are not met. In addition, the section contains the legislative provisions to preclude the payment of rent supplement in areas of regeneration, as identified by the same Department.

Section 28 provides for an increase in the amount of the annual respite care grant from €1,200 to €1,500 from June 2007. The section also provides for an enhancement of the scheme by providing that, subject to the conditions that may be prescribed, a person may engage in education and training and still qualify for the grant.

Section 29 clarifies the obligation of a claimant to provide the information and evidence required in support of a social welfare claim, and to inform the Department of any relevant change of circumstances in the course of payment. Section 30 outlines in legislation the five factors, based on European Court of Justice case law, that are taken into account when determining whether a claimant for certain social welfare schemes satisfies the habitual residence condition.

Section 31 provides for the exchange of relevant employment data between the Department of Social and Family Affairs, the Revenue Commissioners and the Minister for Enterprise, Trade and Employment to facilitate the operation of the agency established under *Towards 2016* with responsibility for ensuring employment rights compliance. Section 32 contains measures to further strengthen control in issuing personal public service numbers. They include increased penalties, enhanced identity measures and provisions to combat the use of fraudulent documentation.

Section 33 provides for the household budgeting scheme to encompass any telecommunications service provider which is registered with the Commission for Communications Regulation. Section 34 contains provisions for the inclusion of the managers and staff of social welfare branch offices in the categories of persons designated to decide claims for certain social welfare payments under the social welfare code. This measure is intended to facilitate improvement in claim processing times in branch offices by removing the current requirement to forward certain claims to social welfare local offices for decision.

Section 35 provides for an improvement in the means test applicable to disability allowance by increasing by €30,000, from €20,000 to €50,000, the amount of capital which is disregarded for the purposes of the means test. It also provides for some technical amendments to Schedule 3 of the Social Welfare Consolidation Act 2005.

Section 36 provides a number of enhancements to the means test for entitlement to supplementary welfare allowance, including the disregard from means assessment of any moneys received by way of guardian's payments and respite care grant. This section also provides for the disregard,

for rent supplement purposes, of €75 per week plus 25% of any additional income over €75 derived from employment or training, subject to a minimum disregard of €75 per week. This, together with the improvement in section 24, whereby a rent supplement recipient accepted for the rental accommodation scheme may engage in full-time employment, is aimed at supporting people returning to work and to assist tenants in achieving long-term solutions for their housing needs.

The main measures I am introducing in this Bill with regard to the Pensions Act will further enhance the regulatory regime governing supplementary pensions. Section 36 and Part 1 of Schedule 2 make provision for the inclusion of trust retirement annuity contracts — trust RACs — within the remit of the Pensions Act 1990. This is a requirement under Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision — the IORPs directive. This amendment to the Pensions Act applies only to trust RACs which currently have approximately 10,000 members. These are arrangements for groups of individuals established under trust, for example, the Law Society of Ireland or the Institute of Chartered Accountants of Ireland. This amending provision treats trust RACs in a similar manner to that already provided for in the Pensions Act 1990 in respect of defined contribution occupational pension schemes.

Part 2 of Schedule 2 contains amendments to the Pensions Act to enhance the Pension Board's powers in the area of prosecution. Section 3A of the Pensions Act was inserted by section 39 of the Social Welfare Law Reform and Pensions Act 2006 to provide an alternative to the prosecution of an offence by the Pensions Board. It allows the board introduce an on-the-spot fine regime as an alternative to taking a prosecution. Section 3A is now amended to specify the sections of the Act, a contravention of which will warrant the application of an on-the-spot fine. Contraventions of the Act which are not specified under section 3A because they do not, in the board's view, meet the criteria for an on-the-spot fine will be considered for immediate prosecution by the board.

The Pensions Act is also amended to increase the level of fines for both summary and indictable offences under the Act from €1904.61 to €5,000 for a summary offence and from €12,697.38 to €25,000 for an indictable offence. It provides that fines imposed under the Act shall not be paid out of the resources of the scheme, trust RAC, or out of the assets of any PRSA, as the case may be.

Part 3 of Schedule 2 provides for a number of miscellaneous amendments which are mainly technical in nature, including the insertion of two new sections into the Pensions Act with regard to the accountability of the chief executive of the

[Mr. B. O'Keefe.]

Pensions Board and the Pensions Ombudsman before the Committee of Public Accounts. This amendment is in compliance with the requirements of the Report of the Working Group on the Accountability of Secretaries General and Accounting Officers — the Mullarkey report.

**Mr. Norris:** Will the Chair ask the Minister of State to slow down a bit. I am having great difficulty following him. He has read almost eleven pages in 40 minutes.

**Acting Chairman (Dr. Henry):** Senator Norris will have an opportunity to speak shortly. The Minister of State, without interruption.

**Mr. B. O'Keefe:** On behalf of the Minister, I thank the Pensions Board for its help in drafting these amendments to the Pensions Act.

Section 38 amends the Taxes Consolidation Act 1997 to underpin the proposals in Towards 2016 for the Revenue Commissioners to transfer to the Minister for Enterprise, Trade and Employment, and the new office dedicated to employment rights compliance, information similar to that which the Revenue Commissioners will be empowered to transfer to the Department of Social and Family Affairs.

Section 39 and Schedule 3 amend the Combat Poverty Agency Act 1986 and the Family Support Agency Act 2001 to provide that the director and chief executive officer, respectively, of these agencies, which are under the Minister's remit, are accountable to the Committee of Public Accounts on the same basis as are the Accounting Officers of Departments, in line with the Mullarkey report.

**Mr. Norris:** Malarkey is right.

**Mr. B. O'Keefe:** This Bill builds further on the development of social inclusion measures adopted by the Government over recent years. It safeguards the living standards of those who rely on social welfare income and other supports and prioritises the allocation of resources in favour of those most in need. Resources will continue to be targeted at helping those most in need in order not alone to raise their standard of living but to ensure that everyone is a valued citizen who can make his or her own individual contribution to society regardless of his or her particular personal circumstances. However, while the significant social issues we face can be eased, they cannot be solved by welfare and support payments alone. It is vitally important that we do not view welfare solely as a panacea. That is why a one size fits all welfare system does not provide the answers. Welfare support systems must be tailored to the specific needs of individuals and should be seen

as stepping stones to achieving a better quality of life.

The Bill is also about solid and fundamental structural reforms of welfare policies. It is about reforms that will modernise and make the welfare system fairer and deliver more enlightened social policy. I commend the Bill to the House and look forward to a constructive debate.

**Ms Terry:** I welcome the Minister of State to the House. His speech was very well read — 45 minutes is perhaps a record. That does not leave much time for the Members of the House to speak on Second Stage, but hopefully everybody who wants to speak will get the opportunity to do so.

The Bill is welcome. It is difficult to be critical of many of its provisions. It would be churlish of me to criticise the many good provisions which deliver benefits to many people. I welcome the increases in child benefit, maternity benefit and carer's benefit. The fact that a carer in receipt of another welfare benefit can now receive an additional payment up to half the rate of a carer's allowance is particularly welcome, as we have called for this over a long period.

I also welcome the increase in State pensions and thank the Minister for listening to what we have been saying in the House on the matter of qualified adult allowances. For several years I have called for that payment to be made directly to wives as giving it directly to husbands was inequitable and made it seem as if women were not entitled to receive a payment in their own right. I am glad the Minister has recognised that right. There is still provision for a woman to choose to allow the payment to be made to the husband, but I would prefer if the payment was given directly to women so as to leave no doubt that it is her payment. Some women could be left in difficulty where a husband receives the payment. I welcome, however, the progress that has been made.

Increases in child benefit, respite care grants and many other areas must be welcomed. However, the Government should not clap itself on the back for disbursement of taxpayers' moneys collected by the Government on benefits for those less well off, young children and older people. That is its job and it is only right these moneys should be well spent.

Despite our great economy, some people still live in poverty. It is sad that in the year 2007 and despite the Celtic tiger we still have children living in poverty. The Minister of State must also be aware we have a new poor, husbands and wives struggling to keep jobs and family together and to pay a mortgage. If we are to tackle the issues of low incomes and child poverty, the best way to do it is to educate and retrain parents. I wish to mention the Minister's proposals for lone parents in this regard.

The Minister has been good at commissioning reports, but we have not seen delivery of any of their findings or recommendations. Why has there not been more progress on proposals in respect of lone parents? Why has there not been progress on pensions? We have seen report after report from the Pensions Board and now we expect a Green Paper on the issue. The Minister did not grasp the nettle as I thought he would. I welcomed his appointment to the Department as I felt he would deliver in many areas. However, he has not delivered, particularly with regard to occupational pensions or for lone parents. I do not like some of the recommendations that compel lone parents to go back into the workplace, especially when there are no support services for them. The Minister soon may not be in the Department of Social and Family Affairs, at which point we hope to have a change of Government which will review many of these recommendations. We cannot force lone parents back to work unless we can provide local child care and flexible work practices for them.

The community employment schemes worked because they were flexible and provided child care. We should follow that model. Anyone who has worked on one of those schemes has been upset when the three years has ended because he or she has been trained into the job, has liked it and has found it difficult to get a job that provides child care and offers flexible working hours. Educating and retraining parents is the key to tackling child poverty and providing support services for children in schools, smaller class sizes and so on. This Government has not delivered on these services.

Child care is one of the many important issues for parents. The Government's action on child care has been inadequate. The money given for this service would scarcely pay one month's child care. Providing more places in the community has had little impact. While the Government has done a great deal, many areas remain that have not been adequately addressed after ten years of this coalition Government.

There are some amendments to this Bill which do nothing to address the issues I have highlighted in the House in recent years. I have been too soft on the Minister up to this point in the hope that he would deliver but now I want to criticise him. Sometimes he agreed with me but said things were difficult to do. It is coming to the end of his term in office, however, and he has not delivered for the people who paid into pension plans for years and who have either retired or are approaching retirement only to find their pensions worth very little. These people have deferred pensions with frozen benefits and have had their plans changed from defined benefit to defined contributions with charges and companies dipping into the pension funds.

I have asked the Minister to address these problems that have stretched back over decades but I cannot get answers. I hope that many of these issues will be addressed in the Green Paper but I will not hold my breath. I think there is a cover-up on many of these issues. I have been trying for almost ten years to get answers. I do not have time to list the number of occasions on which I have written to the Pensions Board and the Minister asking questions only to be told a study will be done or the answer will come shortly, which it never does. Why not? Why can I not be told how many people in the country have deferred pension benefits? Why has that question not been answered for ten years?

The Pensions Board appeared before the Oireachtas Joint Committee on Social and Family Affairs last November and Mr. Kennedy, the new chief executive, informed me he would have the answer at the end of January. Each month since then I have received a letter saying he cannot get this information because he does not have the power or authority to compel companies to give the information. Why did the Minister not give the Pensions Board the authority to compel companies to give that information? Why was an amendment not included in this legislation to get the information? There is a cover-up.

The Minister does not want that information to come into the public arena when he is trying to encourage young people to take out pensions. This is driven by the pensions industry, of which this Minister is a puppet. Why would any young person pay into a pension plan when he or she can see that his or her father or grandfather, forced by a company to pay into a plan, received nothing on retirement? I have heard the Minister say recently that we must get young people to take out pensions or what will we say to them when they come to retire and have little or no pension. How dare he say that when he cannot address the people who are retiring today with little or no pension, having paid into a plan.

There is a cover-up. This Government does not want the figure released. I would say the figure is well over 500,000, but I am only guessing because I am not in a position to give the figure and cannot get any kind of ball park figure from the Pensions Board or the Minister. Why? What is the Minister hiding?

**Ms Cox:** It is important to recognise that as the Minister of State said this is:

[T]he largest social welfare package in the history of the State at €1.41 billion, announced in last December's budget. This substantial investment brings total expenditure on social welfare this year to €15.3 billion, or almost €1 for every €3 of current Government expenditure.



[Ms Cox.]

One of the great things about being in our present situation is that it gives us an opportunity to look at not only the operational detail as we deliver this money but also the vision of what we want the social welfare system to do and its purpose.

I have a strong concern about section 6 amending the principal Act:

(b) by substituting the following section for section 50:

50.—Regulations may provide for disqualifying a woman for receiving maternity benefit where—

(a) during the period for which the benefit is payable, she engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment[.]

I may be interpreting the section incorrectly. I need clarification on this point. A woman may have two part-time jobs in one of which she is entitled to maternity benefit, but she may not be able to give up the second job for the full amount of maternity leave to which she is entitled from her first job. Are we now saying that if a woman is entitled to maternity leave from one job, she cannot avail of it if, by choice, she continues to work in a second job?

**Mr. Norris:** Exactly.

**Ms Cox:** Let me cite a further example based on my having spent three terms of pregnancy while a Member of this House, bearing in mind the circumstances that would obtain if I, as a Senator, did not earn enough money to allow me to have only one job. It is quite acceptable for people to say a man must earn a certain amount to support a family but women may also need to earn such an amount. No maternity leave is available in this House and I did not take mine. If I wanted to take the maternity leave to which I would be entitled on foot of another socially insured job — I have two jobs, for which I was paid during all my pregnancies and in respect of which I paid stamps — I could not do so because I would have no right not to be here according to the legislation. I have no mechanism to allow me to be absent from this House during maternity leave from another job.

If the Minister of State, Deputy Killeen, tells me I am wrong, I will be a very happy lady and say the position as outlined is fair enough. I cannot believe section 6 proposes that we remove a woman's right to maternity benefit if, by choice, she holds two jobs. The concept of choice is important in this regard, bearing in mind the provision whereby a woman was once obliged to take four weeks of her leave before her baby was born,

as was stipulated many years ago by the legislation, the EU or some man in the then Department of Social Welfare. This is a serious matter. If I am wrong, I will apologise for my misinterpretation, but if I am right I will table an amendment to delete section 6. It is inequitable because nobody should be forced to forfeit a right by virtue of her having two sources of employment. Maternity leave does not mean one is incapacitated from doing a second job for 24 hours per day and seven days per week. We have rights and entitlements.

Moving away from the issue of legislative technicalities, let us consider our vision for social welfare and its role in providing for and looking after those who need our assistance in a sustainable economy. Let us also refer to child care, as mentioned by Senator Terry. I do not understand why no Minister for Social and Family Affairs over the past ten years has outlined a vision to introduce paid parental leave within five years. Why not? Do we not believe it is important to allow a parent with a child under one to take time off without being forced, for financial reasons, to re-enter employment after her maternity leave is finished?

I recognise fully the changes made in respect of the maternity benefit. They are very welcome and necessary but we cannot stop there. Where is our vision for our children? My vision, under a Fianna Fáil Government or any other Government, be it led by Fine Gael or another party, would be to have parental leave available for either the father or mother in circumstances that would allow him or her make an economic choice to stay at home with his or her child. This choice would otherwise be impossible.

Let us think outside the box because we have sufficient time and the appropriate economic circumstances to do so. The carer's benefit allows people to take time out from work to work as carers. The Departments of Enterprise, Trade and Employment and Social and Family Affairs should make a job sharer's benefit available and put in place facilities that allow women or men, but most likely women, to job share or engage in part-time work without losing entitlements. If one has a part-time job, one does not receive a social welfare top-up. If a person has a part-time job because he or she is looking after his or her two or three children at home, to whom he or she wants to devote time, surely the Department of Social and Family Affairs should look after him or her.

We need to think outside the box and consider what vision would best produce a society in which one could raise children properly and give them the best of everything, and which would allow parents to be parents rather than having them engage in a rat run requiring them to get up at 7 a.m., bundle their children into the car, come home at 7 p.m. and bundle the children into bed

without knowing what is happening in their lives. This is not fair.

When I first entered this House in 1997, I drew attention to the need for social welfare recipients to receive carer's benefit. I said to the Minister on the previous occasion he spoke about social welfare that this benefit comprises the most significant reform recognising the role of women and allowing them to retain social welfare payments.

My vision also requires that the €1,000 universal child care payment be made available to all children under seven years and six months. Let us advance this vision every year. As we have said in the House that school-going children of six come home at 12.30 p.m., thus requiring one to make child care arrangements. Let us address this.

The Minister has made some changes regarding community welfare officers and the rent allowance. It is nice to be in the comfort zone such that we can talk about a particular vision we would like to see realised. As I stated previously, the rent allowance scheme is creating a landlord class and making property developers and owners increasingly rich every day.

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

**Ms Cox:** What is the State getting out of this? We continue to provide reasons for private landlords to buy houses to rent, to give them facilities that are not really adequate and to encourage individuals to do all sorts of funny things with rent because there is a cap on how much money can be paid. This is not right. I acknowledge that there have been some changes to the scheme but one must ask why the Department of Social and Family Affairs, the Department of the Environment, Heritage and Local Government or the local authorities are not buying houses and taking rent allowances to pay the mortgages? Why are we making landlords richer than they had ever imagined they would be? This is not acceptable and we ought to have a vision.

The Minister of State will be aware that there is a national emergency in Galway. He may not be aware that many families on the breadline, who do not have enough money most weeks to pay for their electricity, food and children's requirements, need to boil every single pint of water.

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

**Dr. Henry:** Hear, hear.

**Ms Cox:** Consequently, they are being forced to buy their water, which costs 39 cent per litre. It is not only poor families on social welfare who are affected but also families in middle-income households who have been experiencing increases

in mortgage repayments, child care fees and other inflation related increases every month.

I have four children. In this regard, has the Minister any concept of the number of litres of water used in a house every day for washing one's teeth and making one's tea and the porridge in the morning? It is a considerable amount and we therefore need to do something about the problem.

I am delighted to be joined by my colleague from Galway West, Deputy Fahey, because I know his interest in the issue is equally as deep as mine. If we do not give all the affected families, particularly those on social welfare, free water or vouchers to allow them to buy it in the supermarket, they will accumulate debts to live and avail of a basic human right. I made the point on the Order of Business that according to the World Health Organisation, clean, safe water is a guaranteed human right. I quoted Kofi Annan, who stated every person is entitled to clean, healthy water. Currently, 90,000 people in Galway do not have that. If that is not a state of national emergency, I do not know what is. As and from tomorrow morning, every social welfare recipient in the affected areas in County Galway should be given vouchers to allow them to get free water until a proper plan is put in place to deal with the problem. I thank the Acting Chairman for his indulgence.

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

**Acting Chairman (Labhrás Ó Murchú):** Is that agreed? Agreed.

**Mr. Norris:** Senator Cox has done an honour to this House by her courageous and clear speech. It is not easy to offer a direct and open critique of Government policy from the Government benches but this is what Seanad Éireann is all about. In her quite outstanding speech, Senator Cox clearly illustrated what the Seanad is for, namely, non-partisan debate. While some of what I will say later may appear to be partisan, I salute this kind of independence. It is very important. Senator Cox is quite correct about the question of maternity benefit.

I wish to return to a few other areas where the Government is giving with one hand and taking away with another. This kind of rather mean-minded accounting goes on in all Governments. It is not just a Fianna Fáil exercise, it is a Department of Finance exercise and it is pretty wretched. I listened and watched with delighted as the Minister of State, to paraphrase his final paragraph, tripped gaily over the stepping stones to a bright future. He was obviously afraid he would fall in because he did it all in slow motion. That is why we do not have quite as much time as we might otherwise have. On the other hand,

[Mr. Norris.]

it was a most interesting and provocative speech. I wish to turn to this speech before I address the two issues of particular interest.

There is an echo of Bertie's rabble-rousing speech out in Citywest. The Government will implement the largest social welfare package and all the rest of it, but when one examines the Bill closely, some troubling issues arise. I refer to support for lone parents, for example, and the expanded availability and range of educational opportunities. What about the fact that I and many other people have been deluged in recent years by ordinary members of the public, not constituents, who are concerned because owing to the nitpicking provisions that are included, they have been excluded from schemes such as the back to education allowance and the vocational training opportunities scheme? This is regrettable.

There is a lot of old bilge in the Bill in terms of the means test for job seeker's allowance. Reference was made to reflecting the changes in society. Like hell they reflect the changes in society. We are back again to this nonsense about spouses and how it is women who are usually in this role and all the rest of it. References to spouses and couples were sprinkled throughout the Minister's speech, yet we know perfectly well the Government, in the person of the previous Minister, Deputy Coughlan, operated to define people out of their rights. The Government is not talking about couples in the true sense. It should refer to heterosexual couples every time the word "couples" is used because gay people have been mean-mindedly defined out of the rights to which they are entitled under equality legislation.

A positive spin is put on the supplementary welfare allowance. This is one of the issues with which I am most concerned. The Minister of State referred to "an extension of the qualifying conditions and an easing of the rent supplement means test". The Government is going to "simplify the means test, so that a rent supplement recipient can judge the impact of an offer of work" and so and so forth.

Then we get on to the business of regenerated areas. It was stated:

This latter measure supports the State's significant investment on regeneration in areas such as Ballymun. The objective is to achieve a better balance between private, social and affordable housing.

I give a hollow laugh when I hear about affordable housing. We heard about it the other day when we discovered that to qualify for some of these affordable housing units, one has to have an income between €47,000 and €58,000. That is not very affordable. Then we have these inexplicable and opaque lotteries. They are the reverse of openness, transparency and accountability.

We then encountered this nasty little phrase, which we do not really understand. "In taking this approach, provision is made to protect existing tenants." What is meant by "protect"? I would like to know what lies beneath this expression. Who is being protected and what is the necessity for it? Towards the end of the speech some elucidation is given in the analysis of the sections. It was stated that section 25 includes measures "to preclude the payment of rent supplement in areas of regeneration, as identified by the Department" of the Environment, Heritage and Local Government. In other words, these areas are too nice, too middle class and too clean to allow people on rent supplement. That is a nasty form of apartheid. It is snobbery and discrimination.

Those are my words but I received a pained response from Focus Ireland which made the point that this creates in primary legislation a legal mechanism which prohibits specific categories of people from living in certain areas. That can only be described as apartheid, but Focus Ireland is too polite to say it. This is a most regressive step. I would like the Minister to re-examine this matter. I would also like an explanation why the Department continues to use terms like "couples", "spouses", etc. when it does not mean couples in the broad sense. I am partisan on this issue because I deal with people who have been denied their rights. This is unjust and unfair.

I wish to return to Senator Cox's contribution. She referred to water pollution in Galway. A number of years ago, briefed by people in Trinity, I raised the issue of cryptosporidiosis. I could hardly spell it let alone pronounce it at that stage but I learned a certain amount about it. I also pay tribute to my colleague, Senator Henry. Over a number of years she has consistently raised the issue of the quality of water. It is an extraordinary irony that on World Water Day last week, we heard some of the most disastrous results arising from this pollution of the water. This is a serious situation and one person is critically ill in hospital.

Although there are some positive aspects to it, and the Government will put the best spin possible on it, we are charged in this House with prising open the lid on some of the less positive features of the Bill. I salute Senator Cox. I note she said she would table an amendment. I hope she does if she is not satisfied with the result. She raised a bit of a stink in the House last week when she said she would table an amendment. On this side of the House we were all hungry for that amendment so that we could vote on it and we could see which way Senator Cox would vote, but whichever way she does, it does not take away from the fact she is a courageous, intelligent woman who knew what she was speaking about on the Bill. She and Fianna Fáil did honour to this House by that exercise of freedom of speech

which I now propose to hand over to my esteemed colleague, Senator Henry.

**Dr. Henry:** I thank Senator Norris for sharing his time with me. I, too, am grateful to Senator Cox for raising this issue. Last week, I raised the issue of the Environmental Protection Agency report on private water schemes. The pollution is worse now due to sewage than when I was first elected to the House 15 years ago. This is unbelievable. The outbreak of cryptosporidium in Galway is scandalous. Senator Cox referred to making porridge and tea but people are also advised not to bathe their babies in this water. What on earth are people on social welfare supposed to do to wash their children? How much water would one have to boil to wash children? This is just ridiculous and there seems to be no sense of emergency about it. I am disgusted by the response of the Government to this shocking issue. I see no sense of any desire to clean up the act. That is about all one can say about it.

Senator Cox also raised the important issue of what a poor example is provided by the Houses of the Oireachtas in terms of maternity leave. That should be investigated as a matter of urgency. The old chestnuts have arisen in the Social Welfare and Pensions Bill. Like everyone else, I am pleased with the improvements that have been made.

I always have been concerned about lone parents, being the patron of formerly Cherish, now One Family, but I hope the Minister will concentrate on those who are managing best rather than penalise those who are not managing very well. He should try to find out the reason they are not managing very well. Perhaps it is because they are carers to elderly parents as well as having children of their own or because they have had poor educational opportunities in the past. We can be sure it is due to lack of child care. We do not want children given anti-social behaviour orders because their mothers have to go out to work.

Section 6 struck me as rather amusing. I suppose it provides for an improvement in maternity benefits in that if the woman dies, they can be paid to the father in certain circumstances. However, subsection (b), paragraph (b) states that where “she [the woman] fails, without good cause, to attend for or to submit herself to any medical examination that may be required in accordance with regulations made under this section” the benefits will not be paid.

This morning I drew the attention of the House to the fact that it is now not possible for women in the Galway and Drogheda areas to get appointments for ante-natal care before they are 20 weeks pregnant. It is advised that one should go for this care at 12 to 14 weeks. Is it the woman’s fault if she does not manage to attend before she is 20 weeks pregnant? This is interesting and

I suggest the Department of Social and Family Affairs should address this matter with the Department of Health and Children because people may be disqualified before they are in a position to attend for ante-natal care.

Have any improvements been made in the mobility regulations for disabled people? I have been asking about matter this since I was elected to the House. The regulations are archaic and people who would like to work are being denied mobility allowances. I hope when replying the Minister will be able to tell me those regulations have been updated.

**Ms Ormonde:** I wish to share my time with Senator Kitt.

**Acting Chairman:** Four minutes each. Is that agreed? Agreed.

**Ms Ormonde:** I welcome the Minister of State, Deputy Fahey, to the House and congratulate the Minister, Deputy Brennan, and his Department on their work in preparing this legislation. The Bill reflects the social changes of recent years because it brings the total Government expenditure on social welfare to €15.3 billion this year. That means that for every €3 spent by the State in current expenditure this year, almost €1 of it will go on social welfare payments.

There are many measures in the Bill that will rightly make a major difference to numerous sections of society but the area on which I want to concentrate is that of lone parent families and deserted wives. These issues can have a major impact on other areas of social welfare support. For example, it is well known that child poverty is particularly common among lone parent families. Nothing is more challenging than raising a family alone. Lone parents face one of the most difficult challenges one can expect in life. Thankfully, the measures in this Bill will help them.

Section 22 provides for an increase from €375 to €400 in the upper earnings limit for customers in receipt of one parent family payment. That increase will come into effect from May. This is one of the proposals contained in the discussion paper launched by the Minister on the topic of supporting lone parent families this time last year. The document contained other proposals that included the expansion of the availability and range of education and training opportunities available for lone parents. It also contained a proposal for the extension of the national employment action plan to focus on lone parents and the introduction of a new social assistance payment for low income families with young children. That is one of the important areas because I have had many requests from lone parents who found themselves in difficulty but this Bill will make a major difference to their education.

[Ms Ormonde.]

Putting in place an education and training programme to lure lone parents back into education, once their children are in school, is a way of integrating them and giving them a standing in society. These are all valuable goals and the Department is well on the way to achieving them.

The proposed social assistance payment being developed by the Department will help provide the type of financial independence that will allow lone parents and other disadvantaged groups enter into the labour force. I would caution the Minister, however, that other areas, particularly child care, will need to be fully developed if lone parents are to take advantage of these opportunities. I am aware the Minister and the Department are working on the development of co-ordinated support with other relevant Departments and I hope that work will shortly reap dividends.

Lone parents must have the necessary supports. If we want to introduce all these extra measures for them we must have the infrastructure in place.

**Mr. Kitt:** I thank Senator Ormonde and welcome the Minister of State, Deputy Fahey, to the House. The two Bills on social welfare have been welcome. In particular I welcome the point made by the Minister about the contributory pension having doubled since 1997. The State contributory pension has increased to €209 per week and the non-contributory to €200.

I welcome the fact that people in receipt of a small pension can now claim the half-rate carer's allowance, which is very relevant in the case of a widow or widower who is caring for a relative. In the past those people were told they could get only one pension, which was unfair, and the fact that they can claim half-rate carer's allowance is very welcome.

The carer's allowance is a good scheme and the income limits have been changed to allow a person earning €640 per week get the allowance. There is a problem with it, however, that I would like to bring to the Minister's attention. In the case of women, who usually do the caring, they get a letter from the Department every six months — it used to be every year — inquiring about their spouse's income. I am aware of a case where a woman was getting €120 per week carer's allowance, which is a fairly small rate, but following inquiries from the Department about the husband's income, the rate was reduced to €7 per week, which was a miserable rate. From 1 January this year it increased by €20 to €27 but the Department is again inquiring about the spouse's income. I am concerned this person might lose that €27. In such situations it is unfair that the Department is penny-pinching and inquiring about the spouse's income every six months. That aspect could be examined.

Given that people are living and working longer, I welcome the fact that they can now earn more without being taxed. I understand the figure was €20 some years ago but the Minister increased that by five times the amount in the 2006 budget. We are going in the right direction to allow people the freedom to earn additional income without being taxed, and I welcome that.

The increase in the qualified adult dependant allowance is welcome because it is an indication that the payment is being made as of right. The increase has been welcomed by those who in the past were regarded as the dependent spouse or partner. That increase is very much to the credit of the Minister and the Government.

**Mr. Ryan:** Cuirim fáilte roimh an Aire. Tá súil agam go mbainfidh sé taitneamh as an díospóireacht. B'fhéidir go ndéarfaí rud éigin fiúntach, cé go bhfuil sé déanach san oíche.

Among the more embarrassing records of this country is its level of child poverty. We were at the bottom of the table ten or 12 years ago when we were a poor country and we are still at the bottom of the table now that we are a rich country. We have among the highest levels of child poverty in the developed world, which dubious distinction we share with countries such as Greece and the United States of America. The inclusion of those two countries with ourselves shows that child poverty is not connected with the income of a country but with its politics and the way it decides to use its resources. We have decided, to a large extent, to subscribe to the usual nonsense that passes for economics in this country wherein it is believed that to get rich people to work harder we should give them more money but to get poor people to work harder we should give them less. We squeeze poor people's social welfare but dangle a carrot in front of the rich. The evidence from all serious studies is that neither policy works.

The only people who really believe in what are called the laws of economics are economists. An interesting series has just finished on BBC 2 which looked at the enormous damage done to humanity by the blind belief that human beings respond to economic stimuli with pathological irrationality and self-centredness, and only respond to rewards dangled in front of them. The programme concluded last Sunday with the findings of a major study of the concept of *homo economicus* — the notion that people act in crude economic self-interest — that the only groups to so behave were economists and psychopaths. According to the study, nobody except members of those two groups respond as expected.

However, we will be forced to respond as expected. The major economic textbooks put forward a view of how humanity behaves and state that, should people not behave in that way,

society will try to force them do so. The ultimate view on child poverty depends on whether one thinks it is worthwhile. Countries that have addressed the problem properly, such as most of our neighbours in northern Europe, have eliminated or spectacularly reduced child poverty. It is achieved by reducing the number of families in which there are children at risk of poverty. It is easy to achieve but only if society wants to.

Increasing benefits in excess of the cost of living as reflected in the consumer price index is only a token effort. The consumer price index is a global figure but I have not seen a poor people's consumer price index, which is often completely different from the consumer price index for a person such as me. If Members look at the items in the index they will see an MP3 player but not broccoli or other basic food and vegetables. The average affluent family's budget is different from the average poor family's budget so, as the prices of basic items such as energy and waste rise, poor families spend a far greater proportion of their income than the CPI suggests. The increases, therefore, are not generous in the context of the consumer price index for poor families.

This year in Cork alone the local authority raised the charge for a bin tag from €5 to €6. Very poor families are entitled to a waiver but that is a rise of 20% and reminiscent of the sudden increase in excise duty and tax for which the former Minister for Finance, Richie Ryan, was denounced some 30 years ago. Waste and energy prices are shooting up and the failure to consider the costs to families of such necessities is why poverty is still endemic in this country. Instead, we look at a basket of items which people such as I, with a substantial amount of discretionary income, must buy. We then become sanctimonious about the poor, which is why our children live in poverty.

The way the Government has trumpeted its increases in pensions intrigues me. The increases are welcome but the focus has always been on the contributory old-age pension and the people in receipt of that pension have, by definition, been working. Pensioners who have worked for 40 or 50 years will be overwhelmingly male because most married women did not work for significant periods until perhaps 20 years ago. Accordingly, it is a pension which is generous to men and which, effectively, penalises women who, once their spouse dies, will go onto the non-contributory pension, and that has been increased less generously. It is, in fact, an assault on women's standard of living and women, as we all know, are more likely to end up in poverty than men, for a variety of reasons. They have the commitment of children, unlike men, who tend to walk away with considerable ease and too much generosity from the State.

I am glad Senator Norris raised an astonishing aspect of the Bill. Where did the idea come from

not to allow rent allowance to be paid in areas of regeneration? I cannot imagine a more extraordinary decision. What is it about? Is it to ensure people who live in such areas do not smell or is it because they might be poor? If I were to wear my malicious hat, which I will probably put on in a minute, I would suggest the refusal to accept people on rental allowance is usually an indicator that a landlord is not up front with the taxman and that the decision is far more to do with taxation than poverty. Landlords do not want tenants on rent allowance because that creates a paper trail. If the Department of Social and Family Affairs and the Revenue Commissioners were serious, every advertisement in every evening newspaper in Cork and Dublin which states "No rent allowance" would invite an immediate investigation. That is not the case, however, because only a small number of landlords have registered for tax and paid stamp duty on the property, as is required if a person is not an owner-occupier, and few have registered with the Private Residential Tenancies Board. We do not know how many people have not registered.

When I see the exclusion of rent allowance tenants from areas of regeneration, I smell a rat. I do not refer to the good and decent people who work in that Department but to the political attitude that we should not make life difficult for the risk takers who invest in property, which is the greatest nonsense ever. It is approximately 25 years since there was a risk involved in investing in property in Ireland. However, people still talk as if those who buy property for rental or other purposes are risk takers. There has not been a risk in investing in property since approximately 1987. It is the most extraordinary attitude.

The Department and the Government are extremely keen on prosecuting people who are found to be abusing social welfare, and I do not have a problem with that. However, they are slow to prosecute people who fiddle their taxes. That is not a reference to income tax but to the people who collect VAT from customers and keep it. That is theft. In the case of income tax, people are at least dealing with their legitimate income but if somebody collects tax or PRSI and does not pass it on, it is theft. These actions do not involve somebody resenting paying over their own money but people holding onto other people's money. The Revenue Commissioners, however, do not prosecute them.

I hope we are not seeing the beginning of a Fianna Fáil scam with social insurance. The country is awash with prophets of doom about a future pensions crisis and the idea that the social insurance fund would be reduced to win an election for Fianna Fáil, which is what this is about, is nothing short of disgraceful. It is as irresponsible as some of the promises that were made in 1977.

**Mr. Bradford:** The debate on the Social Welfare and Pensions Bill is always interesting, with each speaker bringing their own perspective to the policy making forum that is the Seanad. The Minister has on occasion taken on board some of the suggestions made in these debates. All of the contributions to today's debate were interesting. Social welfare is an area of public policy with which any public representative worth their salt is well attuned. Almost daily we hear from constituents about the various anomalies and blockages in the schemes which must be resolved. For that reason, it is important that the Minister listens and responds to Members in so far as he can.

Senator Ryan concluded his contribution with a reference to the social insurance fund and the recent commitment of one of the Government parties to reduce the amount of money paid into it. That broader debate should probably be held on another day but the subject is at the core of this debate. Without a sufficient insurance fund, we cannot respond to the needs of recipients of these schemes. I hope that the weekend's announcement, if it is more than simply a political ploy to win votes, has been thoroughly considered. Our constituents almost always refer to tax rates and will argue that taxation in general should be reduced, but people accept the fact that a sufficient social insurance fund is necessary to fund the various contributory schemes in place. I hope the Minister and his Cabinet colleagues will reflect again on this issue.

During these debates we tend to cover the broad spectrum of social welfare but on this occasion I wish to refer to a couple of the issues dealt with in the Bill. The increase in contributory pensions, which is welcome, gives rise to a number of issues concerning pension calculations which the Minister should address. The first relates to the contributory pension scheme for the self employed. Since 1988 self employed persons have been deemed eligible to pay social insurance. There is a ten year rule, whereby they qualify for a full contributory pension if ten years of contributions have been recorded. A partial pension, with a five year rule, was introduced for people who had paid contributions for eight or nine years but who did not qualify for a pension.

Many of my constituents who have paid social insurance for five to nine years make the argument, which is worthy of reflection, that a person who has paid six years social insurance should get a 60% pension, a seven year payment should result in a 70% *pro rata* pension and so forth. Perhaps the Minister would consider this issue. It is almost 20 years since the 1988 deadline and the vast majority of self employed people will get the full pension on retirement. The number of people in receipt of the 50% pension is reducing significantly, but they still are still there. I hope we can do something for the people who have paid six, seven or eight years' contributions but are at

present receiving half the pension. They could, with a little good will, receive a higher rate.

There are also people who only paid social insurance for two or three years before they reached pension age. There will always be people who fall out of the net where rules and regulations are concerned but in this case there are hundreds rather than thousands of applicants involved. I hope we can do something for them.

My colleague, Senator Cummins, asked me to raise the pre-1953 contributions. There is a reduced rate of pension for pre-1953 contributors and Senator Cummins requested, on behalf of a number of constituents, that pre-1953 contributions should be taken into full account in the calculation of pension entitlements. That would require a change in legislation but, again, it involves only a small number of people. Perhaps the Minister will consider this suggestion.

Progress has been made with carer's allowance and carer's benefit, which is welcome. I particularly welcome the fact that, in a few months, the carer's allowance scheme will be extended to include carers who are also in receipt of a social welfare payment. Such carers will be allowed to receive half the carer's allowance as well. That is progress. Each year, however, I and many of my colleagues raise the means test calculation for the allowance. Serious consideration should be given to abolishing the means test for the carer's allowance. We should put a premium on care of the elderly.

There have been many debates about the standard of nursing homes, subvention rates, enhanced subvention and so forth. We must do the maximum amount, in both policy and financial terms, to allow people to remain in their own homes and communities. The carer's allowance has a key role in this regard. In a country and economy that is awash with money, the means test for carer's allowance should be abolished. Every person who is providing full-time care for a family member, neighbour or any other eligible person should be given the full carer's allowance.

I welcome the progress on separate payment of adult dependant payments. My colleague, Senator Terry, has spoken many times on this issue and I welcome the Government's decision. However, another issue related to means testing deserves attention. The income disregard for a social welfare applicant, where their spouse is in receipt of a reasonable wage, means that the social welfare applicant is unlikely to receive any means tested social welfare due to his or her spouse's income. The Minister, Deputy Brennan, gave a commitment to consider the issue of income disregard for the spouse of a social welfare claimant. I would hope we would see some progress. If progress has been made already, I have not fully understood it. I would welcome it if any improvement in income disregard has been made.

Overall this is another step in the right direction. I was going to say another step forward, but that phrase——

**Ms Cox:** Next steps forward.

**Mr. Bradford:** A lot done, more to do, next steps. Let us hope it is not a step backwards. While the Bill represents progress, many schemes need attention. If I had a magic wand I would address the carer's allowance and the abolition of the means test.

**Minister of State at the Department of Justice, Equality and Law Reform (Mr. Fahey):** A number of issues were raised. The Green Paper on pensions, as mentioned by Senator Terry, will outline the many policy choices and challenges we face in the pensions area. The Green Paper will be finalised in the coming weeks and published thereafter. The Senator asked for information on deferred members of occupational pension schemes who did not qualify for the preservation and revaluation of their pension rights under the Pensions Act. The issue has been discussed by the Oireachtas Joint Committee on Social and Family Affairs in the past and the Pensions Board is finalising a survey of occupational pensions with at least 1,000 active members seeking information on their deferred members. The board has received the co-operation of the organisations surveyed and will be in a position to give the results of the survey to the joint committee by the end of the month. The proposals on lone parents are still awaited. On the question of the qualified adult allowance entitlement, the Bill contains provisions to pay the qualified adult allowance of State pensions directly to the qualified adult. It is expected that some 2,000 qualified adults will benefit from this arrangement in 2007 and 6,000 annually thereafter.

On the issues raised by Senator Cox just after I came into the Chamber, there is grave concern in Galway about the condition of the water which must be addressed in a co-ordinated way by the agencies involved, supported by the Department of the Environment, Heritage and Local Government. I take the point that people are spending huge sums of money on bottled water in Galway and I will bring to the attention of the Minister the points about giving support to people on social welfare. However, the HSE and the city council have been very adamant that water that is boiled is safe to drink and we must accept that as being the case.

Senator Ryan mentioned rent supplement. It is particularly important to protect the State's significant investment in areas of regeneration as well as achieving the objective of sustainable community through regeneration measures. The Minister of State, Deputy Noel Ahern, indicated during the Report Stage debate on this Bill that

this provision is to assist local authorities in achieving a social mix. In the past we built vast local authority housing estates and high-rise developments with no social mix. Today the aim of regeneration projects is to provide a mixture of private, social, affordable and voluntary housing. If we were to allow rent supplement for these private units it would undermine the efforts to achieve the desired social mix.

Senator Ryan also raised the issue of child poverty. The Government remains particularly committed to taking swift and decisive action on child poverty. Our policies have resulted in some 100,000 children being lifted from poverty in the past decade, based on the consistent poverty measure. The 2007 budget included an overall package of €240 million in a range of measures to combat child poverty, increasing child benefit by €10 to at least €160 a month, while three levels of child dependant allowances payments have been combined into a new single high-rate qualified child allowance of €22 per week. The budget also detailed significant improvements in the schemes aimed at families, including improvements in the family income supplement, a 50% increase in the back-to-school clothing and footwear allowance, further funding for the school meals programme and a higher earnings limit for one-parent families.

Senator Norris spoke about rent supplement. In July 2004 the Government introduced new rental assistance arrangements giving local authorities specific responsibility for meeting the longer-term housing needs of people receiving rent supplement for 18 months or more on a phased implementation basis. The rental assistance arrangements also cater for new applicants for rent supplement and people who have been receiving rent supplement for less than 18 months provided the local authority is satisfied they have long-term housing needs. These people will be eligible for some form of assistance from their local authority under the scheme, whether it is contracted rental accommodation, voluntary housing or a local authority house. When fully operational local authorities will meet the housing needs of these individuals through a range of approaches, including the traditional range of social housing options, the voluntary housing sector and in particular a new public private partnership rental-type accommodation scheme. These arrangements are intended to be long-term housing options for the people concerned.

Senator Bradford spoke about carers and caring. I agree entirely with what he said. An improvement is taking place regarding carers. I will certainly bring his comments to the attention of the Minister. I thank Senators from both sides of the House for their constructive contributions to the debate. Some further issues raised will be replied to directly.



**Ms Terry:** On a point of order, I wish to ensure the record is correct. The survey being carried out by the Pensions Board is not a survey of 1,000 members — the officials may be clear on that. It is a survey of 55 schemes each of which has more than 1,000 members.

**Ms Cox:** On a point of order—

**Acting Chairman (Mr. Dardis):** These are not points of order. However, I have allowed Senator Terry.

**Ms Cox:** I would like the Minister of State to give me an undertaking regarding the anomaly in section 50 which I raised. I have a better understanding of it having talked to the officials. The Minister, Deputy Brennan, should be made aware of the issue and we should deal with it on Committee Stage tomorrow.

**Acting Chairman:** These should be dealt with under the relevant section when we reach Committee Stage because they are not points of order. I will allow the Minister of State to comment if he wishes to do so.

**Ms Cox:** Tomorrow would be fine.

**Mr. Fahey:** I confirm that what Senator Terry said is correct. It is a survey of 55 schemes each with at least 1,000 members.

Question put and agreed to.

Committee Stage ordered for Wednesday, 28 March 2007.

**Acting Chairman:** When is it proposed to sit again?

**Ms Cox:** Tomorrow morning at 10.30.

### Adjournment Matters.

#### Schools Building Programme.

**Mr. U. Burke:** I welcome the Minister of State, Deputy Haughey, to the House and thank the Cathaoirleach for selecting this item on the Adjournment. With his permission, I wish to share my time with Senator Kitt.

Holy Rosary College in Mountbellew is a rapidly expanding school with more than 500 students. Since 1968, this school has been seeking an extension, expansion and a sports hall. The new school, which was to have included a physical education hall, was approved in 1968. Unfortunately, the new school was completed in 1970 without the PE hall. The school has consistently endeavoured to obtain it since 1968. Yesterday,

the Minister for Education and Science announced €5,000 for PE equipment for every school in the country, yet this school cannot avail of that. This has happened before. On numerous occasions the Department provided computers, yet there was no space or suitable facilities to utilise them.

The Department of Health and Children and the Department of Education and Science often emphasise the importance of physical education and other recreational activities for students to avoid obesity and other difficulties that may arise through inactivity. The Holy Rosary school needs a major extension to accommodate additional classrooms and a PE hall. After waiting all these years, the school should be granted these facilities. Field games and indoor sports have always been important to the school's ethos. The Minister and the Department should sanction approval for the classrooms, refurbishment and the PE hall. These much needed additional facilities, which were included in the original school plan, should now be provided after such a long delay.

The proposal has reached stage 2, with a submission to the Department's planning and building unit. It is hoped that it can move on to stage 3 soon and that the school authorities should not have to wait any longer for the expansion to be approved. Two generations have passed through the school since 1968 and no other school in the country has had such a record of neglect in the face of simple demands for a much needed facility. Various Ministers have repeatedly stressed the importance of physical education in the school curriculum, yet Holy Rosary College in Mountbellew has been waiting for a PE facility for almost 40 years. There is nothing left for the Minister to say other than that it is time the facility went through.

**Mr. Kitt:** I thank Senator Ulick Burke for allowing me to share his time. I also thank the Minister of State for attending the House. This is an important project for a local college of mine. My eldest son was a student at Holy Rosary, which has been trying so hard to get a sports hall. The college even sought assistance from the Department to rent a premises, but that request was turned down. The college authorities have been seeking improvements for almost 40 years, as Senator Ulick Burke said.

On 8 February, agreement was reached to finalise stage 2 and we now want to move to stage 3. In his reply, I hope the Minister of State will say that we are moving on to stage 3 and that further progress can be made. This is a fairly big extension — I understand it could be over 2,000 sq. metres. It is not just a sports hall but will also include a music room, a religion room, guidance suite and a general purpose dining room. This

major extension is urgently needed for classrooms, a sports hall and other purposes.

Like many rural schools, Holy Rosary College places great emphasis on sport. Yesterday, the Department of Education and Science announced the provision of €4,000 for every secondary school, while last year a sum of €2,000 was announced for physical education facilities for primary schools. The logical conclusion would be to provide the sports hall at Holy Rosary, Mountbellew. I hope the Minister of State's reply will signal that progress is forthcoming in that regard.

Holy Rosary College has a large enrolment which is heading for 500. Its long-term projected enrolment is for 550 pupils. A stand-alone physical education hall is vital and I am sure the Minister of State will confirm that it is included in the brief for the project. I imagine there will soon be a meeting to discuss stage 3. Perhaps the Minister of State will indicate when that meeting is to take place, so that all outstanding issues can be addressed between departmental officials, school staff and the board of management.

I thank the Minister of State for his interest in this project. I hope we can get modern buildings and facilities for this developing, rural school, which has a projected enrolment of 550 pupils.

**Minister of State at the Department of Education and Science (Mr. Haughey):** I thank Senator Ulick Burke for raising this matter on the Adjournment, and also thank Senator Kitt for his contribution. This matter gives me an opportunity to outline to the House the position of the Department of Education and Science regarding Holy Rosary College, Mountbellew, County Galway. The building project for Holy Rosary College was one of a number announced for schools by the Department in 2005 to progress to architectural planning. This project has recently been approved to progress to stage 3, which is the developed sketch scheme of architectural planning. The brief for the project is to provide adequate accommodation for a long-term projected enrolment of 550 pupils. A stand-alone PE hall is also included in the brief for this project.

A meeting was convened on 8 February 2007 with officials from the Department, the board of management and the design team in order to evaluate the stage 2 submission. At the meeting the project was approved to progress to stage three of architectural planning. When the stage 3 submission is received in the Department, a meeting will be convened which will involve board of management representatives and the design team presenting the submission outlining key aspects of same. Any issues or commentary by the Department will be addressed at the meeting. The minutes of the meeting will be issued to the school afterwards as a formal record of the meeting. It is envisaged that unless there are very

exceptional circumstances involved, the meeting will be sufficient to authorise the project to progress to the next stage of architectural planning subject, if necessary, to formal receipt of confirmation by the school from the design team that the issues raised by the Department have been addressed.

In the case of all large capital projects currently on hand within the school buildings section, progression of the project to tender and construction will be considered in the context of the multi-annual school building and modernisation programme. I assure Senators that the Department of Education and Science is committed to providing suitable, high-quality accommodation for Holy Rosary College at the earliest possible date. I thank Senator Ulick Burke and Senator Kitt for raising this matter in the House.

**Mr. U. Burke:** Given the current climate, when the Minister of State says "the earliest date", is he indicating it will be before the end of May?

**Mr. Haughey:** I cannot say that at the moment. I am pleased that approval was given to progress to stage 3, however, and we will advance it as quickly as possible.

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

**Mr. Kitt:** Does the Minister of State know if stage 3 has yet been submitted to the Department?

**Mr. Haughey:** It has not yet been submitted, but when it is received it will be considered by the Department as soon as possible.

**Mr. Kitt:** I appreciate the Minister of State's reply.

#### **Situation in Zimbabwe.**

**Mr. Ross:** I raise this matter relating to the Government of Zimbabwe in the full knowledge that Ireland has a proud tradition of resisting oppression in Africa and has often raised its voice in this regard independent of other nations, particularly regarding the oppressive regime in South Africa in the 1980s. This is something we have rightly trumpeted and we now have an opportunity to influence a regime that may not be equally oppressive but is particularly obnoxious and objectionable. It would be timely if the Government took a lead in opposing what is happening in Zimbabwe, in particular by denouncing the dictatorial regime of President Mugabe and its actions.

It was particularly welcome that the Minister for Foreign Affairs, Deputy Dermot Ahern, was first out of the traps when what has been happening in Zimbabwe came to light. He spontaneously stated in New York, I believe, that he

[Mr. Ross.]

condemns the situation there and that was an act of courage. It is useful that Ireland, with its anti-colonial record can make such statements because we punch above our weight in this area. However, I do not think we are doing enough. It is not enough for the Minister to merely publicly assuage the feelings of pressure groups that are rightly antagonistic towards Mr. Mugabe and then say the job is done.

A long-term job is needed on the regime in Zimbabwe. It was not democratically elected, Mr. Mugabe fiddled the vote in his favour and got the result he wanted. This is bad enough but the use of the regime to oppress the people of Zimbabwe makes it incumbent on us to raise our voices in strong protest. Loudspeaker diplomacy is useful sometimes to put external pressure on President Mugabe but it is now appropriate for the Government to support those African governments that oppose his regime, though they may be doing so behind the scenes while appearing to be friends of President Mugabe.

It has reached the stage that we must use two approaches on Mr. Mugabe. One is to support those who quietly oppose his actions while supposedly his friends and the second is to publicly expose him for the dictator he is. One would have to have had one's head in the sand not to have seen what has been happening in Zimbabwe recently and not to realise that serious protests are merited.

It is not entirely clear what happened to the leader of the opposition when he was taken into custody recently but it is clear he was brutalised, tortured and taken into custody for political reasons. A demonstrator was shot dead and we all know that oppression is the order of the day in Zimbabwe. There is no freedom of the press, no right of assembly, people are frightened of free speech and we must ask what should be done at this stage.

The demands of Amnesty International are reasonable and should be taken into account. It has asked the Government to request that the international community launch an immediate investigation into the recent killings and violence, to demand an end to further state torture and violence, to ensure the protection of human rights defenders and see that key human rights such as freedom of association and assembly are restored in Zimbabwe. This is the minimum that should be asked and there are other, stronger opinions which maintain that, as torture is a breach of international law, the leaders of the Zimbabwean Government, particularly President Mugabe, should be made answerable to an international court if these allegations, which appear to be true, are proven.

It is unacceptable for the Government to make piecemeal gestures and action is incumbent upon us and the Minister, though this is not meant as

an accusatory statement. I particularly applaud the Minister for his fine record in this area and it is incumbent upon him to use the goodwill he has fostered in Africa to put pressure on the Mugabe regime.

**Minister of State at the Department of Foreign Affairs (Mr. C. Lenihan):** Senator Ross is an independent and outspoken Senator and I do not disagree with anything he has said so far in this debate. Ireland is outspoken and committed to stopping the outrage that is occurring in Zimbabwe. We are to the forefront internationally and in the EU in seeking to bring about changes in attitude, habit and behaviour in the Zimbabwean regime.

The Government takes the political, economic and human rights situation in Zimbabwe most seriously. There are, unfortunately, no signs that the Zimbabwean Government is willing to change the destructive policies which have brought the country's economy to its knees, nor is there any sign of democratic reforms.

The indifference of the leadership to the people's plight is unfortunately all too clear. We have seen an increase in repression in recent years, with large-scale arrests of peaceful demonstrators becoming common. Recently leading opposition activists have been shamefully ill-treated in police detention. The unapologetic attitude of the country's leadership to these incidents is a worrying sign of the culture of impunity for human rights abuses in Zimbabwe. These attacks on well-known public figures are part of a pervasive atmosphere of intimidation and violence. There is real concern that when high-profile people are publicly targeted, crimes against ordinary Zimbabweans may routinely go unpunished.

Police actions in recent weeks have effectively denied Zimbabweans the internationally recognised rights of freedom of speech and of assembly. The ill-treatment of those in custody infringes both UN human rights standards and those standards which African governments have signed up to, such as the African Charter on Human and Peoples' Rights.

The EU Presidency has made several strong statements on behalf of the European Union condemning the ongoing violent suppression of the rights of freedom of opinion and of assembly. Resident EU embassies in Harare are continuing to monitor the situation closely. My colleague, the Minister for Foreign Affairs, Deputy Dermot Ahern, issued a statement earlier this month on behalf of the Government, condemning the disgraceful actions of the Zimbabwean police. He urged the Zimbabwean Government to cease suppressing the basic fundamental rights of its people and suggested that a new approach, which includes dialogue between all political forces, is needed to resolve Zimbabwe's serious political, social and economic problems.

Ireland will be among the countries making national statements on Zimbabwe when the UN Human Rights Council considers the situation there tomorrow. Our Ambassador to Zimbabwe, based in Pretoria, has been instructed to make our concerns known directly at the earliest possible opportunity and a special meeting of EU officials will take place on 4 April to discuss the European Union's policy on Zimbabwe. The EU has already put restrictive measures in place against the leadership of Zimbabwe and last month the Common Position on these restrictive measures was renewed until February 2008. These measures are designed to affect the Zimbabwean leadership without adding to the suffering of the people of Zimbabwe and any further action by the EU must fulfil these same criteria.

Ireland has participated fully in all EU discussions on Zimbabwe and we are one of the member states which are keeping the issue high on the Union's agenda. Our chief aim in doing this is to help the people of Zimbabwe secure a better future for themselves. In order to maximise the impact of our actions, the EU needs to generate support for change among our African partners, so they will use their influence with the Zimbabwean Government and with Mr. Mugabe directly. In recent days EU presidencies in the Southern African Development Community, SADC, countries have expressed to their host governments the EU's concern about the recent developments in Zimbabwe.

I share the revulsion of all in the House at the nature of the Mugabe regime. However, we will be most effective in mobilising the African support we need if we focus on policies rather than personalities. We must highlight how the policies of the Mugabe Government contravene the human rights standards on which Africa seeks to base its future development.

I hope the leaders of those countries most affected by Zimbabwe's problems, namely, its neighbours which are hosting millions of Zimbabweans who have had to leave the country, will speak out publicly. Many African leaders have already made statements in response to the latest developments in Zimbabwe. President Kikwete of Tanzania met with Zimbabwean Government and Opposition leaders in Harare earlier this month as part of a joint initiative with President Mbeki of South Africa to achieve better results through quiet diplomacy. Zimbabwe will be discussed at a SADC summit meeting in Tanzania on 28 and 29 March.

I am acutely conscious of the suffering caused by the dire economic situation in Zimbabwe and the need to provide support directly to the ordinary people of the country who are experiencing a living nightmare. Irish Aid continues to provide assistance for the people of Zimbabwe. In 2006,

almost €8 million was provided through non-governmental organisation partners and UN agencies. A further €5.4 million has been allocated to date in 2007.

**Mr. Ross:** I appreciate the Minister of State's reply and I am aware of his good will on this issue. I also appreciate that the Government's policy appears to be to support African governments which wish to correct the inequities in the Zimbabwean regime. Is it Government policy that those responsible for state torture in Zimbabwe should be held accountable for their actions to the world community, possibly in court?

**Mr. C. Lenihan:** Government policy in respect of Zimbabwe, Darfur or any other part of the world where there is flagrant disregard for basic human rights law, as guaranteed under the United Nations Charter, is that people should be held to account. This should apply to Mr. Mugabe, his Government and those who work under its direction and control, namely, the police and security forces and others engaged in actions of the type described by Senator Ross.

As Minister of State with responsibility for development co-operation and human rights, I have more contact with African leaders than my ministerial colleagues. I assure Senator Ross that on almost every occasion I have met leading figures from the African continent, including former President Chissano and current President Guebuza of Mozambique, the President and Prime Minister of Tanzania, and most recently, during a visit by President McAleese, the President and Prime Minister of Lesotho, I have raised this matter and urged those I have met to do more to apply pressure to the government in Harare, in particular, Mr. Mugabe. I have also discussed this matter with the former President of Zambia who has, with former President Chissano, attempted to influence Mr. Mugabe to take a different path.

All the entreaties and pressure points we have brought to bear on African leaders have not fallen on deaf ears. Unfortunately, however, the efforts of African leaders to act as intermediaries, as in the case of Mr. Chissano, are not having an effect. Many of the gentlemen in question have informed me that they have thrown up their hands in frustration because they cannot influence Mr. Mugabe or persuade him to change policy. It is a most depressing picture because the individuals in question are committed and know Mr. Mugabe extremely well at personal, political and diplomatic levels but are not making any progress.

Most recently, when I had the honour to accompany President McAleese on a three-country visit to our programme countries in Africa, I had a meeting with Nelson Mandela in the course of which Zimbabwe was raised. Unfortunately, even Mr. Mandela, a stellar figure on the conti-

[Mr. C. Lenihan.]

ment of Africa and an example to many African leaders, did not express positive sentiments. Like many other African leaders, he felt rather depressed about the position in Zimbabwe and despite his friendship with Mr. Mugabe over the years, he did not believe he could change him. The picture is bleak and depressing.

Ireland is party to European Union restrictions aimed at hitting the Mugabe regime rather than its people. We will continue to raise the issue as best we can at every level. Initial reluctance by African leaders to criticise a fellow African leader has dissipated and they are trying their best. I would love to be able to say there is an easy, uncomplicated solution to the problem.

As Minister of State with responsibility for development co-operation and human rights, I would be pleased to consider the proposals made by Amnesty International, an excellent organisation with which I and Irish Aid have a strong working relationship. I will read its report on the position in Zimbabwe to determine whether the Government can fulfil its request. As Senator Ross correctly noted, Amnesty International is not always right but in this case it appears to have much in favour of its argument.

I again thank Senator Ross for raising the matter. He has proven again that he is a courageous and independent voice in the House.

The Seanad adjourned at 10.15 p.m. until 10.30 a.m. on Wednesday, 28 March 2007.