

SEANAD ÉIREANN

—————
Dé Máirt, 3 Iúil 2007.
Tuesday, 3 July 2007.
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Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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Paidir.
Prayer.
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Election of Members to Dáil Éireann.

An Cathaoirleach: I wish to announce that the following Members have been elected to Dáil Éireann and have, accordingly, vacated their seats in Seanad Éireann: James Bannon, Cyprian Brady, Ulick Burke, Noel Coonan, Timmy Dooley, Frank Feighan, Brian Hayes, Brendan Kenneally, Micheál Kitt, Martin Mansergh, Joe McHugh, Mary O'Rourke, Eamon Scanlon and Joanna Tuffy. On my own behalf and on behalf of the House, I congratulate them on their election and wish them well in the future.

Nomination of Members.

An Cathaoirleach: I would also like to announce to the Seanad that, following the election to Dáil Éireann of Cyprian Brady, Brendan Kenneally, Micheál Kitt and Mary O'Rourke, the Taoiseach nominated Donie Cassidy, Seán Dorgan, Peter Sands and Chris Wall, with their prior consent, to fill the casual vacancies thus created in the number of nominated Members of Seanad Éireann. Following the death of Kate Walsh, the Taoiseach nominated Colm O'Gorman, with his prior consent, to fill the casual vacancy thus created in the number of nominated Members of Seanad Éireann. On behalf of the House, I welcome them to the Seanad and congratulate them on their appointment.

Appointment of Taoiseach, Members of Government and Ministers of State and Alteration of Names of Departments and Titles of Ministers.

I have to inform the House that letters dated 14 June 2007 and 20 June 2007 have been received from the Secretary to the Government regarding:

(1) the appointment of the Taoiseach, Tánaiste, members of Government and Ministers of State and;

(2) the alteration of names of Departments and titles of Ministers. The letters will be set out in the Journal of the House in the usual manner.

ROINN AN TAOISIGH
 Department of the Taoiseach
 BAILE ÁTHA CLIATH 2.
 Dublin 2.
 14 Meitheamh, 2007.

Cléireach an tSeanaid,

Tá orm a chur in iúl duit go bhfuil

(1) an tUachtarán, ar ainmiú Dháil Éireann, tar éis Parthalán Ó hEachthairn a cheapadh inniu, de bhun Airteagal 13.1.º den Bhunreacht, mar Thaoiseach;

(2) an tUachtarán, ag gníomhú di ar ainmiú an Taoisigh, le comhaontú Dháil Éireann roimh ré, tar éis na daoine seo a leanas a cheapadh inniu, de bhun Airteagal 13.1.2.º den Bhunreacht, mar chomhaltaí den Rialtas agus bheith, i dteannta an Taoisigh, mar Rialtas:-

Brian Ó Comhain
 Máire Ní Áirne
 Nollaig Ó Díomasaigh
 Diarmuid Ó hEachthairn
 Micheál Ó Máirtín
 Séamus Ó Braonáin
 Máirtín Ó Cuilinn
 Éamon Ó Cuív
 Máire Ní Chochláinn
 Máire Ní Ainifín

Liam Ó Deaghaidh
 Brian Ó Luineacháin
 Seán Ó Gormlaigh
 Éamon Ó Riain

(3) an Taoiseach tar éis Brian Ó Comhain a ainmniú inniu, de bhun Airteagal 28.6.1^o den Bhunreacht, chun beith ina Thánaiste; agus

(4) an Taoiseach, i bhfeidhmiú na cumhachta a thugtar dó le halt 4(1) den Acht Airí agus Rúnaithe (Leasú) 1946, tar éis na Ranna Stáit seo a leanas a shannadh inniu do na comhaltaí faoi seach den Rialtas a luaitear a n-ainmneacha os coinne ainmneacha na Ranna:—

An Roinn Airgeadais
 An Roinn Sláinte agus Leanaí
 An Roinn Iompair agus na Mara
 An Roinn Gnóthaí Eachtracha
 An Roinn Fiontar, Trádála agus Fostaíochta
 An Roinn Ealaíon, Spóirt agus Turasóireachta
 An Roinn Gnóthaí Sóisialacha agus Teaghlaigh
 An Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta
 An Roinn Talmhaíochta, Iascaigh agus Bia
 An Roinn Oideachais agus Eolaíochta
 An Roinn Cosanta
 An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí
 An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil
 An Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádurtha
 D. Mac Cárthaigh,
 Ard-Rúnaí an Rialtais

Brian Ó Comhain
 Máire Ní Áirne
 Nollaig Ó Díomasaigh
 Diarmuid Ó hEachthairn
 Micheál Ó Máirtín
 Séamus Ó Braonáin
 Máirtín Ó Cuilinn
 Éamon Ó Cuív
 Máire Ní Chochláinn
 Máire Ní Ainifín
 Liam Ó Deaghaidh
 Brian Ó Luineacháin
 Seán Ó Gormlaigh
 Éamon Ó Riain

ROINN AN TAOISIGH
 Department of the Taoiseach
 BAILE ÁTHA CLIATH
 Dublin 2.
 14 Meitheamh 2007

An Rúnaí Príobháideach
 An tAire Airgeadais

I am to inform you that, at a meeting held today, the Government, on the nomination of the Taoiseach and in exercise of the power conferred on them by Section 1 of the Ministers and Secretaries (Amendment) (No. 2) Act 1977, as amended by Section 2 of the Ministers and Secretaries (Amendment) Act 1980 and Section 1 of the Ministers and Secretaries (Amendment) Act 1995, appointed

Thomás Ó Ceit, T.D.
 (Tom Kitt, T.D.)

to be Minister of State at the Department of the Taoiseach (with special responsibility as Government Chief Whip) and at the Department of Defence; and

Risteárd de Róiste, T.D.
 (Dick Roche, T.D.)

to be Minister of State at the Department of the Taoiseach and at the Department of Foreign Affairs (with special responsibility for European Affairs).

Dermot McCarthy,
 Ard-Rúnaí an Rialtais.

An Rúnaí Príobháideach
Cléireach an tSeanaid
Mar eolas don Cléireach

ROINN AN TAOISIGH
Department of the Taoiseach
BAILE ÁTHA CLIATH 2.
Dublin 2.

20 Meitheamh 2007.

An Rúnaí Príobháideach
Cléireach an tSeanaid

On the nomination of the Taoiseach and in exercise of the power conferred on them by Section 1 of the Ministers and Secretaries (Amendment) (No. 2) Act 1977, as amended by Section 2 of the Ministers and Secretaries (Amendment) Act 1980, and Section 1 of the Ministers and Secretaries (Amendment) Act 1995, appointed, with effect from today,

Brendan Smith, T.D., (Breandán Mac Gabhann, T.D.)	to be Minister of State at the Departments of Health and Children, Education and Science and Justice, Equality and Law Reform (with special responsibility for Children in accordance with the Government decision of 7 Nollaig, 2005);
Pat the Cope Gallagher, T.D., (Pádraig Ó Gallchóir Cope, T.D.)	to be Minister of State at the Department of Health and Children (with special responsibility for Health Promotion and Food Safety);
John Browne, T.D., (Seán de Brún T.D.)	to be Minister of State at the Department of Agriculture, Fisheries and Food (with special responsibility for Fisheries);
Michael Ahern, T.D., (Micheál Ó hEachthigheirn T.D.)	to be Minister of State at the Departments of Enterprise, Trade and Employment and Education and Science (with special responsibility for Innovation Policy);
Noel Ahern, T.D., (Nollaig Ó hEachthigheirn, T.D.)	to be Minister of State at the Department of Finance (with special responsibility for the Office of Public Works);
Sean Power, T.D., (Seán de Paor, T.D.)	to be Minister of State at the Department of Justice, Equality and Law Reform (with special responsibility for Equality Issues);
Batt O'Keefe, T.D., (Parthalán Ó Caoimh T.D.)	to be Minister of State at the Department of the Environment, Heritage and Local Government (with special responsibility for Housing, Urban Renewal and Developing Areas);
Tony Killeen, T.D., (Antóin Cillín, T.D.)	to be Minister of State at the Department of the Environment, Heritage and Local Government and Communications, Energy and Natural Resources (with special responsibility for Environment and Energy);
Conor Lenihan, T.D., (Conchubhar Ó Luineacháin, T.D.)	to be Minister of State at the Departments of Community, Rural and Gaeltacht Affairs, Education and Science and Justice, Equality and Law Reform (with special responsibility for Integration Policy);
Mary Wallace, T.D., (Máire De Bhailís, T.D.)	to be Minister of State at the Department of Agriculture, Fisheries, and Food with special responsibility for Forestry);
Sean Haughey, T.D., (Seán Ó hEochaidh, T.D.)	to be Minister of State at the Department of Education and Science and Enterprise, Trade and Employment (with special responsibility for Lifelong Learning, Youth Work and School Transport);
Michael Kitt, T.D., (Micheál Ó Ceit, T.D.)	to be Minister of State at the Department of Foreign Affairs (with special responsibility for Overseas Development);
Trevor Sargent, T.D.,	to be Minister of State at the Department of Agriculture, Fisheries and Food (with special responsibility for Food and Horticulture);
Pat Carey, T.D., (Pádhraig Ó Ciardha, T.D.)	to be Minister of State at the Department of Community, Rural and Gaeltacht Affairs (with special responsibility for Drugs Strategy and Community Affairs); and
Billy Kelleher, T.D., (Liam Ó Céilleachair, T.D.)	to be Minister of State at the Department of Enterprise, Trade and Employment (with special responsibility for Labour Affairs).

Anthony Cummins
a/s Rúnaí Cunta an Rialtais.

Business of Seanad.

An Cathaoirleach: I have received notice from Senator Mary Henry that she proposes to raise the following matter on the Adjournment:

The need for the Minister for Health and Children to speedily revise section 21(2) of the Mental Health Act 2001 to permit the transfer of patients from the community to the Central Mental Hospital. I regard the matter raised by the Senator as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

Order of Business.

Mr. Cassidy: It is a pleasure to be back. I look forward to playing a full part in the Seanad in the coming years.

The Order of Business is No. 1, Finance (No. 2) Bill 2007 — all Stages to be taken at the conclusion of the Order of Business and to conclude by 6 p.m. with contributions of spokespersons to be eight minutes and those of all other Senators to be four minutes; No. 2, Ethics in Public Office (Amendment) Bill 2007 — Order for Second Stage and Second Stage to be taken at 6 p.m. and to conclude no later than 7.30 p.m., with contributions of spokespersons to be eight minutes, those of all other Senators four minutes and the Minister to be called upon to reply no later than 7.22 p.m.; No. 3, Personal Injuries Assessment Board (Amendment) Bill 2007 — all Stages to be taken at 7.30 p.m. and to conclude no later than 9.30 p.m., with contributions of spokespersons to be eight minutes and those of all other Senators to be four minutes. All divisions taken in the House this week shall be taken manually rather than electronically.

Mr. Finucane: As I understand it, the Cathaoirleach will not be in the House tomorrow and as it will be the final day of the current Seanad I wish to pay tribute to his stewardship during his 30 years as a Member of the Seanad. He has given tremendous service to his country.

Like the Cathaoirleach, I am bowing out on this occasion. I wish him well in his retirement. I know he will remain as active as always in other circles well known to everybody. The Cathaoirleach has been a great ambassador for this country and west Limerick and deserved his place in the sun as Cathaoirleach of the Seanad during the past five years. I believe everyone in this House, regardless of political affiliation, regards him as having been extremely fair in his position. As a west Limerick man, I respect and appreciate his fair-mindedness.

I take this opportunity, before coming to a brief matter on the Order of Business, to pay tribute to those Senators who were successful in their election to the other House. I wish my colleagues on both sides who are contesting the current Seanad campaign every success. I hope many of

them will rejoin the Seanad and form the seed corn for this House during the next five years.

I wish now to deal with a pertinent issue. The issue of drugs has been raised in this House on many occasions. Many Members spoke during such debates of the drug-like vice gripping Ireland particularly in terms of cocaine, a drug which many people consider to be a respectable one. Many segments of our community have been gripped by this drug. Everybody's mind is now focused on the problem given developments off our coast during the past few days. A tonne of cocaine was washed up off the coast of Cork following an unsuccessful landing. Ireland is widely perceived as a gateway for drugs to the UK and the continent. Those interested in experiencing the significant scale of what is actually happening in this country in terms of cocaine and other drugs, need only note the size of that shipment which would have resulted in a great deal of hardship for many users. I wish the Minister dealing with the area of drugs the best of luck because drugs are becoming part of our culture and they are endemic in every community. It will be a significant challenge to root out this prevailing epidemic.

Mr. O'Toole: Fáilte go mór roimh na daoine nua atá tagtha isteach sa Seanad inniu. Tá mé ag tosnú leis na entrances and exits, etc. I welcome the new people — fáiltim go mór roimh an fear nua ó Chorca Dhuibhne atá istigh anseo don chéad uair. In addressing a word of welcome to Senator Dorgan from west Kerry, I say to my friends on this side of the House that the word on Senator Dorgan is that he comes from sound Blueshirt stock on his side of the peninsula. I will allow him to answer that for himself. I ndáiríre, I welcome the new Members and second the Cathaoirleach's words of congratulation. As an Independent Member, I see no difficulty in Senators going for election to the Dáil and *vice versa*. I do not understand people who try to juggle these matters and say it should not happen. As an Independent Member, I have a very strong view on this in other contexts.

I thank the Cathaoirleach for his commitment to this House over his period as a Senator and as Cathaoirleach. During his time in the Chair he has extended his friendship to Members on all sides and made no distinction at any time between Government Members and other Members. I acknowledge and appreciate that. The Cathaoirleach has also shown flexibility, beyond a shadow of a doubt. I hope the former Members who have left and gone to the Dáil will recognise that the Order of Business over which he presided in this House is far better and more acceptable and more topical than the Order of Business in the Dáil. The Cathaoirleach is to be congratulated on that. The Cathaoirleach has also extended to Members on this side of the House, as well as to Members on his own side of the House, the hand of friendship and fairness. Go

raibh míle maith agat, a Chathaoirligh. Tá an-jab déanta agat. Táimid thar a bheith sásta leat. Go n-éirí go maith leat amach anseo.

As we move on to the business of the day, I wish to state, now that we are in the middle of this embarrassing, unrepresentative, undemocratic, anachronistic, elitist Seanad election process that we do not want any more committees, any more reports, any more discussions. Let us grasp the nettle and put into play change. I would like the new Minister for the Environment, Heritage and Local Government, Deputy John Gormley, who has strong views on this matter, to be invited to the Seanad to give an outline of how he intends to implement the recommendations of the Seanad Reform report to give every citizen a say in the election of the second House of Parliament. Is náireach an rud é go bhfuil próisreas den sórt sin againn faoi láthair. Everywhere I go I hear nothing but complaints about the current process. It is an embarrassment and it is time to change it.

Four or five months ago there was a media brouhaha on the subject of drugs coming in through the private airport in Lucan. I pointed out to the House at that time that it was a bit of a joke, given that one can bring a boat into any port in Ireland without any type of strict procedure coming into play. Let me give a simple example that the Members can take away from here. I heard the suggestion on the radio programme “Morning Ireland” that we need a fleet of boats and an extra platoon of soldiers. We do not need that. In France there are people sitting at radar stations around the country. These radar stations can cover 100 miles of coast and every boat coming into that area can be seen. The ships are radioed and requested to report what they are carrying, where they are going and from where they came. It is done in the language of the ship. If a satisfactory answer is not forthcoming, the matter is dealt with. We do not need a huge customs force or a huge fleet of boats. We do not need to change the law. We need to be sensible. Mizen Head, where last night’s incident happened, is the most south westerly point of Ireland. It is a dangerous place to go in a boat at any time, not to mind in the middle of the night in winds of force 6 or force 7. With a couple of radar stations, one at Mizen Head, one at Rosslare or Tuskar Rock, and one in between, the whole south coast could be covered. A person sitting in an office in Dublin looking at a screen could ring the local coastguard and request that a particular boat be contacted and if there is no response a cutter can be sent out to it. It would be easy and would not require a change in the law. I do not want to see a raft of legislation to deal with this. It can be done.

I have put two sensible proposals to the House. The first is that the Seanad be reformed. The second is that the import of drugs into this country be stopped immediately.

Mr. Ryan: Aontaím le gach rud a dúradh faoin Chathaoirleach. Bhí sé uasal agus féarailte i gcónaí, agus chuir sé béim ar dhínit an Tí ar shlí a bhí ciúin ach a d’oibir go maith.

I pay tribute to the Cathaoirleach, who was extraordinarily fair and to whom I have said more than once that he was more than extraordinarily patient on occasions, definitely with me. I wish him well in the future. I regret that one more conduit for tickets will be closed off to us all.

Mr. P. Burke: Maybe not.

Mr. Ryan: We were consoled in bad times that we at least had that conduit. I thank the Cathaoirleach for his service over the past five years.

It is almost 30 years exactly since I contested an election for the Seanad. As Members will know there is no cure for politics, so I will contest the next election.

What is more profoundly worrying than the revelation of the scale of the importation of drugs into the country is the reason that such a demand would exist among our population. It is a challenging question as to what will persuade a significant chunk of society to use cocaine. At a risk of starting a major row, I believe cannabis is a separate issue—

Mr. Norris: Hear, hear.

Mr. Ryan: —because the evidence is arguable. The evidence from cocaine use is that it is inherently destructive and profoundly addictive. The idea that sane, intelligent and, by and large, educated young people would put their futures at risk in this way raises all sorts of profound questions about values and what point they see in life. Senator O’Toole’s suggestions make perfect sense. Technology could solve this problem.

Before I sit down for what may be my second last day in the House — I have enough reason to be aware of the vagaries of the electorate — I mention once again the plight of the Palestinian people, an issue I have raised repeatedly, and the extraordinary decision the world has taken to subvert democracy in the Palestinian territories by recognising an autocratically appointed government instead of a democratically elected one. It is not a question of what I think about that government, but the principle that the rest of the world has now said that an appointed government is better than an elected one is a profoundly wrong decision in principle and also in politics. It will be proven to be wrong in the long term, whatever about the short-term expediency.

I ask the Minister for Foreign Affairs, the Government and the European Union to reflect again on this unequivocal commitment to an autocratically appointed government which will leave the Palestinian people without proper leadership and without a government they can trust.

Mr. Dardis: I join others in congratulating those who have been nominated to serve in the Seanad and those who have been elected to Dáil Éireann. I wish everybody well who is contesting the forthcoming Seanad election. I am not contesting the election but I can sympathise with the predicament of members of that electorate who would like to give their No. 1 vote to several candidates. Unfortunately, we do not have the option of doing what one person did, which is to write four number ones and state "as promised". I wish everybody well and I hope as many Members as possible will be back in the House for another term.

My main reason for speaking, however, is to join in paying tribute to you, a Chathaoirligh. I thank you for the work you have done both as Cathaoirleach and, prior to that, as a Senator. It is a remarkable achievement in public service to have been a Member of the House for as long as you have been. You have always been fair and even-handed in your decisions and always good humoured. It has been a pleasure for Members to serve under you as Cathaoirleach. You deserve congratulations for that.

In addition, Members who have travelled abroad with the Cathaoirleach know how well he has represented this country. I accompanied the Cathaoirleach on a trip to the United States and we were proud to be there and of how the Cathaoirleach represented us. He deserves great credit.

I agree with what was said with regard to drugs. Senator O'Toole is correct that the Naval Service could identify the location of vessels at any time. It is a simple matter, and cutting off the supply is the way to deal with this problem. I also agree with the views expressed about Seanad reform. The template is available in the report that was prepared and there is consensus as to the way forward. I believe there is also a commitment in the programme for Government to progress this matter. It should be done.

Mr. Coghlan: I wish to be associated with the generous and well-deserved tributes to you, a Chathaoirligh, for your courtesy and kindness. One of the Members mentioned patience but I do not believe I ever tried your patience. I believe we got on well. With regard to the conduit for tickets, I never failed to resist any crumbs from the rich man's table.

Mr. P. Burke: The Senator had his own.

Mr. Coghlan: No. As a fellow Munster man, the Cathaoirleach can talk to me any time on that subject. I welcome the new Senators and wish those who were elected to the Lower House well. I also extend good wishes to my colleagues who are contesting the Seanad election.

Now that the Leader has again traded places with his predecessor, I wish him well in filling those shoes. I hope they are not precarious high

heels. The Leader indicated in his remarks that he has found his natural home and wished himself many happy years here. Hopefully, the electorate will be kind.

With regard to the serious matter raised by Senator Finucane, we have again discovered how porous our coastline is and how difficult it is to police. Ireland is, no doubt, a gateway for drugs for the North, Britain and Europe. The appropriate authorities must learn from this and do more than just sit up and take notice. A most worthy proposal has been made by Senator O'Toole. We urgently need the system being operated in France. The House should commend it to the appropriate authorities and, hopefully, proper action will be taken.

Mr. Ó Murchú: Tréaslaím leat, a Chathaoirligh, as ucht cúig bhliain a chaitheamh sa Chathaoir. Níl aon amhras faoi ach gur thug tú stádas faoi leith don Seanad. Bhí tú cothram agus macánta linn i gcónaí. Tá súil agam go n-éireoidh go geal leat amach anseo.

This House has been proactive on many serious issues over the years and one of them, which has been the subject of several debates, is the drugs problem. In that regard, we are currently experiencing a war of great intensity, a war of good versus evil. The drug barons are condemning young people to a life of misery. Worse, they are condemning them to death in the most tragic circumstances. It is not just the young victims who suffer. We must also consider the violence and the many killings that have occurred in this country in recent years. Drugs were at the root of the violence in many of these cases.

The extent of the recent haul off the coast of Ireland tells us quite clearly that we are dealing with something on an international scale seldom experienced previously. We should compliment the Garda Síochána which has had success, limited though it may be. Apart from legislation and implementing the law the only way we can succeed on this issue is for the entire community to take ownership of the problem and co-operate fully both officially and in a private capacity to ensure it comes to an end.

An Cathaoirleach: I wish to remind Senators of the Standing Order with regard to time and ask for brevity.

Mr. Norris: I congratulate the Cathaoirleach on his career. He will be missed. Apart from anything else, God alone knows what we will be landed with in his place. Speaking of which, I welcome back Senator Cassidy whose return shows the Government has been influenced by the Green Party and is intent on a campaign of recycling.

This place is getting more like a nature reserve every day. I think of the great medieval poet who wrote, "*Sumer is icumen in. Lhude sing cuccu!*" or *The Irish Times* column which always had let-

ters such as, "I heard a cuckoo today. Is this a record? J. Laytham, Brigadier". There are plenty in the House today. We could rechristen the Senate the cuckoo's nest because of all the people parachuted in for two days to receive parking privileges. This shows how seriously the Government takes this House and how seriously it will take Senator O'Toole's suggestion for Seanad reform.

Mr. Dardis: To which category does Senator Norris belong?

An Cathaoirleach: On the Order of Business.

Mr. Cassidy: There is a right bunch of cuckoos on the other side of the House.

Mr. Norris: With regard to today's business, will the Government consider withdrawing the Ethics in Public Office (Amendment) Bill? Apart from anything else, it does not contain a definition of ethics. Does this mean the Government is a stranger to ethics and cannot define it because it does not know what it means? This is likely in light of the legislation on stamp duty. The Minister for Finance gave an undertaking that no change in stamp duty would occur. People acted on this promise and commitment, they bought houses and were landed with it.

An Cathaoirleach: This is a matter for debate when the legislation is before the House.

Mr. Norris: The Cathaoirleach is correct. However, I ask for the removal of the Ethics in Public Office (Amendment) Bill. Consider what was cobbled together with the gene pool and people of like mind. There is a whiff off them that would blind almighty God and they do not have any problems about ethics. This Bill should be withdrawn until the Government understands what is meant by "ethics".

I propose a change to the Order of Business so the House can take No. 42, which states:

That Seanad Éireann, in the light of further disclosures about 'CIA Rendition Flights' to torture destinations and the involvement in these practises as victims of women and children, condemns such activities in the most unequivocal manner; and calls for the establishment of an International War Crimes tribunal to determine the guilt or innocence of the most senior US and British personnel.

Women and children are now rendered to Somalia to be tortured and we are clearly implicated in this. I refer to the recent air display by some of these bombers in Galway and the statement of Major Samantha Weeks, one of the commanding officers. She stated Ireland has taken a stand with the United States for freedom, they want to spread goodwill with Ireland and other European allies, Ireland supports the United States in the war on terror and the Irish people are on the

same page when it comes to freedom, human rights and democracy. We are not and the message should go out from this House that we do not support torture, mass civilian bombings or the use of chemical weapons or weapons of mass destruction. Nor do we wish to subvert conventions like President Bush or Mr. Blair. Thank God Mr. Blair is gone.

Ms Ormonde: I wish to take the opportunity to thank the Cathaoirleach for the courtesy and kindness he showed in the House during the past five years. He was always fair and effective in the way he handled the business of the Seanad. I wish him well and happiness and health in the years ahead.

I wish to speak on the point raised by many speakers with regard to the major seizure of drugs off the coast. I wish the Minister of State, Deputy Pat Carey, well in his new endeavours. This is a bigger issue in the context of which we must discuss values in society, and this involves many Departments. I ask the new Minister of State in his brief to examine how best to co-ordinate the workings of the Department of Education and Science and the Department of Justice, Equality and Law Reform to monitor the situation and police the coast where drug barons manage to get drugs through from others countries. I ask the Seanad to call on the new Minister of State to examine the matter with a view to co-ordinating our forces to that work.

Mr. P. Burke: I wish you well, a Chathaoirligh, in your retirement. You had the absolute respect of every Member during the past five years and did a tremendous job. As Leas-Chathaoirleach, it was a privilege to work with you during that time.

I welcome Senator Cassidy and the new Members to the House and congratulate those who were elected to the Dáil.

I ask the Leader for a debate on the role of the community welfare officer. I understand there is to be a change whereby the community welfare officer may be taken into the Department of Social and Family Affairs. That would be a retrograde step as the officer plays a very important role in the community. If taken into the Department of Social and Family Affairs, he or she would become a civil servant, in which case he or she would not be able to act in the same way as heretofore. In the event that it is not possible to have a debate on this issue, will the Leader raise it with either the Minister for Social and Family Affairs or the Minister for Health and Children? This is an important issue which needs to be debated and on which clarification needs to be provided. The role of the community welfare officer should remain as at present.

Mr. Glynn: I join others who have commended you, a Chathaoirligh, for the manner in which you have conducted the business of the House over

[Mr. Glynn.]

the past five years. I congratulate those who have been elevated to membership of the Dáil and welcome the new Members into the House.

On the drugs issue, I agree the Minister of State, Deputy Pat Carey, needs all the support he can be given to combat what can only be described as a creeping cancer. It is obvious that those involved do not care about the forces of law and order. For those who would advocate the use of cannabis, from the best sources cannabis is a gateway drug deemed to cause mental illness. It is one of the first drugs used before moving on to hard drugs.

Mr. Ryan: So is alcohol.

Mr. Glynn: We are a soft society. If we do not adhere to the experience that has been acquired in other locations——

An Cathaoirleach: Is the Senator seeking a debate?

Mr. Glynn: Yes, I am.

An Cathaoirleach: We will not have the debate now.

Mr. Glynn: Are you advocating the use of it?

An Cathaoirleach: Order, please.

Mr. Norris: Through the Chair, please.

Mr. Glynn: As I always do, Senator. I would certainly support a debate on this matter and on the matter raised by Senator Burke. I am concerned that the role of the community welfare officer would change. Such an officer plays a pivotal role in dealing with a very vulnerable section of society and I would not favour the proposed change.

Mr. Ross: I join in the tributes to you, a Chathaoirligh, and the role you played in the House. I have just been consulting my colleagues and they tell me you have never evicted anybody from the House in those five years.

Mr. Norris: Now is his chance.

An Cathaoirleach: I do not think that is correct. I hope it is true but I do not think it is.

Mr. Ross: We intend to remedy that in the next 24 hours. We cannot give any guarantees, but we will do our best in the next 24 hours. I pay tribute to the Cathaoirleach's very even-handed management of this House. It is quite an achievement that he did not manage to expel Members of the House, many of whom would have liked to have been expelled on occasions for various good reasons. To be able to avoid doing so shows considerable skill as Cathaoirleach.

I welcome back the Leader of the House. As Senator Norris said, it is a great pleasure to see him back. He was a very fine Leader of the House and I regret the aberration of his absence. No doubt that will be remedied in the weeks and months to come. I wish him well and I wish him a long period in this House. I hope that during that period he will be able to lead the crusade for Senate reform which has been mentioned by Senators O'Toole and Norris, and others in this House today.

It is something of an embarrassment that certain things happen in this House when we try to pretend that they do not happen. I say in all seriousness to the Leader of the House that the commitment of Fianna Fáil to this House is wafer thin. I do not join in a very political way in welcoming all those appointments that were made. Senator O'Toole touched upon this subject. Some of those appointments were made to people who have stood for Parliament and subjected themselves to the democratic process. That is another argument. However, some of those appointments were made for purely party political purposes. There is no commitment from those people to anything except the political party in office. They show no signs of abilities in the parliamentary scene, although they show signs of great ability in the political scene. It should be recognised that those people——

Mr. Kett: The Senator does not know yet. The jury is out.

Mr. Ross: ——who are here are not interested——

An Cathaoirleach: We have no control over that.

Mr. Ross: ——in remaining in the Seanad or standing for the Dáil.

An Cathaoirleach: I ask the Senator to speak on today's Order of Business.

Mr. Ross: I do not wish to be evicted — as his first duty the Leader would need to name me if am to be. If we are not to have a debate on Seanad reform at least until the next session, when I hope to be in your seat, a Chathaoirligh, for the first sitting——

Mr. Norris: Not any longer than that.

Mr. Ross: ——I hope the university Senators will be able to lead in that debate. I regret that the Fianna Fáil Party is launching an attack on the university seats, which shows its commitment to Independents in this House is negligible.

An Cathaoirleach: That is not entirely relevant to today's Order of Business.

Mr. Ross: We will not see Seanad reform if the university seats are seen as easy targets for the Government and the Seanad is treated as a place for party political patronage and rewards.

Mr. Norris: Hear, hear.

Mr. M. Hayes: I also congratulate the people elected to the other House and welcome those who have been appointed to this House. I play on the Cathaoirleach's patience for one last time. I thank him for the way he has handled business, and for his courtesy and kindness to me on all occasions both inside and outside the House. He has set the tenor in which the House does its business and that has been entirely productive and helpful.

Given where I come from, the lifetime of this Seanad has seen remarkable developments in Northern Ireland, which we all welcome. I wish well those who are trying to make a go of their experiment there. I pay tribute to my fellow Members of the Seanad for the serious way in which they undertook discussion of Northern Ireland in recent years. Nobody was trying to make political points. While everybody was deeply aware of the sensitivities and the danger of saying the wrong thing at the wrong time, they were nevertheless aware of the necessity to take account of and support progressive developments there. I thank my fellow Members, particularly the Cathaoirleach, and wish him well.

Mr. Higgins: Aontaím go hiomlán leis an méid atá ráite ag chuile dhuine os rud é go bhfuil tú ag éirí as oifig. Tá an moladh tuillte agat. Bhí tú i gcónaí neodrach agus neamhspleách. Go n-éirí an t-ádh leat.

I join previous speakers in paying tribute to the Cathaoirleach. He always ensured he upheld the dignity and decorum of this House. I did not know that during his term he did not have to eject any Member from the House.

An Cathaoirleach: That is not correct.

Mr. Finucane: The Cathaoirleach axed former Senator, James Bannon.

Mr. Higgins: Perhaps the Cathaoirleach might consider giving a tutorial to the man who occupies a similar position in the Lower House.

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

Mr. Higgins: PARC, Public Against Road Carnage, is an organisation that was set by Susan Gray, a young woman from Donegal who tragically lost her husband. The organisation has gathered 20,000 signatures on a petition seeking mandatory drink and drug testing where the Garda is called to the scene of an accident. When this matter was raised with the new Minister for Transport in the Dáil last week, he stated, "I do

not propose to alter the position". In other words, absolute discretion regarding such testing will be left to the Garda. However, in a letter to the organisation, the Taoiseach stated, "Taking account of the concerns raised by PARC and other groups, Fianna Fáil recognise the need to introduce compulsory drink and drug testing for drivers involved in accidents causing injury and, if re-elected, we will ensure that these changes are implemented without delay". We need that commitment honoured.

I am at a loss to know why, following the negotiations on the new EU treaty, the Taoiseach last week cast doubt on Ireland's commitment to the Charter of Fundamental Rights. A new treaty is needed and we should not be on Britain's coat tails regarding doubts about the charter. Ireland needs to sign up to the treaty.

Ms Cox: I thank the Cathaoirleach for his kindness and generosity to me over the past five years. This House always delighted in not being a rubber-stamp for legislation from the Lower House. All Stages of the Finance (No. 2) Bill 2007 are on the Order of Business and, while on occasion there has been an overriding urgency to deal with all Stages of a Bill in one sitting, that is not the case with this legislation. It is important legislation but the House is sitting for two days. I would like to propose an amendment to the Order of Business that only Second Stage of the Bill be taken this afternoon with Committee and Remaining Stages to be taken at another time.

Mr. Quinn: I add my voice to those who have expressed thanks to the Cathaoirleach for his work over the past five years and for the 30 years service he has given to the House. The Seanad has been enhanced by the manner in which he has conducted affairs. I congratulate him on his impartiality and ability to listen carefully and his adherence to our objective of constructive debate during the passage of legislation.

Much more legislation was introduced in the House over the past five years than in the previous 50 years. I hope that trend will continue but it will not happen unless the public recognises its commitment to and ownership of the House. The public will not recognise the benefit of the Seanad until it has an opportunity to elect its Members. The comments by Senator O'Toole and others on this issue need to be given serious consideration and I hope when the new Seanad meets, one of the first items on the agenda will be an amendment to the manner in which Members of the House are selected and elected.

Senator Ó Murchú referred to the number of young people who have died. I assumed he was going to speak not only about the number of deaths of young people through drugs but also deaths on the road. Figures during the week indicated we have the highest percentage of young people in Europe who die on the roads. This was publicised at the launch of the European road

[Mr. Quinn.]

safety charter, which was hosted in Dublin during last week by the director of the European Commission Representation in Ireland.

I believe action can be taken and I urge the new Minister responsible for it to take into account what Mr. Sarkozy, the current French president, did when elected to a similar position in France. He committed to the objective of reducing the number of road deaths by a half, which he achieved, and he has now moved on to higher things. Perhaps the new Minister with responsibility for road safety can set the same target as that of the European road safety charter, to halve the number of road deaths by 2010. I hope this will be achieved but it will not be possible unless the country and the Minister in particular gets behind it.

An Cathaoirleach: Five Senators are offering and I can hear from no more because of the time constraint. I would ask the remaining Senators to be brief, taking a minute each.

Mr. Hanafin: I congratulate the Cathaoirleach on his work during his term, which has been a study of how a quiet way can be very effective. I ask the Leader to ask the Minister for Foreign Affairs to raise a matter, which occurred when the general election was ongoing, with our partners in Europe, particularly Estonia. I am raising it at the first opportunity.

A statue of a Russian soldier was removed from public view in Estonia without consultation or agreement with the minority Russian population in there. One does not need to be a student of history as it is well known that the Russian soldiers fought for their motherland rather than communism or Stalinism. If the powers wished to give a kick to the shins of Stalinism or the Soviet Union, that is one thing, but the action of removing the statue was gratuitous and unhelpful.

Brave soldiers lost their lives and we should remember that the Second World War was predominantly fought on the Eastern front, with deaths there on a factor of ten to one. I would like the Leader to ask the Minister for Foreign Affairs to attend to the matter.

Mr. Cummins: I join in the tributes to the Cathaoirleach, which are richly deserved. I also pay tribute to our own deputy leader and all other Members not seeking re-election to the Seanad.

Drug smugglers seem to have gateway status in west Cork and along our coast, and it was only a stroke of luck that the 1.5 tonnes of drugs were not successfully landed. The Minister for Justice, Equality and Law Reform should take on board the suggestion by Senator O'Toole regarding radar. In addition, extra resources should be allocated to Customs and Excise and the Garda, as they are clearly required.

The Garda logo now seems to be freely available for clothing and merchandise. I ask the Minister for Justice, Equality and Law Reform to make a statement on the matter and to clarify it as a matter of urgency. Only last year we passed legislation in this House with severe penalties for people posing as gardaí. It is of paramount importance that the Minister clarifies the matter.

Dr. Henry: I second Senator Norris's amendment.

As this is the Cathaoirleach's last day in the Chair, I will say how much I have appreciated the fair way he has treated all of us. It has been a great privilege to be one of the Acting Chairpersons in this House. I do not think the House knows of all the traditions established by the Cathaoirleach here, and I sincerely hope the Clerk and Clerk Assistant will have them maintained. These are the traditions of the Cathaoirleach at the Christmas party. I will not be there this year to sing "Paddy McGinty's Goat" but I sincerely hope that Senator Finucane will be returned—

Mr. Finucane: I am not going forward.

Dr. Henry: —so his rendition of "Delilah" can be heard by more people because I assure the Cathaoirleach it is well worth hearing.

I look forward to attending many parties involving former Members in the company of the Cathaoirleach. After these events, he and I will look quite frisky, while others will seem exhausted or cross. We will then realise how wise we were to retire.

Mr. Browne: I wish to be associated with comments made in respect of the Cathaoirleach, the new Senators, former Members and those who have volunteered to retire. I hope some of us will still return to the House after the election.

I do not doubt that the next Seanad will be more representative and reflective of society, perhaps with more political parties represented here than is currently the case. I ask the Cathaoirleach, the Fianna Fáil Party and, perhaps, its general secretary—

An Cathaoirleach: I am not considered a member of the Fianna Fáil Party; I am Cathaoirleach.

Mr. Browne: —or the powers that be that consideration be given to nominating, among the Taoiseach's nominees for the next Seanad, someone from the new Irish community.

An Cathaoirleach: That is a matter—

Mr. Browne: It is an issue that arises because the purpose of democracy is to allow participation. Members of the community to which I refer do not have a voice at present. These people comprise 10% of the population and many of

them are members of the workforce and pay tax. This is an ideal opportunity to appoint someone to the Seanad who could articulate their views and concerns.

Mr. J. Phelan: I join other Senators in wishing the Cathaoirleach well in his retirement. I do not doubt he is looking forward to the Munster hurling final. If Limerick can achieve a victory, it would be a great start to his retirement. I am not sure if those present from Waterford would agree with those sentiments. I wish the Cathaoirleach and other Members who are not contesting the election well.

The issue I wish to raise, to which previous speakers referred, came to my attention by virtue of the fact that I am a candidate in the Seanad election and that I have been travelling throughout the country. I refer to road safety. Last weekend was a bad time, with nine people killed on the roads. In previous months, it had seemed that the numbers of accidents and deaths on our roads had decreased significantly. However, it appears that there is a serious and outstanding problem.

Will the Leader encourage the Minister for Transport and the Marine to come to the House at the earliest possible opportunity following the election to discuss this matter? There is an ongoing and significant problem with the number of people who drive while under the influence of drugs. That issue has not been dealt with yet and I ask that the Minister for Transport and the Marine take action in respect of it at the earliest opportunity.

An Cathaoirleach: Before I call the Leader, I thank all those Senators who complimented me on the work I have done. I did not think that I had the patience required for the job. It is nice to know, however, that I possessed something of which I was unaware. I thank everyone who cooperated with me during my term of office, particularly the staff, the Leas-Chathaoirleach and all others.

Mr. Cassidy: I, too, wish the Cathaoirleach well. I thank him for all his kindness, help and courtesy over the years. We served in a number of Seanadaí together. I was present on the unfortunate evening on which he lost his seat and I and many others were delighted when he regained it eight or ten months later. I wish him, his wife and his family well. It is a joy to see that his family will continue to be involved in public life.

I also pay tribute to those who played major roles during the lifetime of this Seanad. We will probably say more about that matter tomorrow.

It would be remiss of us — I was surprised this matter was not mentioned — not to congratulate Deputy Bertie Ahern on becoming Taoiseach for the third time. His three in a row is a marvellous and historic achievement that no one else managed in the past 50 years.

I congratulate all the Deputies who became Ministers and Ministers of State and I wish the Government well. If the latter does as good a job as its predecessors in the past ten years, Ireland plc——

Mr. Norris: Is going down the drain.

Mr. Cassidy: ——has much to look forward to. I would love to be able to facilitate Members in the many issues they raised. However, time will not allow me to do so. On the one hand, there is a very fortunate group of Senators with safe seats, while on the other, there is a group whose members will be obliged to work hard to gain re-election. I have a balancing act to carry out today and I am afraid that I must make legislation a priority in terms of our business. I hope those Members who are not standing for re-election will understand why that is the case.

I have enjoyed working relationships with the leaders of the various groups over the years. I thank the leaders for their understanding in respect of the Order Paper which we have scrutinised and on which we have obtained consensus because that is the order of the day. I welcome the support I have received here on my first day back as Leader.

Senators Michael Finucane, Joe O'Toole, Brendan Ryan, John Dardis, Labhrás Ó Murchú, Paul Coghlan, Maurice Cummins, David Norris, Ann Ormonde, Camillus Glynn, Shane Ross, Maurice Hayes, Jim Higgins, Feargal Quinn, John Hanafin and John Paul Phelan expressed their kind regards to the Cathaoirleach. This is very appropriate on this historic day for him and his family.

Certain Senators expressed their horror at the news we all heard on the radio yesterday of the cocaine seizure off the Cork coast. The amount quoted was €50 million. This figure then increased to €70 million, €100 million and €110 million. We are now told the amount could be considerably in excess of this. Horrifying stories have emerged in respect of the activities in which some people have been participating off the coast of Cork. We all abhor what has happened, including what is certainly the largest drugs find ever in the history of the State. Members of this House involved in the medical profession have fired warning shots on the Order of Business today. We certainly support the Government, the Minister and everyone else, including the Garda Síochána and the Garda Commissioner, in their fight against the terrible plague of drug abuse in our country.

I certainly took the views of Senators Dardis, Norris and Ross into account in respect of inviting the Minister for the Environment, Heritage and Local Government, Deputy John Gormley, to the House at the earliest opportunity to discuss the future role of the Seanad. Various reports have been produced. I agree that we should have no more reports and that we need action in this

[Mr. Cassidy.]

regard. The Seanad plays a very meaningful role. The message is going out loud and clear on “Oireachtas Report”. Were it not for this programme, this House would be at a terrible disadvantage. The quality of debate and the standard of participation from Members on all sides of the House is second to none. Having been a Member of both Houses, I certainly speak with considerable experience.

During the period from 1997 to 2002, more than 30% of all legislation was initiated in this House. That was begun in the period from 1997 to 2002.

Mr. Ross: Hear, hear.

Mr. Cassidy: I am pleased that my predecessor kept up the good work in the past five years.

Mr. Norris: She was wonderful.

Mr. Cassidy: Those Members, especially those on the Independent benches, who have been in the House long enough — God knows that a good number of them have been in the House quite a long time — will remember when only two or three Bills would be initiated in this House in the 1980s and the early 1990s. All fair-minded comment would have to say that this House now plays a considerable and meaningful part in scrutinising legislation. We see it being introduced, including all the legislation from Europe. I was Chairman of the Oireachtas Committee on Enterprise and Small Business and we scrutinised about 40% of all EU legislation and amending legislation introduced. The challenge faced 15 or 20 years ago by Members of Seanad Éireann is quite different from that faced today by Members of the House.

I will certainly pass on to the Minister for Foreign Affairs Senator Ryan’s serious concerns and genuinely strong views in respect of the matter he raised. Senators David Norris and Margaret Cox called for amendments to the Order of Business with which I certainly cannot agree because time does not allow us.

Mr. Norris: He would if he could.

Mr. Cassidy: We can take that at the end. Senators Paddy Burke and Camillus Glynn, two long-standing Senators with much experience in this House, expressed strong views in respect of the community welfare officer. I fully agree with their comments and will contact the Minister for Social and Family Affairs immediately after the Order of Business to get this matter clarified at the earliest opportunity. I fully support their call for it to be debated in the Seanad.

I get no pleasure in speaking of the horrific carnage on our roads in the past week. Senators Jim Higgins, John Paul Phelan and Fergal Quinn raised this serious issue, of which we are all

aware. I chaired the Joint Committee on Enterprise and Small Business when it carried out a study into insurance reform. Senator Joe O’Toole, vice-chairman of the Personal Injuries Assessment Board, played a large role in that study. In the past five years, we worked hard to make our roads safer and put back fear into the law. Since the introduction of random breath-testing on 21 July last year, a recommendation of the Joint Committee on Enterprise and Small Business, at least 100 lives have been saved on the roads. I support the views expressed by the Senators. Hoping we are all re-elected, I will support a debate on this issue early in the new Seanad.

Senator John Hanafin raised the matter of the removal of the Russian war memorial in Estonia. I will pass on the Senator’s views to the Minister for Foreign Affairs and request an early response on the matter.

Many Members are concerned that I forgot Senator Paul Coghlan’s name. The Order of Business would not be complete if he were not mentioned. I will contact the Department regarding his request and return to the Senator on the matter as soon as possible.

An Cathaoirleach: Senator David Norris has proposed an amendment to the Order of Business: “That No. 26, motion No. 42, be taken before No. 1.”

Amendment put and declared lost.

An Cathaoirleach: Senator Margaret Cox has proposed an amendment to the Order of Business: “That only Second Stage of the Finance (No. 2) Bill 2007 be taken today.” However, the amendment was not seconded and consequently falls.

Order of Business agreed to.

Finance (No. 2) Bill 2007: Second Stage.

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

Tánaiste and Minister for Finance (Mr. Cowen): I wish the outgoing Cathaoirleach well on his retirement and the Acting Chairman, Senator Mary Henry. It has always been a pleasure to come and listen to the contributions of the Upper House, where a far more sedate and intellectual atmosphere pervades.

It is great to see that Members of the university panel have taken time out of their busy schedule to be with us as well.

Mr. Ross: Thanks to Fianna Fáil.

Mr. Norris: We are full-time public representatives.

Mr. Cowen: I look forward to the reforms they are anticipating and I hope it is not turkeys voting for Christmas. Anyway, let us look forward to a good representative university panel——

Mr. Ross: We do not expect any help from the Tánaiste's crowd, anyway.

Mr. Cowen: We are obviously here to ensure the place is alive today. I wish everyone well and hope everything goes well for Members. It is with a sigh of relief I can say this on the far side of an election.

I thank everyone for inviting me to speak on the Finance (No. 2) Bill 2007. This is my fourth time to speak on Finance Bills in this House. Members will recall I first addressed the House in 2005 when I concentrated on reducing the tax burden on low and middle income earners. Later in 2006, I reformed and refocused the structure of investment tax reliefs and set a minimum tax which the well-off must pay. More recently, in my third Bill earlier this year, I sought to ensure that the benefit of strong economic growth is shared by all taxpayers and, in particular, low and middle income earners. I am now implementing a very specific stamp duty reform, as set out in the agreed programme for Government, to exempt all first-time buyers from stamp duty.

I want to take a little time to review where we are now in regard to first-time buyers. In my last budget, I indicated that it was the Government's aim to help first-time buyers directly and substantially, including those who were already paying their first mortgages. I did this by increasing mortgage interest relief for first-time buyers from €4,000 per year for single persons and €8,000 per year for married couples or widowed people, to €8,000 and €16,000 per year, respectively. This measure helped first-time buyers who were already in their first home as well as brand new first-time buyers.

This Bill is the first instalment in the implementation of the agreed programme for Government which will see mortgage interest relief increasing to €10,000 for a single person and €20,000 for married couples or widowed persons. What is more, relief will start at 20%, even after the standard rate of income tax is reduced during the tenure of this Administration. The proposals it contains are timely, affordable and targeted and will support one of the most important sectors of our economy. It will do all this in a way which directly assists those without any housing equity of their own in their efforts to acquire their first home.

Home ownership is one of the primary aspirations of the people of Ireland, it strengthens communities, improves the environment and provides parents with a valuable asset to pass on to their children. As Minister for Finance, I have always supported home ownership through targeted policy initiatives and these proposed changes mark a continuation of a process of support for first-time buyers which I began in my first budget.

The housing market has enjoyed remarkable growth in terms of both output and prices over the past decade or so. We have seen a dramatic increase in the number of homes built in Ireland. In 1996, around 34,000 new homes were built. Last year, that number was more than 90,000. Enormous progress has been made in raising supply to meet very strong demand, which has had a moderating impact on price inflation. I welcome that moderation on social and economic sustainability grounds. I far prefer to see house prices increasing at a modest pace in line with changes in affordability, notwithstanding the slight re-balancing in house prices that has occurred over recent months. It is in everyone's best interest that prices increase at a moderate level that reflects sound Government fundamentals.

I have heard much speculation about the economic outlook in recent times, much of it of a negative variety. I accept there are always risks, but I believe the economy will continue to outperform most of our peers. The residential construction sector is easing back towards more sustainable activity levels. However, it should be noted that commercial property activity remains very strong and that the roll-out of the national development plan will have a positive impact on growth levels, not least in the construction sector. At the same time, the external demand environment, most notably in continental Europe, is brightening and that is something which all exporters will welcome. Certainly, the impact of tighter monetary policy is serving to dampen economic activity, but a moderation of pace should not be mistaken for a substantial and sustained deterioration in our economy's performance.

The economy is set to enjoy strong growth rates over the medium term, albeit at a lower level than enjoyed over the past decade. By accepting that more moderate outlook now, we can make it a reality and enjoy the much talked-of soft landing. It is essential that we adapt our expectations in the property market, in relation to Government spending growth and in the wider economy to that calmer but still positive growth environment. That is the best means by which we can secure our prosperity for the long term. Construction has become an increasingly important sector of the economy in recent years. Within construction, home building accounted for 11.4% of GDP in 2006 compared with 4.6% in 1997. Driven by economic and demographic fundamentals, approximately 570,000 new houses have been built. This is one third of the total national stock. Despite this rapid growth in house building, the stock of houses per head of population is still one of the lowest in the euro area, implying there is still scope for a significant level of house construction. However, the housing market has slowed in recent months, in part due to uncertainty relating to stamp duty.

[Mr. Cowen.]

In introducing this measure to reform stamp duty, I intend both to remove uncertainty from the housing market and reduce the cost of home purchases for first-time buyers in an affordable, economic and sustainable way. This will allow individuals to buy and sell their homes in a more stable market environment and help to restore necessary confidence to the market.

At this stage we can see housing demand levelling with supply and this is reflected in a slow-down in house price increases. This is clear evidence that Government policy is working. With the market stabilising, we must ensure that any changes made are carefully thought through, given the importance of this sector for jobs in every community in Ireland. While leading indicators of future output, such as new house registrations, new housing starts, planning permissions and the number of new mortgages drawn down by first-time buyers, point to a lower level of completions this year, there is consensus that the level of new housing output will decline from last year's record levels. The current market expectation is that there will be approximately 62,000 new housing starts this year, and this is still a very high output by any standard. Underlying demand remains strong and it is supported by demographic developments and the positive economic environment.

In line with these trends, the rate of house price inflation has slowed. The level pertaining to house prices is now the same as that in the middle of 2006. The main factor impacting on the housing market is the rise in interest rates. This is impacting on affordability and hence on the demand for housing. Eight quarter-point increases by the European Central Bank over the past 18 months have doubled the key official interest rate for the euro area from 2% to 4%. However, the key factor to be borne in mind in such circumstances is the amount of income used to service house loans. It may come as a surprise to learn that this has remained relatively static over the past 20 years at between 25% and 30% of income. Affordability has been assisted by improvements in mortgage interest relief and some softening of prices.

While property price increases have moderated, the cumulative increase in house values in recent years puts first-time buyers at a distinct disadvantage. Those who are already on the property ladder have benefited from those increases in value and have built up their own property market equity. First-time buyers do not share in their good fortune and our proposals are designed to help them as they compete with existing owners and investors in the property market.

In effect, the measures for which this Bill makes provision will level the playing field for purchasers by directly helping those who come to the property market without the advantage of the house price appreciation of recent years. It will also level the playing field between new and

second-hand houses and widen the choice available to first-time buyers, thus resulting in clear social benefits.

As a result of the existing stamp duty regime, first-time buyers are incentivised to buy new homes which, in many cases, are considerable distances away from their families and support networks. The changes that this Bill proposes will make first-time buyers indifferent between second-hand and new homes and will remove an existing financial obstacle to establishing their own homes in the neighbourhoods and communities in which they grew up. This has obvious and desirable social benefits, which flow directly from the provisions of the Bill.

Leaving aside the equitable and social impacts on the first-time buyer, our proposals are good for the property market as a whole because they will bring an end to the speculation and uncertainty regarding the evolution of policy in this area. In addition, by making these changes retrospective on transactions executed on or after 31 March, which transactions would be presentable to the Revenue Commissioners for stamping by 30 April, we have minimised the potential for market disruption. Where a person who has paid stamp duty becomes entitled to an exemption from that duty when the Bill is enacted, he or she will be entitled to claim a repayment of that duty from the Revenue Commissioners who will, as soon as the Bill is enacted, publish details on how to do so.

I am aware from weekend reports that it has been stated a number of first-time buyers have entered the market to buy expensive houses. However, this must be put in perspective. It is not unexpected that one or two individuals would come to attention by availing of the relief, but that is the exception and it must be considered in the context of the overall benefit to first-time buyers. By contrast, those individuals could have bought a new house under the existing provisions and not have paid any stamp duty. Likewise, they could have acquired a site and built themselves a new house, again without attracting stamp duty liability under the Bill.

Reports also point to certain individuals buying houses as a result of gifts from rich parents. There is nothing unusual about parents passing wealth to children but it must be remembered that a tax liability arises under capital acquisitions tax regulations. Whether the wealth is passed by gift now or inheritance later, there is a single tax-free threshold of approximately €500,000 which is linked to the consumer price index that applies with the excess being taxed at 20%.

The changes being introduced by the Bill provide for a simple exemption which means that regardless of whether or nor the house is new or second-hand, a first-time buyer knows that the question of stamp duty will not be a consideration. More important, the focused nature of this measure means it will not have a destabilising effect on the market.

The Government recognises the importance of the construction industry to the success of the country. It directly employs 280,000 people across the country and many tens of thousands more in related industries. It is a major contributor to the health of the public finances. A strong construction sector is vital to a strong economy and is in everyone's best interests.

It is generally accepted that speculation about stamp duty in recent months has had a negative effect on the market. Such speculation was not of my making and in dealing with the situation as it evolved, I was obliged to handle it in a responsible manner, given the extra attention which is given to comments by a Minister for Finance in this area. The proposals before the House will introduce targeted stamp duty reform aimed at benefiting first-time buyers and they will restore stability and certainty to the market.

The Bill contains two sections. Section 1 provides for exemption for first-time owner-occupying housebuyers and also provides for the repayment of stamp duty where it has already been paid in respect of instruments executed on or after 31 March 2007. Section 2 consists of the Short Title and construction of the Bill.

The Government plans further measures to support those who are about to buy their first homes or have done so in the past number of years. Our policy initiatives are designed to help young people and young families — not just those who are about to buy their first home but all those who have purchased apartments and houses in the past seven years. These initiatives will improve affordability, reduce the burden of higher interest rates and have a positive social impact.

Mr. J. Phelan: That is nonsense.

Mr. Cowen: In next December's Budget Statement I intend to increase the ceiling of mortgage interest relief for first-time buyers from €8,000 to €10,000 for single people and from €16,000 to €20,000 for couples or widowed people. This will see single first-time buyers receiving up to €167 in mortgage interest relief directly into their bank accounts every month while couples will receive up to €333 each month in relief. As a result of this initiative for first-time buyers, a couple with a joint mortgage of up to €400,000 over 33 years at an interest rate of 5% will be able to claim interest relief at 20% on the full amount of the interest of their loan. In the case of a single person, the upper limit will be €200,000. I have stated that as income taxes are reduced we will keep the rate of mortgage interest relief at 20% for all home owners.

These changes will help young people and families to purchase their home. They will help them meet the repayments and ensure that the mortgage interest burden does not rise as a result of future income tax changes. Our approach is good for certainty, good for affordability, good

for society and good for the economy. These changes will make a direct and substantial difference to young people and families as they strive to own their own homes, not just at the time of purchase but during the early years of home-making.

This matter has been fully debated during the general election campaign and proposals made by the Opposition were not affordable, being costed at approximately €600 million and proposing that up to 45,000 or 50,000 would have a collective benefit of that magnitude which would be paid for by 2.15 million other people. This does not suggest a very equitable way of dealing with tax expenditures.

The Government's proposals are in line with its entire policy approach, being both progressive and responsible. They are the right measures for our economy and our society. By targeting first-time buyers immediately and directly, the proposals in this Bill will have an important impact which is socially equitable and at reasonable cost to the Exchequer and which will not cause unnecessary disruption in one of our most important industries.

The reason I am not introducing other types of stamp duty reform at this time is simple, I am doing what the Government said it would do in the programme for Government. I am exempting first-time buyers from stamp duty in respect of all houses, regardless of whether these are new or second-hand and in doing so I am removing uncertainty about the stamp duty regime which may have arisen during the general election campaign. Taken together, the measures in the Bill, combined with the mortgage interest relief measures in my 2007 budget and those proposed for 2008, provide real and tangible benefit to first-time buyers as they seek to purchase a home.

I ask that the House recommend the Bill as published and passed by the Dáil.

Mr. J. Phelan: I welcome the Minister back to the House and congratulate him on his extra appointment as Tánaiste. We have had a number of discussions about Finance Bills already this year and the House has had a number of financial debates.

The Bill, as proposed, is very disappointing and falls far short of any meaningful reform of stamp duty. The Minister attempted to explain why it is not a full reform of that tax. Over the past ten years, during the tenure of Fianna Fáil and its friends in the Progressive Democrats and a couple of Independent Deputies in its first five years in office, we have witnessed an extraordinary change in the nature of the property market and in the role stamp duty has played in that market. Stamp duty was never intended to be the major revenue generator it has become over the past ten years. The way in which stamp duty is paid is very inequitable and I regret the Government has not used this opportunity to alter significantly the way in which the stamp duty regime is

[Mr. J. Phelan.]

enforced. We have a very complicated system with seven rates, and this Bill could usefully have been used to simplify the stamp duty code.

However, most galling is to hear Government speakers and the Minister continually talk about all they are doing for first-time buyers. In the eight years I have spent in politics as a county councillor and a Member of the Seanad, I have witnessed persistent efforts by Fianna Fáil and its friends in the construction sector to put housing beyond the reach of my generation. The legacy of the past ten years is that many of my friends cannot afford to buy a house. Two or three people, including people with whom I went to college in Waterford, come together to buy a house in Dublin. If that is affordability and the result of the Government's effort to try to help first-time buyers, then it is pretty miserable. This Bill, as proposed and as discussed in the other House last week, is another miserable attempt to try to reform the property tax sector and I cannot support it.

We had a full discussion on stamp duty when the previous Finance Bill was debated in the House and Senator Cox threw a bit of a wobbler, so to speak, that day and attempted to vote against the Government, but that did not happen. On that day, on a previous day in the other House and at budget time, the Minister outlined his stringent objections to any reform of stamp duty. Senator Norris referred to ethics earlier and it is nauseating in the extreme to witness such a U-turn. The Government probably took note of focus group reports and of God knows what else and realised stamp duty was a major issue in the election. However, it certainly sends out a very bad message politically when the deputy prime minister of a country, who was firmly opposed to stamp duty reform six months ago and who expounded in this House and in the other one why there was no necessity to reform it, does a complete *volte face* and attempts to reform the stamp duty sector. It falls far short of any meaningful reform, is in direct contradiction to what the Minister proposed previously and does no service to politics. The Government did a U-turn during the general election campaign and this Bill falls far short of any meaningful reform of stamp duty.

I would like the Minister to refer the following case when summing up. I have been presented with the case of a first-time buyer who recently purchased a very expensive site. Sites for new houses have become very expensive over the past ten years. Is somebody in such a situation exempt from stamp duty on the cost of the purchase of this site as well as first-time buyers purchasing a new or second-hand home? I ask the Minister to address those circumstances.

The Minister referred to the importance of the construction sector to the economy, which is the only defence of his U-turn on stamp duty over the course of the past couple of months. However, we

have become far too dependent on the construction sector. Across large areas of rural Ireland where agriculture is on the decline, construction is the most significant source of employment. We produced 95,000 housing units last year but are projected to produce only 65,000 units this year. Despite the fact that the workforce in the sector cannot withstand a reduction of 30,000 units, the Government has taken no significant action to ameliorate our reliance on the construction sector for employment. I urge the Minister to put his energies in his new term of office into ensuring we do not rely so significantly on the construction industry into the future.

The Bill is also disappointing in its failure to introduce a sliding scale for stamp duty payments. People will still be required to pay stamp duty on the full cost of purchase rather than at a marginal rate above the thresholds. It is an inequitable requirement. It is also regrettable that the Bill fails to facilitate the regeneration of older, more established communities. Older people in large homes in communities which are well served by schools and hospitals may wish to trade down, but will not be encouraged to do so by the Bill. If they were facilitated to buy smaller homes, the effect would be to free up valuable property in more established communities in our cities.

I am very disappointed by the Bill despite the Minister's contention that it deals specifically with the promise set out in the programme for Government. While it achieves that end, stamp duty is a policy area which remains ripe for significant reform. The Minister's proposals represent mere tinkering around the edges. I am therefore unable to support the Bill as it stands.

Mr. Hanafin: I welcome the Tánaiste back to the Oireachtas in both that capacity and as Minister for Finance.

I rise to support the Finance (No. 2) Bill 2007. Comments and speculation in the past few months have undermined the stability of the housing market. I think in particular of one commentator who said there could be a 50% fall in the price of houses. Such a comment would be singularly unhelpful at any time, but is especially so when the fundamentals and stability of our economy are sound. While house prices have risen by 200% over the past ten years, much of the increase is attributable to the economic management of the country and the capacity of people to buy and build homes. Speculation that prices would fall by 50% is completely erroneous. Growth and inflation of 5% have the potential to take care of any difficulty in the marketplace and even allow prices to stabilise. Following the process of stabilisation, house prices will no doubt take off again, as they have done consistently since the foundation of the State. It has been a very good place to invest. Fianna Fáil, in recognition of the need for people to have decent housing, has always supported the construction indus-

try and will continue to do so. That is proper and right for the economy.

The only query hanging over the future success of the economy concerns employment, but in this regard the fundamentals are sound. We continue to have unemployment of less than 4%, which is considered full employment. Government policy ensures we are upskilling to fifth level, attracting industry in the high technology sector and moving forward in the services sector. The Government's commitment, through education, to ensure we have sufficient graduates will ensure the future and will drive the economy towards continued success. Those who deliberately created instability and uncertainty are wholly unhelpful.

The Finance (No. 2) Bill 2007, which addresses the issue of stamp duty reform, has passed through the Dáil and is being considered by the Seanad. Section 1 amends Section 92B of the Stamp Duties Consolidation Act 1999 and provides for the abolition of stamp duty for all owner occupying first-time purchasers of houses and apartments, whether new or second-hand. The change applies to instruments executed on or after 31 March 2007. The section also provides for a refund procedure for persons who, by virtue of this amendment, become entitled retrospectively to relief or additional relief. Such persons will be entitled to claim a repayment of duty paid from the Revenue Commissioners. Section 2 contains the provision relating to short title and construction.

The main elements of the Bill are to exempt from stamp duty all first-time buyers of either new or second-hand houses. This puts all first-time buyers in the same position. The programme for Government provides that the change will apply to deeds presented to the Revenue Commissioners after 30 April 2007. As a result, the Bill has been drafted to provide an exemption for deeds executed on or after 31 March 2007. This is done in recognition of the fact that the stamp duty code allows up to 30 days before a deed must be presented to Revenue. In line with normal requirements people who benefit from the exemption and those who claim refunds in respect of duty already paid will have to confirm that they will live in their houses as their principal private residences and will not receive rent, other than under the rent a room scheme. In the case of new houses under 128 sq. m., all owner occupiers are exempt from stamp duty. In the case of other houses, including particularly second-hand houses, stamp duty is applied for first-time buyers based on the following consideration. Houses up to €317,500 are exempt while the normal rate is up to 5%; those between €317,501 and €381,000 will have stamp duty of 3%, while the normal rate is 6%; those between €381,000 and €635,000 will have stamp duty of 6% while the normal rate is 7.5%; and houses costing more than €635,000 will have stamp duty of 9%, which is the normal rate.

The Bill is the first instalment in the implementation of the programme for Government. It is testament to the good faith of the Government that this is the first promised measure and it will be delivered to the people. The proposals in the Bill are timely, affordable and targeted and will support one of the most important sectors of our economy. It will do all this in a way that directly assists those without any housing equity of their own in their efforts to acquire their first homes.

Home ownership is one of the primary aspirations of the people. It provides a secure environment in which to grow up and grow old. It strengthens communities, improves the environment and provides parents with a valuable asset to pass on to their children. We have always supported home ownership through targeted policy initiatives and these proposed changes mark the continuation of the process of support for first-time buyers.

Having worked in the financial services industry for 17 years, I often wonder why people make exorbitant claims. It is within the capacity of Government to change tax rates or mortgage interest relief, as appropriate. This Government has done so in the past and will continue to support home ownership. That is why I commend the Bill to the House.

Mr. Ross: I wish to share my time with Senators O'Toole and Norris.

Acting Chairman (Dr. Henry): Is that agreed? Agreed. How is the Senator's time to be shared?

Mr. Ross: I will leave it to the Acting Chairman to divide the time equally.

Acting Chairman: It will be no problem for me as I passed honours mathematics.

Mr. Ross: Everybody in the House welcomes measures that will assist first-time house buyers. Were there to be a vote on this Bill, I would support it as I believe it attempts to do this. Whether or not it will work is a different matter. I question this for two reasons, one of which the Minister dwelt on in his Second Stage speech.

We have been told for some time, particularly before the election, that one of the reasons for uncertainty in the market is the extraordinary debate surrounding stamp duty and Fianna Fáil's slightly ambivalent attitude to this particular subject. However, in order to remove this uncertainty Fianna Fáil committed itself to the abolition of stamp duty for first-time buyers. The evidence so far is that it has done nothing of the sort. Whereas it may result in lower costs for those purchasing houses for the first time, which in itself is doubtful, it has not removed uncertainty in the housing market. Having listened to this morning's report, to which Senator Hanafin referred, it is obvious that uncertainty in the housing market is worse than ever. It has not

[Mr. Ross.]

been remedied by the abolition of the uncertainty regarding stamp duty, rather it has continued owing to the fact that interest rates have been rising and as a result of economic uncertainty, which is a far bigger issue.

I also question whether money saved by first-time buyers through the abolition of stamp duty will end up in the hands of developers. While people may believe they are paying less because they are not paying stamp duty, they may find the cost involved is the same because house prices will increase by the amount of stamp duty that would have applied. That is a theoretical argument as is the one that stamp duty has penalised people in any way, though this cannot be unproven. I hope the Minister will be able to remedy this and that this legislation will help people rather than promise to help them.

I would like to raise another issue with which I am sure the Minister is familiar. Many of my constituents, and I am sure other Members' constituents, have made very pained representations regarding the selected date of 31 March 2007 which appears to be arbitrary. Backdating the abolition of stamp duty to that date provides great benefit to those who have purchased since then but penalises those who purchased prior to that date, particularly those who purchased after budget day based on the Government's firm stand that it would not alter the stamp duty rules. Many people who believed there would be no change to the stamp duty rules purchased homes after that date. Others believed, as public opinion moved and the Government changed its stance, that the rules would be changed. Those who purchased prior to 31 March 2007 have been unfairly discriminated against and I plead with the Minister to backdate this concession to budget day, when the initial impression was given that there would be no change to the stamp duty rules, despite the assurances of the Progressive Democrats.

Mr. O'Toole: I welcome the Minister to the House and I welcome this legislation. I believe the Minister has done a good job.

While I agree with much of what is contained in the Bill, I must take up Senator Ross's final point. I do not mind facing a howling crowd or facing down an argument. However, what I find most difficult to deal with is a telephone call on a Sunday afternoon from an elderly lady in the west of Ireland, with whom I have never met, telling me she voted for me and that I have let her down.

I received a heartfelt letter from a Mr. Ciarán Doyle — I am sure he sent a copy of it to the Minister — which states: "I listened to Minister Brian Cowen in his budget speech and I believed him and I acted on that basis." I believe the Minister was telling the truth at the time. I am not for one moment suggesting he misled the House. On that basis he and his partner did a deal on a house

in January and concluded it in the middle of March, thereby missing out on €25,000 by two weeks. Such things happen.

However, this man and his partner acted on the Minister's statement. No matter what date is set on any issue, there will always be somebody on the wrong side of the line. This issue is slightly different in that the people in question acted on the basis of what the Minister said and on the basis of the budget. I am aware that circumstances alter cases, that political exigencies take over and other decisions must be taken. I ask the Minister, however, to give some comfort to the people who lost out by putting their trust and confidence in the Minister's word. It is an important issue for the Minister. I know he would consider it to be so. The man in question and his partner will be paying the guts of €2,000 per month on their house for the next 30 or 35 years and €25,000 would mean a lot to them. I ask the Minister, therefore, to consider what I propose in the amendment I have tabled for the next Stage, which is also included in some of the other amendments, and to backdate this measure to 1 January, the beginning of the tax year, in line with his, the Minister's, commitment. It is not unfair to ask this. I wish the Minister well with the legislation. It is important this is being done because it moves matters forward.

Would it be possible to divide the remainder of my time between Senators Quinn and Norris?

Acting Chairman: There are only two minutes remaining.

Mr. Quinn: I will try to confine my contribution to one minute in order to allow Senator Norris into the debate.

I welcome the Minister. I have one concern in regard to this tax and the effort to do something about it. It relates to the respect we want to have for taxes. If we are to have respect for taxes they must be charged in an equitable manner. Nobody ever seems to be in favour of any tax. However, I was in favour of stamp duty compared to the alternative of rates or property tax. Stamp duty is an avoidable tax in that one does not have to pay it unless one buys a house. That is easy to say, because one must buy a house at some point. I can, therefore, understand the removal of tax in respect of first-time buyers. However, if this tax is to be respected, there should have been a limit so that very wealthy people buying a house worth €3 million, €4 million or €5 million would not benefit to the extent that they now will. There may not be very many such buyers and there may not be much of an effect on the Government coffers.

Mr. Cowen: Are they first-time buyers?

Mr. Quinn: They are first-time buyers, the sons of wealthy people. Last week someone in south Dublin, the son of somebody wealthy, bought a

house for some millions of euro. If the tax is to be fair it should apply at a certain level and €500,000 would be an acceptable level at which to apply it. I want our taxes to be highly regarded. However, it does not suggest fairness if the child of somebody who is very wealthy can buy a multi-million euro house and pay no tax whatsoever. The Minister may say that such cases are so few and far between that it is not worth having a tax like that. However, we could have had a limit. It could have been specified that the tax would apply at something like €500,000 and that would have been fair.

The other aspect of this, to which Senator O'Toole also referred, is the difficulty of fixing a date. No matter what date the Minister fixes, somebody will lose out. However, last year the Minister said he was not planning to remove this tax. He has now done so. He should take that into account and recognise the needs of those people who lost out, unfairly I believe, because they bought a house at the wrong time.

Ms White: I welcome Deputy Cowen to the Seanad and I congratulate him on his reappointment as Minister for Finance. His appointment as Tánaiste is a great honour for him and his family

I welcome this Bill. For too long the ability to get on the first rung of the property ladder has been nearly impossible for all but the lucky few. The Bill will not only alleviate the burden for first time buyers but will also provide them with more options when it comes to buying their first homes. As the Minister stated, home ownership is one of the primary aspirations of Irish people, it strengthens communities and improves the environment. It provides parents with a valuable asset to pass on to their children. It is only natural this Government would want to encourage such positive developments and has therefore decided to implement this stamp duty reform.

At present new houses and apartments with a floor space of less than 125 sq. m. are exempt from stamp duty and are therefore more attractive options for first time buyers, however many of these new houses are found in sprawling developments that lack the necessary amenities such as schools, shops, public transport and child care facilities. Under the current legislation new houses are more attractive to first time buyers because they do not attract stamp duty. Many first time buyers are forced to move away from their families when they buy in new developments. The Government wants to increase the likelihood for first time buyers to buy closer to their own localities.

The unique aspect of the Bill sees the abolition of stamp duty for first time buyers extended to second-hand properties. Therefore, second-hand homes have become equally attractive as new houses to first time buyers. This will allow first time buyers who grew up in well established communities to buy a home nearby without incurring

stamp duty. We must also remember that this measure will also benefit those seeking to sell their homes because the market will now include a greater proportion of first time buyers. If older people are looking to downsize, when their children leave home, they can sell their homes in a wider market and in the process free up family homes in established areas.

The Government is committed to supporting home owners. During the past ten years in office it has trebled the housing supply and greatly improved the availability of social and affordable housing. This development in stamp duty reform is yet another demonstration of the Government's commitment to home owners throughout the country. Our promise to help home owners will be reinforced by implementation of the national development plan and the moneys to it. This much needed reform of stamp duty will not only open up the housing market to first time buyers, it will also present house sellers with greater options, further encourage property developers to fully evolve their product and end the uncertainty that has clouded the property market in recent months. I am pleased to accept this Bill

Mr. Higgins: I join other Members in congratulating the Minister on his double appointment, as Tánaiste and on being returned to the all important finance portfolio.

What came across very forcibly to me during the course of the general election campaign — I canvassed in the north west area, comprising nine counties — was the number of houses that were vacant in new housing estates. The Central Statistics Office published a figure in the wake of the publication of the census of population which in its estimation showed that 40% of the houses surveyed during the course of the census did not have any occupants. I thought that was an exaggeration, and that the husband and wife or the partners were out at work when those carrying out the census called.

Having canvassed in six of the nine counties in the north west region I was horrified at the number of gorgeous houses, valued at between €300,000 and €400,000, in huge housing estates which were finished to perfection but did not have any blinds, curtains or occupants. It was not something that occurred in isolated areas but in 200 to 300 exotic private housing estates. That reflects what has happened. We have had a building boom, speculators have built houses and there are houses available but it was inevitable that we would reach saturation point. Undoubtedly, we have gone beyond that point. Many people who speculated and built houses will find themselves in trouble.

The Minister referred to the incremental interest rate increases of 0.25% imposed by the European Central Bank. The increases look small but eight increases of 0.25% amount to an increase of 2%. People who took out a mortgage

[Mr. Higgins.]

of €350,000 or €450,000 are now watching their budgets and are engaged in penny pinching. I welcome the stamp duty relief but I agree with Senator Quinn that the money could have been better used if a maximum threshold had been imposed.

Envy is a reality, both in this country and, more generally, in the Celtic tiger economy. I sit in the European Parliament every week and its Members marvel at how the Celtic tiger was created. The various partnership agreements, commencing with the Programme for National Recovery, played a crucial role. However, the Irish economy is currently over-exposed in terms of its dependence on the construction industry. Approximately 280,000 people are employed in the industry. If the boom ends and the bottom falls out of the market, many of those people will have to return to Latvia, Lithuania and Poland. I hope I am wrong and I have no wish to be a prophet of doom but an increasing number of economists are predicting that the economy is in trouble and is facing even stormier waters than appear on the horizon.

Mr. Cassidy: I welcome the Bill. Anybody who invested in property or bought homes in the past 40 years did the right thing at the right time. A bungalow costing £5,000 in 1972, which covered furniture, carpeting and everything else, is now valued at €350,000. One need not be an expert to know what was the right thing to do. This was the result of low interest rates, the national understanding begun in 1987 by Charles Haughey and the trade union movement, and the developments of the past ten years. I always advise young couples who come to my clinics that it is better to buy than to rent. It is sensible to encourage them to buy.

What has made Ireland plc the most successful country in Europe over the past number of years has been the immeasurable contribution by the construction industry. A four bedroom house in Mullingar for €305,000 is still good value for money; in fact, it is incredible value. The experts and economists who speak on this issue are probably referring to Dublin 4 and other areas where the price of a house has gone through the roof. Ultimately, we must ask: "What is the alternative?" When I first became a Member of this House, people paid rates and property tax. There was compulsory taxation. A senior citizen living in a house all her life might be paying £4,000 of her £10,000 old age pension. That was wrong and had to be corrected. I am pleased to be a member of a party that changed those difficult times, particularly for our senior citizens.

What is being proposed today will encourage young people to continue to purchase their own homes. It is the right thing to do. There is no better encouragement we can give to our young people than that they should buy their own homes. Many Senators made statements on the

construction industry. Every year, the construction industry turns money twice in the economy. It has its own sand, gravel, products and labour. This is money recycled in the Irish economy not once but twice in a year. They are a great group of people for spending and as someone whose family has been involved in retail, I can state their wives are twice as good. The people who really keep the economy going must be encouraged. I do not want to see us return to the bad old days of paying huge rents with nothing at the end of it except real doom and gloom.

It must be a difficult time for people on the Opposition benches because a great deal was achieved during the past ten years.

Mr. J. Phelan: If I can get back to the Opposition benches, I will be happy.

Mr. Cassidy: One must be constructive. It is hoped Senator Phelan will begin a new term in the Seanad and we will be together in this regard.

Mr. J. Phelan: I am always constructive.

Mr. Cassidy: I like to see young people on the right path and pontificating to their colleagues what is the right thing to do. The Bill must be welcomed and I congratulate the Minister on his appointment. In the midlands we are thrilled he was appointed Tánaiste. The midlands is much the richer for having its representative, Deputy Brian Cowen, as Minister for Finance and Tánaiste.

The Bill may not be the be-all and end-all which Members want. However, the budget will take place later in the year. In three months' time, we can use hindsight to consider how this is working and perhaps correct it further.

Tánaiste and Minister for Finance (Mr. Cowen): I thank Senators on all sides of the House for their contributions. How long do I have to respond?

Acting Chairman: As long as the Tánaiste wishes.

Mr. Cowen: I will not delay too long. Senator Phelan misrepresented my position with regard to this matter, which unfortunately occurs all the time. As Minister for Finance, I do not have the luxury of speculating week-in, week-out on television programmes outside of a budgetary context. This was afforded to those in the Opposition with regard to what they wanted to do about stamp duty in the context of the general election.

Mr. J. Phelan: Government people also.

Mr. Cowen: When speculation arose prior to Christmas, the Government decided to deal with it in the budget not only those prospectively entering the market but also buyers already in the market. The question of doubling mortgage

interest relief became a targeted, affordable, equitable and appropriate response in the context of the most benign interest rate regime seen in Ireland in modern economic history, moving from 2% to 4% as a result of eight increases of 0.25% . One recalls interest rates of 12%, 15%, 16% and 20% during the 1980s.

I never stated I would do nothing. I stated I would do nothing to disrupt the market.

Ms. White: Hear, hear.

Mr. Cowen: My critique of the Opposition was always that its proposal would disrupt the market. Without going through the entire matter in detail, I will state the problem with the Opposition approach. On the basis it knew the economy was going well and was being well managed, it was an ill-thought out initiative and its origins were in an attempt to win votes on the economy. The Opposition sought to apply a scatter-gun approach to the question of the housing market.

Mr. J. Phelan: What was the Tánaiste's proposal?

Mr. Cowen: I listened and I will reply to all that was stated. It is important that facts are put on the table.

Mr. Cassidy: The Senator is in the Upper House.

Mr. J. Phelan: I know where I am.

Acting Chairman: The Tánaiste without interruption.

Mr. Cowen: I wish to give my critique of the situation. The Opposition made its suggestion at a time when a necessary correction was taking place with regard to unaffordable housing on the basis of double-digit house price inflation. It is necessary for a sustainable housing market to correct itself. While this correction took place, this proposal was made with a scatter-gun approach to change audit thresholds and make it more beneficial to try to win votes from prospective house purchasers, their parents or other concerned voters.

Mr. J. Phelan: That is what one calls "brass neck".

Mr. Cowen: These are the facts. It is Senator Phelan's problem if he does not wish to hear them. The Opposition thought this would be a vote winner but it did not work out that way. The reason is that the scattered approach it had would reflate house prices and the benefit would go not to purchasers but to sellers. That was the basic problem. If it was the case that under the stamp duty regime in force, one had authority from one's financial institution to buy a house for €350,000 or €400,000, and if as a result of the

Opposition's prospective proposals, €20,000 more was taken out by paying €10,000 or €15,000 less, the purchaser would have made a simple calculation of the market. His price would have gone from €350,000 to €365,000. This was a situation where the seller got the benefit, the Exchequer lost, house prices increased and nothing was done on the affordability question.

When this ill-thought out issue was brought forward, the Opposition said it would improve the stamp duty regime over three years until it got to its final position after three years. That was the proposal launched by Fine Gael and adopted by the Labour Party. Within three or four weeks, they were scampering back to find out what they would do about the basic question of how to bring forward a so-called initiative which got better for the prospective purchaser the longer they stayed out of the market. That was the logical outcome of having a determinate period of three years in which to deal with the issue. I am sure the intention was good and that Fine Gael believed in it. The party argued for it. Those are the facts of the matter as I saw them. With respect, I believe people saw the logic of that argument. The reason I critiqued it so vociferously is that I believed it was the wrong thing to do at a time when the correction was taking place.

This episode pointed up a bigger issue that we need to consider for the future. In our democratic debate it is open to anybody to speak about the need to reform this, that or the other tax as they see fit in general terms. When one argues for stamp duty and capital taxes outside of the budgetary context and cycle, there is speculation and people's behaviour changes on the basis of an expectation of change. The reason we deal with these matters within a budgetary context is that a Minister for Finance can initiate the reform, put forward a financial resolution to the House by midnight and have a new regime in place by the following morning.

Mr. J. Phelan: This is not a budget.

Mr. Cowen: Exactly. This is not a budget.

Mr. J. Phelan: Therefore, in what context did the Minister deal with it?

Mr. Cowen: Let me explain. The Senator can come back to me whenever he wishes. I did not initiate this debate. When this debate was initiated in a pre-budgetary context, the Government discussed it and came to a conclusion on it and spoke on it. Within two months, as we headed into an election campaign, the matter ignited again. It ignited in the first quarter of the year within eight weeks of a budget having been completed and a strong signal having been sent. That signal was sent not because of any reluctance on my part but to give people an indication that this was what we were trying to do. Subsequently, the Fine Gael Party brought forward

[Mr. Cowen.]

its proposal, the annual effect of which, following full implementation, would be more than €600 million per year, would benefit 50,000 people and would be paid for by 2.15 million people who were not in the market. Where was the equity in that proposal?

Senator Quinn mentioned that people who buy a house for their children costing in excess of €1 million are exempt from stamp duty. The fact is they are liable for gift tax. For any amount over €500,000, one is liable for 20% gift tax. If, as he claims, somebody bought a house for €4 million for a son or daughter, they would pay 20% tax on that sum, in which case they would pay much more in gift tax than in stamp duty.

There is a wider point to be made to the Opposition on that point. In its proposal, it was giving a better deal to everybody, including those who were able to buy houses of that magnitude of price, whether in the new or second-hand market. The benefit of its reform of stamp duty went to 40,000 or 50,000 people. That is what the Opposition was proposing to do. The whole scattergun, generalised approach was also unaffordable because of the cost of going through the thresholds. This was proven in the context of budgetary parameters when the Opposition outlined its plans in this area. Suddenly all its figures had gone through the roof.

In response to that situation, on 30 April I introduced a Government proposal stating that if elected we would implement this from that date. The only reason for retrospection is that I needed to make a proposal outside the budgetary context. In the normal course of events if I were dealing with the issue within a budgetary context I would simply stand up on budget day, make the proposal and from that day on we would have our change of regime. It is that principle that I must protect and not the idea that I have provided for retrospection because that is the way I want to do the business. I did it in order to let people know that if Fianna Fáil was returned to office with a mandate commensurate with the support we had and which we hoped and expected to receive with the people's agreement, I would take this specific action.

I am coming into both Houses of the Oireachtas to do specifically what I said I would do, not because I sought this debate but because I wanted to bring finality to the debate and end the damaging speculation that was taking place in the knowledge that my opponents during the general election campaign did not have a clear idea when they would implement the proposal. It moved from a period of three years to a period of one year to a period where Deputy Quinn, a former Minister for Finance, said they would need to be subject to budgetary requirements and the exigencies of the industry on the day, and that no responsible Government could make any such commitment prior to going into government. We then had the Labour Party leader saying that he

would have it done before he returned from the Áras with his seal of office. Here were three or four movements on the proposal by the Opposition parties in the period in which they had initiated the proposal.

My position was simple. I said I would do nothing to disrupt the market. I also said I would help first-time buyers who are the only people who have no equity in this market. I also said that if people wanted to see what I would do they should consider what I had done in two of my three previous budgets. In my first budget I increased the threshold at which stamp duty became payable. When I became Minister for Finance the threshold set in 2002 was €190,500, which I raised to €317,500. In the last budget I doubled mortgage interest relief which I saw as the best way to spread the benefit not only to those who were coming into the market with no equity, but also to those who came into a buoyant market in the past seven years. The purpose was to assist those first-time buyers whose major squeeze would be in the first seven years in the hope that they are progressing economically with the improved economy we now have and the increased buoyancy we have achieved.

The Opposition is now suggesting that I said I would do nothing and then did a *volte-face*. I did no such thing. I did not initiate the debate. At budget time I stated what I believed was the right thing to do, which was what I did. Senators will recall that a debate was taking place prior to that — people are entitled to conduct such a debate. We brought certainty to that position at that time. Subsequently in the context of a general election campaign, in an effort to buy votes, a scattergun, ill-thought out, though well-intentioned approach, I am sure, by Fine Gael, subsequently supported by the Labour Party, was put to the people and subsequently modified on four occasions from the time of its publication to election day at a cost which is at least six, seven or eight times the annual cost of what I am able to provide by bringing stability to the market in the first instance.

Let me say without adding any speculation that in every year's budgetary process it is open to a Minister to consider the best mix of tax and spend policies he or she wishes to pursue based on the relative strength of the economy at a particular time and what room for manoeuvre the Minister may have, given the political commitments as set out in his or her programme for Government. What was new in this case was that as a correction was taking place and with a general election imminent, people decided to play politics with the property market. Those who thought that the scattergun approach of suggesting that as many people as possible would be sorted out regardless of the cost, which would run to hundreds of millions of euro, did not win the argument because it offended people's sense of common sense. People have discernment and can determine the logical, sensible and appropriate response at any time in

order to be supportive of a housing market, which is important to us. A number of people have said I have not included a trading down mechanism. However, people in that position have accumulated significant equity in their properties and if they wish to dispose of them, they can move to smaller houses, presumably at a lower cost. They are in a much better position to make that move than young single people or couples who are trying to get on the first rung of the ladder in a buoyant market against a background of increasing interest rates, even though in a historical context the interest rate regime is benign *vis-à-vis* the position 15 or 20 years ago. At the end of the day, the responsible thing for the Minister for Finance to do was not to enter into that speculation but to give an indication that I would do nothing to disrupt the market, which the proposal before us at the time did, as I suggested. It did not exclusively contribute to where we are now but the uncertainty that erupted as a result of that debate did nothing to help the correction that is taking place. Now that the argument is over and certainty will be restored to the market through the enactment of this legislation, it is incumbent on us all not to continue to suggest the correction under way is something greater than that.

We should encourage positive sentiment about the housing market on the basis that it is not only important for house purchasers but it is also important in an employment context. I support the 280,000 people who go to work in the construction industry every morning. Their families depend on a healthy industry in order that workers can continue to earn a decent living in their own country. In the past, when the State experienced boom and bust, slump and improvement, this cohort of people had to leave our shores and work elsewhere because they could not get a job here. Demand and supply are coming into sync as a result of the increases in prices and housing output. A total of 88,000 houses were built last year whereas 34,000 were built ten years ago and that is a tribute to an industry that has improved and increased its output to meet demand. The fundamentals are right and the demographics are such that demand for housing, even on a *per capita* basis, has not reached European levels. It must be ensured the market is given time to correct and is not subject to negative sentiment in order that people can maintain equity in their homes. A more sustainable rate of increase in house prices will be achieved to bring stability to the market and to encourage investors and those in the construction industry to build houses on the basis of demand. Housing output will reduce from 88,000 units annually to 65,000, which the Central Bank suggest is sustainable over the medium to long term, and that would still be 80% greater than the output ten years ago. That is a critical build factor in our economy and the public capital programme should arrange for a national development plan commitment on the capital side that would result in Government

activity to improve our physical and social infrastructure through additional schools, hospitals and so on increasing as a percentage of GNP. This would make sure overall activity is such that we do not experience a major disaggregation in employment intensity in the industry. That is important and too often when a necessary change takes place, particularly in residential housing, individuals create the worse case scenario, which feeds negatively into market sentiment and deprives people of the opportunity of entering the market on the basis that it is stabilising in a way that was unsustainable previously. We need to be mindful of that.

When reference is made to housing affordability, commentators usually talk about the ratio of house prices to earnings, which has steadily worsened in recent years. However, the ratio is misleading because it does not take account of the impact of several factors such as changes in interest rates, the number of dual income households and the incomes of younger, better educated people tend to be higher. A more accurate picture can be obtained by examining household expenditure and mortgage repayments as a percentage of total net disposable income. According to the latest EBS/DKM affordability index, from June this year, monthly repayments for a first-time buyer working couple on average earnings, as a percentage of net income nationally, was 25% on a 90% percent mortgage, compared to 26.4% at the end of December last year.

The improvements in housing affordability, according to the research, are due to two factors. These are the doubling of mortgage interest relief from January 2007, a Government initiative; and the moderation of house prices, which is the market response to the unsustainable double-digit house price inflation we have seen recently.

The proposed stamp duty reform before the House is a highly-targeted measure that will further support affordability for first-time buyers who, as I have mentioned before, are critically important. They are the lifeblood of an orderly and sustainable housing market. On the basis that people coming into the market are doing so in the numbers one should expect, those in the construction industry can enable a planned and continued build and a continued level of activity. This reinforces Exchequer receipts and employment.

We must be careful not to over-react to the current easing from the very high levels of activity we spoke of in recent years. House prices have fallen back slightly in recent months, although prices still remain above their levels at this time last year. I share the view of most commentators that house price increases in recent years have been underpinned by many factors, including a strong economy, increases in employment and earnings, reductions in taxation and lower interest rates resulting from participation in monetary union.

[Mr. Cowen.]

In its 2006 survey of the Irish economy the OECD noted, based on international comparison, that residential investment internationally is often characterised by a boom-bust cycle. However, in the same analysis, the OECD stated that a soft landing appears the most likely prospect for the Irish housing market. That is the policy objective all of us are agreed on.

I do not mind when people criticise me as that is part of the debate but we should be mindful not to send an overly pessimistic message to the market, the electorate or those wishing to get into the housing market by suggesting an imminent collapse or something which would make people step back from the market again. We have seen enough of that hesitancy, which has a dislocating and unnerving effect, sapping confidence at a time it needs to be reinforced. We should try to consider the matter in a helpful manner.

Senator John Paul Phelan also spoke about site purchases. A gift from parent to daughter or son, if the site value is less than €254,000 and less than one acre, is exempt from stamp duty because it is an inter-family voluntary transfer. Stamp duty is payable on the site mentioned by the Senator, although there is no stamp duty payable on the build. A builder buying a site on which he builds a house for subsequent sale will incur a stamp duty, which is usually passed on to the purchaser anyway, therefore, there is no real difference between both those purchasers.

It is also important to make the point on the canard of people of means being able to buy a house on behalf of their children and being exempt from stamp duty. That is not the case in terms of Exchequer return because we would get it in capital gains tax beyond €500,000 anyway.

With regard to putting a price or size limit on this, it is very important that we get a simple message out to the public in order to steady the situation. The simple message I wish to get out is that all first-time buyers are exempt from stamp duty regardless of what house they buy. That message is important.

What is the precise detail of the Opposition proposal? Can anybody say with accuracy what was intended? We all know, during the heat of debate, when we were totally *au fait* with the arguments, that we can rattle it off against each other, be it on television, radio or newspapers. It reinforces the point I am making at this remove that there was a need to send a message that was understandable, which would reinforce the market and settle nerves, as people began to wonder what was going on.

The simple message that everyone now knows is that this Government has brought forward a proposal. I am not here to speak about a redesign of the entire stamp duty code, which has been with us for more than 200 years. I am referring to returning stability to a market that was unnerved and dislocated as a result of the speculative nature of the proposals—

Mr. J. Phelan: The Tánaiste should talk about the reform of stamp duty.

Mr. Cowen:—which were undertaken during the democratic debate but which were outside the budgetary context and which, therefore, reinforced uncertainty rather than brought about clarity.

The clarity that has been achieved — in the context of all first-time buyers — is that only first-time buyers will benefit under targeted approach A. The message in that regard has been received. The second approach is that if one buys a house new or second hand, it is exempt from stamp duty. This is simple, it is understood and it will allow people to get on with their lives.

Mr. J. Phelan: Not if a person is buying a site.

Mr. Cowen: In respect of people who refer to the wider question of reforming stamp duty, the point is often made about the rate of such duty in other jurisdictions. Such jurisdictions have annualised property taxes and other ways of financing local government. What we have decided to do, quite rightly in my opinion, as regards a strategy for creating employment and ensuring economic growth here, is to reduce taxes on labour and increase those on capital. Since 1997, and under successive Fianna Fáil-led Administrations, the percentage of the tax take from capital taxes has increased from 4.6% to 15.9%. It has, therefore, almost quadrupled. During the same period, we reduced taxes on labour and income in order that we might promote increased employment and ensure the establishment of a business-friendly environment that would foster job creation and allow people to get on with their lives and make a living.

When I hear so-called socialists talking about neoliberal economics—

Mr. J. Phelan: Is the Tánaiste referring to the Taoiseach?

Mr. Cowen: I am referring to the Labour Party, which supported the proposal of the Senator's party in respect of this matter. The proposal to which I refer would have helped wealthier people. It would not have been progressive and it would not have catered for the needs of those without equity or first-time buyers to the same extent that it would have aided those one the top threshold purchasing houses worth more than €635,000. Those are facts.

Mr. J. Phelan: They are not facts.

Mr. Cowen: An effort was made to buy the electorate but it failed. The electorate did not buy the proposal because the parties involved could not explain it, because it did not make sense and because they could not answer simple questions. When asked when its reform would be introduced, Fine Gael and Labour indicated they did

not know. They also stated it would be introduced over three years. When asked whether the reform would come in the first, second or third budget, the reply was that it would be Deputy Rabbitte's job to decide. When asked if Deputy Rabbitte would be Minister, the answer was "Of course" and when asked what he would do, it was stated the Deputy would have made a decision before he returned from Áras an Uachtarán with his seal of office. The Opposition parties were all over the shop. There was money in the bottom drawer and there was money in the top drawer. It was all over the shop.

Mr. J. Phelan: Was it in a sock in the hot press?

Mr. Cowen: The people did not buy it because they are not fools. People are discerning and one must appeal to their common sense and to their sense of logic. They knew this proposal meant the longer first-time buyers stayed out of the market, the better off they would be because it would take three years to implement.

What sensible party that knows anything about the dynamics of employment or the building industry and its role in our economy would arrive at such a proposal? We agree that, in the context of our GDP, we have a dependency on the construction industry that is much higher than in other countries. We also accept we must deal with this. However, to suggest we are doing nothing to promote other types of employment is to say the programme on technology, science and innovation——

Mr. J. Phelan: Nobody suggested that.

Mr. Cowen:——the investment in fourth level education and the reskilling that is going to take place under the national development plan mean nothing. A total of €50 billion——

Mr. J. Phelan: Is there a time limit on the Tánaiste's contribution of waffle?

Mr. Cowen:——is being provided under the national development plan——

Mr. J. Phelan: Senators had only eight minutes in which to make their contributions. We have now had 30 minutes of pure nonsense from the Tánaiste.

Mr. Cowen:——to reskill the workforce to ensure those who currently occupy jobs that may not exist in the future will have an opportunity to seek jobs in other areas.

Mr. Cassidy: Senator John Phelan is receiving a lesson from the Tánaiste.

Mr. Cowen: The idea that the country is nothing other than a building site——

Mr. J. Phelan: Who said that?

Mr. Cowen: What the Senator said was——

Mr. J. Phelan: The Tánaiste is talking through his hat.

Mr. Cowen:——that we are doing nothing——

Mr. J. Phelan: I did not say the Government is doing nothing. I stated that it is far too dependent——

Mr. Cowen:——to replace jobs and that we are dependent on the construction industry. The record will show that is what he said.

I am merely making the point that we are at a level of economic and social development that requires more investment. We will have a motorway system by the end of 2010, we will build more hospitals and we will be able to continue with the summer works scheme during the coming months now that the schools are closed and the teachers have gone on holidays. Remedial works will be carried out at more than 1,000 schools during the summer at a cost of €120 million. The latter is quite apart from the increased capital programme relating to first, second and third level institutions that is needed to modernise the education system. I could go on at length.

Mr. J. Phelan: The Minister has gone on at far too much length.

Mr. Cowen: Fine Gael came forward with a proposal.

Mr. J. Phelan: The Minister said that seven times.

Mr. Cowen: Fine Gael thought it was the silver bullet. It thought that this was the one that would help it win the economic argument.

Mr. J. Phelan: The silver bullet was Fianna Fáil frightening the people into voting for it in the last weekend before the general election.

Mr. Cowen: The Fine Gael thinking was they would not get the Government parties to talk about the 600,000 jobs they created.

Mr. J. Phelan: In fairness, the Government did that. I give it credit for that.

Mr. Cowen: They would not get them to talk about economic growth which has been two and a half times the European average. They would not get them to talk about the investment we are seeing, including foreign direct investment, and new jobs. Fine Gael would talk about stamp duty and, in doing so, the people would be greedy, would think they were going to get something and would all run for it. That is the way Fine Gael views the people. People are not fools. They did not buy it. They said: "Good luck. You are not at the races. We are not putting you in charge of a

[Mr. Cowen.]

sophisticated modern economy. We are going to re-elect the Government that has brought us thus far.”

Mr. J. Phelan: They did not re-elect the Government.

Mr. Cowen: They re-elected this Government.

Mr. J. Phelan: The Government lost ten seats and the Opposition gained about 30 seats.

Mr. Cowen: I am glad to say it has been complemented by a Green Party which will also assist us in ensuring our future is a sustainable one that will continue to progress in respect of the solid achievements that have been the hallmark of this Administration over the past decade.

Mr. J. Phelan: It will. It is interesting that the Minister should mention the Green Party. Did he read its policy?

An Cathaoirleach: Order please.

Mr. J. Phelan: Did he read the Progressive Democrats’ policy on stamp duty? We have spent 30 minutes listening to this waffle.

Mr. Cowen: This is a proposal to bring stability to a marketplace which was unnerved by a cack-handed effort by the Opposition to win the general election on an issue the people did not buy because they knew it just did not make sense.

Mr. J. Phelan: This is the eighth time we have heard this.

Question put and declared carried.

An Cathaoirleach: When is it proposed to take Committee Stage?

Mr. Cassidy: Now.

An Cathaoirleach: Is that agreed?

Mr. J. Phelan: No.

Question, “That Committee Stage be taken now” put and declared carried.

Finance (No. 2) Bill 2007: Committee Stage.

NEW SECTION.

An Cathaoirleach: Recommendations Nos. 1, 3 and 4 are related and may be discussed together by agreement. Is that agreed? Agreed.

Mr. J. Phelan: I move recommendation No. 1:

In page 3, before section 1, to insert the following new section:

“1.—(1) Section 92B of the Stamp Duties Consolidation Act 1999 is amended—

(a) by substituting the following for subsection (2):

“(2) Stamp duty shall not be chargeable under or by reference to paragraphs (2) to (6A) of the Heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’ or clauses (ii) to (vii) of paragraph (3)(a) of the Heading ‘LEASE’, as the case may be, in Schedule 1 on any instrument to which this section applies.”,

(b) in subsection (3)—

(i) in paragraph (a) by substituting “first time purchaser,” for “first time purchaser, or”,

(ii) in paragraph (b) by substituting “during that period, and” for “during that period.”,

and

(iii) by inserting the following after paragraph (b):

“(c) any instrument, executed on or after 1 January 2007 and on or before the date of the passing of the *Finance (No. 2) Act 2007*, that does not contain such a statement as is referred to in paragraph (a) or (b)—

(i) where—

(I) section 92 applies to that instrument, and

(II) the purchaser has complied with, and has undertaken to continue to be bound by, the conditions, liabilities and obligations under section 92 and has satisfied, or, as the case may be, undertaken to be bound by, the conditions (including the condition set out in such a statement as is referred to in paragraph (a) notwithstanding that the said instrument does not contain such a statement), liabilities and obligations referred to in this section,

or

(ii) where—

(I) had that instrument contained a statement such as is referred to in paragraph (b), such statement would have been true and correct, and

(II) the purchaser has satisfied, or, as the case may be, undertaken to be bound by, the conditions

(including the conditions set out in such a statement as is referred to in paragraph (b) notwithstanding that the said instrument does not contain such a statement), liabilities and obligations referred to in this section.”,

(c) in subsection (4)(a) by deleting “the difference between” and “and the amount of duty which was actually charged”,

and

(d) by inserting the following after subsection (8):

“(9) Where, by virtue of the amendment of this section by the *Finance (No. 2) Act 2007*, an instrument is one in respect of which stamp duty is not chargeable under or by reference to any of the paragraphs or, as the case may be, clauses referred to in subsection (2), the Commissioners, on a claim being made to them in that behalf and on the conditions set out in subsection (10) being satisfied, shall cancel and repay such duty paid as would not have been charged had this section been so amended before the instrument was executed.

(10) The conditions required by this subsection are that the purchaser (in this subsection referred to as the ‘claimant’), when making a claim for repayment, shall produce to the Commissioners—

(a) the stamped instrument,

(b) a declaration made in writing by the claimant, in such form as the Commissioners may specify, confirming to the satisfaction of the Commissioners that—

(i) where the instrument is one to which this section applies by virtue of paragraph (a) or (b) of subsection (3), the claimant has complied with the conditions, liabilities and obligations under either or both this section and section 92, as the case may be, and has undertaken to continue to be bound by those conditions, liabilities and obligations,

(ii) where the instrument is one to which subsection (3)(c)(i) applies, the claimant has complied with, and has undertaken to continue to be bound by, the conditions, liabilities and obligations under section 92 and has satisfied, or, as the case may be, undertaken to be bound by, the conditions (including the condition set out in such a statement as is referred to in paragraph (a) of that subsection notwithstanding that the said instrument does not contain such a statement),

liabilities and obligations referred to in this section, or

(iii) where the instrument is one to which subsection (3)(c)(ii) applies, the claimant has satisfied, or, as the case may be, undertaken to be bound by, the conditions (including the conditions set out in such a statement as is referred to in paragraph (b) of that subsection notwithstanding that the said instrument does not contain such a statement), liabilities and obligations referred to in this section,

and

(c) such information as the Commissioners may reasonably require for the purposes of this subsection.

(11) A reference in subsection (3)(c) or subsection (10) to the purchaser, shall be construed as including a reference, where there is more than one purchaser, to each and every one of the purchasers.”.

(2) This section applies as respects instruments executed on or after 1 January 2007.”.

Recommendation No. 1 covers the same area as the other two recommendations mentioned by the Cathaoirleach. It seeks to move the retrospection of this legislation back from 31 March to 1 January 2007, which is closest to the date on which the Minister made his comments in the other House. I do not have his comments in front of me but I was in the Chamber at the time and there was certainly a clear inference that there would be no change to the stamp duty regime. I understand Senator O’Toole outlined a case he was presented with. My colleague in the other House, Deputy Bruton, was presented with a number of similar cases involving people who took the Minister at his word when he said there would be no changes in the stamp duty regime, entered into the property market and have found themselves at significant financial disadvantage because of the changes proposed in this Bill and the deadline included in the Bill by the Minister.

The Minister is correct in saying that no matter what deadline one picks, there will always be people on the wrong side of it who will not benefit from it and will in fact be penalised by it. That is happening in this case. It would be fair, equitable and appropriate for the Minister to take this recommendation on board and change the date of retrospection back to a date as close as possible to his budget speech when the confusing comments were made regarding prospective changes to the area of stamp duty.

Mr. O’Toole: I thank the Minister for his reply on Second Stage. It was a very interesting outline of the economy as he saw it and it is very important for us in this House to hear these things. I value it. I must always make the point to

[Mr. O'Toole.]

Ministers that we are on the non-Government side, which is not the Opposition side. These are the Independent benches and we look at the issues as they appear before us. I agree with the Minister's critique on phasing the changeover over three years, as it would only pervert the market. I was the only Member who argued some years ago that the first-time buyer's grant did nothing for first-time buyers. I did not join in the general chorus when the grant was changed. I again welcome the revolutionary proposal to backdate as far as seven years mortgage interest relief.

The Minister claims the buyer will buy to his or her ability. In other words, he or she will examine the overall cost of the house, the purchase price and taxes. He also made the point that the abolition of stamp duty will not necessarily reduce the price of a house as it is factored into it. That is a fair argument. Anyone purchasing a house would factor in the stamp duty when seeking funds.

However, I used that argument previously with various Ministers who did not accept it. For example, I had a long-running argument with the Government on the lack of insulation standards in newly-built houses. The Government's argument was that if insulation standards were introduced, as required by the EU in 1998, it would have added €1,000 to house prices, a large imposition on buyers. My point is that it would not because people would pay for what they can afford and that is the way the market would adjust prices. The logic behind removing stamp duty for first-time buyers is more or less the same as that for better insulation standards putting up house prices.

The Minister compared house prices from last year to this year but did not factor in the differences made with the removal of stamp duty. Taking the Minister's argument that people pay what they reckon is the market value, including the stamp duty, prices have dropped significantly from last year. Last year a house marketed at €390,000 would have cost, with stamp duty applied, €430,000. With the removal of stamp duty for first-time buyers, the house can only be marketed at €390,000. Applying the Minister's argument that people will spend what they can afford, the stamp duty factor must be considered in making a real-time adjustment in house prices between this and last year.

The Minister rightly referred to the Fine Gael Party's proposal as non-progressive. The Minister's proposal is equally non-progressive. While I agree with the general thrust of the Bill's proposals, a progressive tax is one that hits people if they are spending more. This is not a progressive tax.

Will the Minister consider the supply and demand and population factor? What is happening in the private rental market is similar to what happened prior to achieving 80,000 housing

units being built annually. Before that, rents were higher than they are currently. The price of apartment rentals in Dublin was higher in 2001 than at present. Within the past seven to eight months rentals have again approached that level.

I should like to hear the Minister's views on this, but I do not believe the housing market will collapse. It cannot collapse. I am looking at an increased population, higher rental costs and a reduction from 80,000 houses per year to what the banks suggest will be around 55,000 or 60,000. I agree with the Minister that the market cannot collapse on that basis.

However, the point made by Fine Gael and by the Minister is about our over-reliance on construction. That is an enormous fear and I should like to hear more from the Minister, perhaps not today, on how this may be counteracted. As he said, the proportion of GDP or GNP dependent on construction is far in excess of what we would be comfortable. We need to hear about plans beyond that. The ESRI is talking about exports of services as one way of dealing with the problem and that is important, as is the issue of retraining.

I agree we should not talk down the economy and I am not one to do that. That does not serve the interests of anyone. The Minister then referred to the budgetary dates. That was the point of my intervention on Second Stage and is the reason for my two amendments proposing to change the date. I should like to again hear the Minister on this. I accept his point that the budgetary changes he announces in December tend to be introduced on 1 January unless some come into force immediately or are to be introduced later. I can also understand mortgage interest relief being back-dated seven years. Assuming I accept all the Minister's arguments relative to the Fine Gael position, why, if he was prepared to move the date back, as he did, and it finally ended up as 1 April, could it not have been scheduled for 1 January? How bad would that have been?

People feel very sore about this. Those people I spoke to feel hard done by. It is different to the "hard done by" that I have had to defend a million times, where people are caught by a date. People are always being caught by a date. In another life, when I was negotiating salary increases which did not come into play until two or three months after somebody might have retired, he or she might ask why they might not have been introduced somewhat earlier. No matter what changes are brought in, people will always be compromised as regards dates.

However, this is different. It is arbitrary when it need not be. It could have been made to fall in line with budgetary requirements. It could have been put into the tax year, on which everything is based. People pay their taxes on the basis of the whole tax year and this, as a tax, is part of the current tax year.

Would the Minister not consider backdating this to 1 January? If he cannot do it today, can he give me some succour in this? Is it an issue that he might consider addressing in his Budget Statement at the end of the year? Is he prepared to look at the cost of this to the State were it to be retrospective to 1 January? I believe it would remove a good deal of hardship for many people. During that period it was probably factored into the prices, so it is not like before 1 January, before the Budget Statement or before the time when the debate on this whole area began, where people knew they would have to pay stamp duty.

Those caught before that debate started do not have the same argument as those caught during the debate for the reasons the Minister gave. He claimed the Opposition had created uncertainty. It was not only the Opposition but the leader of the other party in Government, former Deputy Michael McDowell, who created the uncertainty, in his speech in Malahide. He told us the Government did not need the €3 billion in revenue and that was a major part of the debate. There was great uncertainty but the Minister stood up on budget day and clarified the matter with authority and certainty. His speech was strong and was made with conviction and, having listened to it, I noted it would allow us to know where we were going. I accept I may have misinterpreted the Minister, but it was probably because of his conviction, authority, delivery and certainly that people said he would not move on the issue. The media stated he had taken a strong position on it. Regardless of whether the interpretation was right or wrong, the Minister made no attempt to change it and the interpreters acted in good faith. I ask the Minister to respond in a human way to the problem created for a small number of people as a result of not backdating the measure from 31 March to 1 January. Is it possible for him to reconsider it?

Ms Cox: I proposed an amendment to the Order of Business indicating that legislation such as this is important enough to warrant more time for scrutiny in the House. Many Ministers have entered this House and have listened to Senators on various Bills but it is very difficult for Senators to address Second Stage, Committee Stage and Report Stage all in one go. It presents great difficulties for us and disregards the importance of the House. I am in a position to say this because I am not returning to the House. It is not therefore a question of my talking myself up; I am referring to the importance of the House and of allowing sufficient time to address legislation therein in order to ensure it is the best possible legislation for the country. This is the overriding objective of bringing any legislation to the House.

On the recommendations to the Finance (No. 2) Bill, reference was made by Senator O'Toole to backdating the period to which the legislation applies. I have said to the Minister previously that stamp duty on the family home is a tax on the

family. It should not be levied on any family home. Not only should it be abolished for first-time buyers of new or second-hand houses, an initiative I recognise and welcome, it should also be abolished in respect of the purchase of all family homes.

As families move from one house to another, as they often do, they must pay stamp duty. A family's first house may cost €400,000, thus incurring a stamp duty liability of €30,000. If that tax-paying family, because of improved financial circumstances or employment prospects, or on foot of having more children, moves to a slightly bigger house of three or four bedrooms, costing €550,000, it must then pay stamp duty of €41,250. If it later moves to another house, perhaps with a view to downsizing, it must pay stamp duty yet again. If, for example, it moves into a four-bedroom house in a very ordinary, nice area of Galway, as are all its areas, it must pay an average of €690,000, incurring stamp duty of €62,100. This liability will not change under the Bill. I refer to average house prices outside Dublin and am therefore not referring to houses in Dublin 4, which could cost €1.5 million. I am talking about ordinary, everyday houses and ordinary, everyday families. All the transactions to which I refer involve a change to another family home rather than participation in the investment market, even though first-time buyer's relief may have been availed of in respect of a new development.

In every housing cycle, people who upgrade or move on often make a contribution in respect of those at the bottom of the ladder buying their first house. This was evident in the housing market in the United Kingdom many years ago and even in Ireland at times. My focus is always on the family and those trading up for family reasons. Such families may be liable for stamp duty of €133,250. I will not be a Member of this House when the Minister is presenting the next Finance Bill but I ask him to consider the question of stamp duty being imposed on the family home. There should be no stamp duty paid where a person buys a replacement house before selling the original house but then completes the sale as that person then has one primary residence on which no stamp duty should be paid.

The Minister said there was no need for such a proposal as the majority of houses are not in the upper echelons of prices at €4 million or €5 million. I do not see the need for a cap because this restricts the market. A family home should be defined as being for the use of a family. The Constitution protects the position of the family and is built on the values of the family. If there is to be any value in society, then the family must be protected and the most important possession for any family is a roof over its head.

The Minister may be concerned that removal of stamp duty from the family home might lead to an increase in house prices. Senator O'Toole made the point that the market now decides the price of houses. There has been a softening in the

[Ms Cox.]

housing market in the past six to 18 months which has been caused by a softening in demand and as a result of higher interest rates. Every 0.25% added to interest rates has an impact on house buying. This is a market economy and it is the market which will decide the price of houses. Therefore, the removal of stamp duty from all family homes will not suddenly inflate the price of every single house. Investors will still be required to pay stamp duty but those genuine family home buyers moving from one family home to another will be exempt.

Another argument put forward against this recommendation is that people trading up a family home are gaining by the increase in the value of the home between the time they bought the house and when they sell it. The problem with such an argument is that due to the softening of the market, such gains are not apparent now compared with the past eight or ten years, when houses rose in price from €300,000 to €600,000 in two years. Such gains are no longer being made. People trading up out of necessity or out of a desire to have a bigger house to suit their family size are continuing to pay additional tax. I ask the Minister to consider accepting this recommendation.

The cost of repayment of the stamp duty would seem to be affordable this year. I suggest repayment should be backdated to 1 January 2007. This would make a significant and unexpected difference to many people who purchased houses in that first quarter of the year and who believed at the time that there would be no change in stamp duty.

Mr. Norris: It is a pleasure to have the Minister in the House because he is as always intellectually vigorous and robust although he may be a trifle partisan. It was lovely to hear him making minced meat out of the principal Opposition party but he did it in a selective way——

An Cathaoirleach: I ask the Senator to speak to the recommendation.

Mr. Norris: I am speaking directly to the recommendation. I am conscious of the strict discipline, the Cathaoirleach's firm lash, under which I operate.

As Senator O'Toole said, it was not just the principal Opposition party which created the confusion. Mr. McDowell added to this and the Minister's party is not entirely guiltless in this respect.

In his Budget Statement the Minister stated, "In the current market situation, any stamp duty cuts would more likely than not be incorporated in the sale price and so end up in the pocket of the seller." This sounds like a very clear commitment not to tinker with stamp duty. I note the Minister is shaking his head but he is shaking it so feebly——

Mr. Cowen: What cuts in stamp duty did I subsequently introduce?

Mr. Norris: But this is what the Minister is now proposing.

Mr. Cowen: There are no cuts.

Mr. Norris: The Minister is tinkering with the stamp duty.

Mr. Cowen: I am extending an exemption.

Mr. Norris: Exactly. I am amazed the Minister can make those comments without blushing because his used to be the party which talked about representing the plain people of Ireland.

Mr. Cowen: The Senator is a man who insists on preserving the meaning of the English language.

Mr. Norris: Absolutely.

Mr. Cowen: The Senator should read the sentence again.

Mr. Norris: We are talking about the plain people of Ireland. I represent them too and perhaps more effectively than the Minister does now because he gave every appearance of giving a commitment that stamp duty would not be removed because it would go into the pockets of the seller. We are not talking about my understanding of it or the Minister's but about the understanding of the people his party claims to represent. I have a desk full of letters from people stating that their whole attitude towards buying was affected by what they understood was a commitment not to do anything about stamp duty, that they bought because they thought nothing would happen and that they are now caught.

Since the Cathaoirleach wishes to keep me within the confines of the amendments, I would be very happy to second Senator O'Toole's amendments if necessary.

An Cathaoirleach: It is not necessary on Committee Stage.

Mr. Norris: If it is not necessary, I will simply add whatever little moral and intellectual value I have on this issue. I have a sheaf of letters from people who wrote to me stating that they bought on the understanding that they would not benefit by waiting. There is a moral obligation on the Government to backdate this measure to the time of that commitment. The Minister can engage in whatever political readjustments of his sentiment he feels necessary. I have a degree of sympathy for him because I clearly remember what was said in the budget. It may be subject to gloss, interpretation and so forth but I have no doubt where the Minister's heart and mind were at that point. I felt sympathy for him when the Taoiseach

popped up at the Ard-Fheis and made mince meat out of his position. I am not alone in that. The Minister may think I am naive and inexpert in the English language——

Mr. Cowen: The Taoiseach never mentioned stamp duty at the Ard-Fheis. The Senator should be accurate.

Mr. Norris: According to the commentators, he certainly undermined the Minister's position very clearly.

Mr. Cowen: He did not. He never mentioned stamp duty. The Senator should look at the record.

Mr. Norris: Let us put all that aside and just say the people of Ireland believed they had a commitment. There can be as much wriggle as the Minister likes. I know the Minister's constituency well because my roots are basically in the same bog and I know what people are saying down there. People who were unlucky enough to have bought houses are now faced with this. I am glad the Minister has made this change and I appeal to him to backdate it to the time when the plain people of Ireland, who his party always claims to represent, believed, erroneously or not, that they had a commitment that there would not be a change.

Since the Minister raised all these questions, it would be good to have a full look at this issue although I accept this is not the place for it. It seems to be very unfair with the price of houses now and the fact the banks have lent enormous amounts of money, including 100% loans and so on. The Minister might also look at advertisements. I cannot understand all the conditions because they are written deliberately to confuse people, including all the stuff about repossession. We now face repossessions and negative equity. There have been eight jumps in interest rates over the past two years and there is no doubt that people are in difficulty. Will the Minister look at graduated stamp duty next time? It seems terribly unfair that somebody who pays €300,000 for a house — I do not have the exact figures — does not pay stamp duty but somebody who pays €301,000, pays stamp duty on the lot. People should only pay stamp duty on the difference. It would be very useful if the Minister looked again at this issue.

I am happy to support Senator O'Toole's amendments. I support them in preference to the Fine Gael one. The Minister was gracious enough to say I had a nodding acquaintance with the English language. The language in which the Fine Gael amendment is couched is a little lengthy, wordy and represents opaque legalese. While it is very often necessary to use such language in legislation, Senator O'Toole's amendment is appealing in its clarity, simplicity and relevance to the concerns of a considerable number of

people. I understand that it is not possible to appoint a cut-off date which does not severely affect the unfortunate people who are on just the wrong side of it, but the people of Ireland understood they had a commitment.

The Tánaiste is an honourable man — I do not impugn his honour — but the people understood that Fianna Fáil would be resolute and would not tinker in this area. Suddenly, however, the ground was cut from under the financial section of the party and the Tánaiste's Department. The decent, moral and popular policy now would be to backdate the provisions in the Bill in the manner suggested by Senator O'Toole. I appeal to the Tánaiste to adopt that course.

While the construction industry is a very important engine in our society, it is one on which we can be overly dependent. I was very glad to hear the Tánaiste indicate as I came into the House that he will regard it as part of his brief to look into diversification and that we should not be overly dependent on this area. It is not a market that can infinitely expand without dangerous consequences.

Mr. Ross: I support Senator Joe O'Toole's amendment which speaks to points I raised on Second Stage. While I do not wish to be repetitive, I must make it clear that the effect of backdating the stamp duty provision to 31 March 2007 will be that some will legitimately feel they have been victimised because they are on the wrong side of the line. During the crucial period between December and May, the debate was not about the relative merits of imposing stamp duty, rather stamp duty became a political football.

While I did not necessarily believe it, Fianna Fáil made a plausible political case when it said a change in the stamp duty regime was not the answer. It contended that any reduction in or abolition of stamp duty would not be in the interests of buyers. The Tánaiste referred to the argument on Second Stage and I suspect it was his former belief that stamp duty was not a tax on the buyer, but on the seller. If the duty were removed, the seller would benefit. It is a difficult argument to explain, especially to buyers, but it carries a certain degree of credibility.

The firmness and resolution of Fianna Fáil in the face of Opposition attacks and the pledges of the Progressive Democrats on changes to stamp duty convinced many that the party was genuine about what it said and that its arguments had some merit. As a direct result, some did not delay buying because they believed stamp duty would remain in place and that they would not be prejudiced if they purchased in the post-budget, pre-election period. They were wrong. Fianna Fáil yielded to pressure from the Opposition and the media and performed a U-turn, albeit a limited one. Some people benefited and others did not. There are those who bought houses in the period in question who believe the Tánaiste's measure and the arbitrary date he has set have cost them

[Mr. Ross.]

between €20,000 and €40,000. They believe it is the Tánaiste's fault because he has done it at the stroke of a pen. They are right.

Retrospection has benefited some people but not others. If retrospection is to apply, in all justice it should benefit all the people who are within this time trap. I appeal to the Minister to reconsider the date and move it back to the date of his Budget Statement, when the impression was given by him and others that the situation would remain the same.

The other worry I and other Members of the House have about this measure is that we are, to a certain extent, wasting our time and that it is futile to propose an amendment at this stage of the electoral and parliamentary cycles. It would be staggering if this or any Minister decided today or tomorrow to accept an amendment to any Bill. We know that. The Government and all politicians have been through a tiring time and they are anxious to go on their summer holidays. Nobody wants to take this measure back to the Dáil, except the Members who support this amendment. However, it is unfair on the people who will suffer as a result of this measure that they should also be victims of the parliamentary timetable. This proposal will not be considered on its merits because the Dáil is about to go into recess, and no Minister will consider accepting amendments which will involve more work for the Dáil. That is unfortunate.

I appreciate that the Minister has come to this House today and has not sent the Minister of State, which he could easily have done, and shown the type of contempt which Members of this House sometimes see from Ministers at this time in the parliamentary timetable. I also appreciate the fact that he has remained for Committee Stage when he was not required to and that he is taking both the Bill and the Seanad seriously. However, the fact that amendments, regardless of their merits, have no chance of being accepted makes a mockery of this debate and of the Seanad.

Tánaiste and Minister for Finance (Mr. Cowen): I thank the Senators for their comments. We made a commitment in response to others creating uncertainty and speculation. I stated my position in the Budget Statement. It should be remembered that in the period before the budget, people were talking about wholesale reform of stamp duty by cutting rates and changing thresholds. That was the context in which the debate was taking place. In fact, at its most extreme, there was a suggestion that we could eliminate stamp duty. However, the debate was about stamp duty reform by cutting rates and extending thresholds. I stated in the Budget Statement that in the current market situation any stamp duty cuts would, more likely than not, be incorporated in the sale price and end up in the pocket of the seller. That was my position. I made that state-

ment on the basis of trying to bring certainty to the situation and answering the case.

I have not brought forward a Bill to cut rates or extend thresholds. If I were to be popular, Senator Norris, or if I were to comply with the stereotype for Fianna Fáil, whose members are depicted as opportunists and political professionals who will do or say anything to get back into office——

Mr. Norris: If the Minister is pointing his finger at me, I did not say that.

Mr. Cowen: I am referring to the stereotype that is often attributed to the party——

Mr. Norris: Not by me.

Mr. Cowen: That would be an argument in favour of accepting the Opposition proposal of €600 million at full implementation — whenever it would decide how to implement it — at a minimum of three years for the benefit of 45,000 or 50,000 people to be paid for by 2.15 million other people who were not in the process of buying a house at that time. This is not an equitable situation or a properly thought out proposal. A Minister for Finance does not have the luxury of speculating in this way. He or she must consider all of the issues with regard to how he or she might help by way of taxation.

I respectfully suggest that dealing with the inequity which exists in our PRSI system whereby a millionaire pays the same as a working couple on €48,800 would provide a greater social benefit. A better way of expending tax expenditure would be through tax reform rather than this particularly ill-thought out proposal, however well-intentioned it was. I can give a benign interpretation by suggesting it was well-intentioned when really it was a vote buying attempt by the Opposition to win an economic argument it knew it could not win.

Mr. Norris: This is Senator O'Toole's amendment.

Mr. Cowen: I will not have my honour impugned in any way in respect of my efforts in this matter.

I will get rid of another canard. The Taoiseach made no reference to stamp duty in his Ard-Fheis speech. The suggestion by anybody that disagreement occurred between the Taoiseach and I on this matter is incorrect.

Mr. Norris: He did it at the same time on RTE.

Mr. Cowen: Furthermore, as a matter of fact——

Mr. Norris: The Tánaiste should consult the Internet. Does the Tánaiste state the Taoiseach never did this?

Mr. Cowen: I am giving Senator Norris the facts.

Mr. Norris: When did the Taoiseach state it?

Mr. Cowen: I have no problem with giving the facts. Senator Norris may contribute after me if he wishes.

Acting Chairman (Mr. Dardis): As this is Committee Stage, Senator Norris will have an opportunity to reply to the Minister.

Mr. Cowen: Usually Senator Norris is not short in stating what he wishes to state. It is fine that Senator Norris wishes to speak when I speak if it is an intellectual exercise for him. It is not my idea of coming here to debate an issue.

The point is that the Taoiseach and I were in full agreement in response to an irresponsible initiative brought forward by Fine Gael, which was changed within weeks, adopted by the Labour Party and changed subsequently as a joint proposal when entering an election campaign.

I also made the point it is totally irresponsible and a lesson to be learned is not to get engaged in this type of activity outside of a budgetary context precisely for the reason some Members gave. What would have happened after I brought forward the mortgage interest relief proposal last December which intended to extend the benefits to the greatest number possible? It is available for the first seven years for all mortgage holders. If one is in year four, one receives the increased benefit prospectively from the date the change is made for the remaining three years. If one enters the market now one receives the prospective benefit for the next seven years. It is not a back-dated proposal. It is an application of new thresholds of mortgage interest relief in respect of a timeframe of seven years available to all mortgage holders if they qualify for the relief as first-time buyers.

I responded to this matter on the basis that I do not believe it was equitable that €600 million of tax expenditure should go to this purpose. Apart from my belief that it would not solve the problem, I find it inequitable in the extreme. I made the following point clearly however people wish to interpret it. I cannot speculate. I made three simple statements. I stated I would do nothing to disrupt the market. This does not mean I would do nothing. In respect of this or any other issue, what the Minister for Finance does depends on the market conditions at any time.

I also stated I would discriminate in favour of first-time buyers and I stated that if people wished to see what I would do they should examine what I did in two of my previous budgets. I do not think it is possible for a Minister of Finance, maintaining the responsibility he has and the sentiment he sends to the market, to be any more explicit than this. I do not accept Senator Norris's statement that I had a slightly ambivalent atti-

tude. At all times I proposed the need to avoid an electioneering exercise which would disrupt the market and have the effect of putting at risk many of the 280,000 people whose families depend on a stable housing market for a working wage.

During times of slump, a cohort of people had to leave this jurisdiction and work and live in other countries to send home a working wage to their families left behind. That was the experience of many building workers' families here for far too long.

Mindful of my responsibilities in this matter I brought clarity to the situation. To develop the point I was making before I was interrupted, if I was seeking to be popular with a scattered approach everyone would be in a piece of the action. I did not do that. I brought forward a carefully calibrated proposal which discriminated in favour of the one cohort of people who have not benefited from increased equity in the property market, therefore meeting the equity requirement. I did so in a way which did not bring about cuts or reforms in stamp duty regime or thresholds or moving along the thresholds, which does not meet the affordability argument of €600 million. I simply extended an exemption to a cohort of people who require our help in the context of what has been a historically buoyant property market. It is an approach that is targeted, equitable and affordable. I cannot legislate for the decisions of people who talk about the market or for every decision made by everybody in the interim.

I was not the creator of this situation although I was intent on bringing it to finality and trying to make sure that this dislocation which has taken place, not only because of rising interest rates but because of the particular level of reckless adventurism in which the Opposition has engaged on an economic issue for the purposes of getting votes in the election. It was not of my making but I said to the people that I was putting before them a proposal which is one-seventh the cost, more equitable and does not dissipate tax expenditures all over the place to meet the sentiment of any editorial board, writer or commentator who conducted a continuing and lengthy campaign against my position on this matter. I did not relent or recede because I believe that what I am doing is right in the circumstances, which were not of my making.

I am being asked because of a perverse interpretation of what I said in the budget that I have subsequently engaged in a reform, in which I said I would not engage. I have not done so. What I am doing is seeking to restore stability to a market in a way which minimises disruption and in a way which is geared towards those who require our assistance in the aftermath of the disruption which has happened. It would be irresponsible of me in the discharge of my responsibilities as Minister for Finance if I did not do so but I have acted within parameters which honour

[Mr. Cowen.]

equity, affordability and the basic stance I have taken on this matter. I decry the continuing effort by others to engage in this type of speculation outside the budgetary context. It is irresponsible in the extreme and has resulted in some of the casualties referred to. They do not end there.

I will discharge my responsibilities on the basis of a consistent approach and on accurate reflection of the actions I have taken with everybody fully cognisant of the chronology of events which brought us to this point. That is my point of view. That is what I defend. When I announced this proposal, which I put to the Taoiseach and to which he agreed, it was for the purpose of minimising the time lapse between the announcement by me as Minister for Finance of such a proposal and its enactment so that people would know what they were voting for and would get what I said they would be voting for. It arose as a result of a range of circumstances and a debate which was not of my making. Those are the facts.

All of the chitter-chatter and what has passed for political commentary to the contrary suggesting that the Taoiseach and I are at variance is nonsense. One of the strengths of the Government has been and will continue to be the very close relationship that exists between the Taoiseach and the Minister for Finance, which is a precondition for the effectiveness of any Government regardless of its political make-up or colour. Any suggestion to the contrary, while it will get certain comments has no relevance to how I conduct my affairs as a member of the Government nor would anyone here expect it to have.

Those are the facts and the chronology of events. That is what I said then and the context in which I said it. I am explaining the timing of how I proposed the initiative as a result of the work of others. Mine has been a logical consistent position all along. I have said that the timing for which the benefit derives is prospective from the date on which I announced it. There is no retro-spection. Had we not had this series of events one could look forward to a budget in December that would enable me to improve mortgage interest relief further, taking account of the interest regime that has developed and considering what we could do for first-time buyers. However, I will not be left carrying the can for the uncertainty that has been created as a result of this ham-fisted and cack-handed effort to get into Government on the basis of a proposal that made no sense from beginning to end.

Those who must carry that can of responsibility are on the Opposition benches today precisely because they underestimated the good sense and discernment of the people who know a nonsensical issue when they see one and whose sense of equity was offended by the scattergun nature of the proposal in terms of its concept and cack-handed execution, which was never going to happen and would have done untold damage. What-

ever about the correction that is taking place at the moment and the need for us to restore stability quickly, one can only think about the damage that would be done to the livelihoods of tens and hundreds of thousands of people in the industry were they allowed upon achieving Government, had they been successful, to then implement such a proposal over a three-year period, which basically indicated to everybody in the market that the longer they stayed out the more benign the stamp duty regime would be and therefore why get involved at all. That is what would have brought about the hard landing.

Mr. J. Phelan: That is what is happening based on what the Tánaiste is proposing today.

Mr. Cowen: It would have increased the risk. While I do not suggest that my view is unanimous, I suggest that experience and logic is far greater on my side of the argument, as has been proved. When the proposal that came from the Opposition benches was subjected to even the most cursory of scrutiny, people saw the whole mosaic falling apart straightaway. The Bill is my response to that initiative by them. I have taken a responsible position that did not seek to buy votes.

Mr. J. Phelan: That is rubbish. The Tánaiste has a brass neck.

Mr. Cowen: The sooner people who will be 15 years in Opposition realise this, the better. I have always believed that those who underestimate the intelligence of the people will fall by that sword. The Opposition parties threw them a pup and they threw it back at them. The Opposition parties deserve every bit of it.

I want stability. I do not suggest this is the most reforming measure I have ever introduced or will ever introduce in my political career. However, it seeks to bring clarity and certainty with a simple message. All first-time buyers will not pay stamp duty regardless of what sort of house they buy. That message is understood in the marketplace. As I said earlier — Senator Ross was unavoidably absent at the time — I would ask anybody on the Opposition benches to stand up now and tell me in accurate detail what the Fine Gael proposal was anyway.

Mr. J. Phelan: I have a recommendation. If the Tánaiste sat down we could get to it.

Mr. Cowen: It was so complicated and inequitable that it offered relief of €40,000, €50,000 and higher to people buying houses of €1 million or more. The better-off the house buyer the better he or she did. The Labour Party backed it up. I pointed out to Deputy Rabbitte that the Opposition parties did not know when they were going to implement it, so before Deputy Bruton got from the drawing board to dealing with the prac-

ticality of it Deputy Rabbitte then decided he would have it done before coming back from the Áras, such was the flight of fantasy. The Deputy had a panic attack because his whole budgetary framework went out the door. He thought that money would be found in the bottom drawer of a desk in the Department of Finance to finance it.

Mr. J. Phelan: Will the Minister deal with the recommendations?

Mr. Cowen: They suggested the €600 million cost for the initial adjustment could be implemented in year one and they set out a macro-economic framework over a three-year period, which immediately undermined their economic credibility completely.

Mr. J. Phelan: The Minister has not responded to the recommendations.

Mr. Cowen: My macro-economic framework, the Fianna Fáil manifesto and the programme for Government contain a provision to cover the additional cost of this proposal, which is prospective from the date of its announcement and which is retrospective only because the Dáil had been dissolved and enactment of the legislation could happen only at the first available opportunity when the new Dáil met. I will not be held responsible to carry the can for speculative adventurism that backfired on those who thought it would be the silver bullet to get them onto the Government benches.

Acting Chairman: Is recommendation No. 1 being pressed?

Mr. J. Phelan: I would like to respond to the Minister's 20 minute blast. A number of recommendations were proposed and the Minister did not deal with the comments made by Members. As usual, he attacked the Opposition. Senator O'Toole put a specific proposal to the Minister, who managed to speak for 20 minutes without referring to it. He has not responded to any comment by Opposition Members.

Following his reply to Second Stage, I did not seek to mention the many contradictions in his contributions subsequent to his opening remarks. However, I cannot let them pass without commenting on them. He regularly referred to the necessity of remaining within the budgetary context. The reason the legislation is before the House is the Minister is not doing so.

Mr. Cowen: I am.

Mr. J. Phelan: This proposal is not consistent with the Minister's Budget Statement.

Mr. Cowen: I am referring to the budgetary context of the programme for Government for the next five years.

Mr. J. Phelan: This proposal is not within the budgetary context.

Mr. Cowen: It is provided for by this Administration.

Mr. J. Phelan: Many things are provided for but this does not fall within the budgetary context.

Mr. Cowen: The Senator's problem is Fine Gael did not provide for its proposal.

Mr. J. Phelan: The Minister then referred to the perverse reading of what he said on budget day. He reiterated the comments himself, which were very straightforward. The clear inference of what he stated was there would not be change and people made decisions on that basis. That is what these recommendations are about.

Mr. Cowen: That is bluster. Where are the cuts?

Mr. J. Phelan: The Minister should not talk about bluster. We have listened to him for more than an hour and his reply to Second Stage and his remarks on Committee Stage have been absolute bluster.

Mr. Cowen: The Senator continues to misrepresent my position, despite my exposition of detail on it.

Mr. J. Phelan: The Minister spoke absolute nonsense.

Mr. Norris: The Minister should stop interrupting and he should speak through the Chair.

Mr. Cowen: That is Senator Phelan's problem.

Mr. J. Phelan: I was not too happy with aspects of the Opposition proposal.

Mr. Cowen: The Senator did not say that during the election.

Mr. J. Phelan: I did not. The Minister made many comments before the election about not reforming stamp duty and he was forced to do so by the Taoiseach.

Mr. Cowen: I was not. The Senator continues to misrepresent my position.

Mr. J. Phelan: The Taoiseach took the political ground from under the Minister when he made the comments to which Senator Norris referred. The Minister might have a very good relationship with the Taoiseach. I do not know what happened in that regard but the Taoiseach stuck his political finger in the air, felt the breeze and decided to address this issue. That is why the Minister is in the House to introduce this change. Despite his

[Mr. J. Phelan.]

continual attacks on the Opposition's proposal and its supposed scattergun approach, we proposed the complete reform of stamp duty. The Minister can legitimately criticise if he has difficulties with the proposal but he should not give out about wholesale reform. His proposal is only tinkering at the edges and, as he stated, stamp duty has served us well for 200 years. The property market in the past ten years has not reflected the intention behind stamp duty. Stamp duty rates are penal and they should be reformed. I make no apology for suggesting that if the property people buy exceeds a specific threshold, they should pay the higher rate of stamp duty only on the amount by which they exceed the threshold. That is fair and equitable and that is provided for in the Fine Gael proposal. It should have been included in the proposals of the Government. Maybe it will be yet and there will be a chance on some other date to really reform stamp duty and its impact on the property sector in this country.

After the Minister slating our proposals, thumbing his nose at them in the budget speech, and everything else that has happened——

Mr. Cowen: They were not in existence at the time of my budget speech.

Mr. J. Phelan: ——prior to his U-turn during the election campaign, he spoke of the people——

Mr. Cowen: The party had not thought them up at that stage.

Mr. J. Phelan: This is a direct quote from the Minister's last contribution. He spoke of those "who required our help in the context of a buoyant market." If they required the help of the Government, why was it not offered when the Minister made his budget speech, whichever way it was interpreted?

Mr. Cowen: I doubled mortgage interest relief.

Mr. J. Phelan: The Minister did that, in fairness.

Mr. Cowen: I thank the Senator. That is how I helped them.

Mr. J. Phelan: Why was the stamp duty reform which is being currently proposed not done in the budget?

Mr. Cowen: That was because I do not agree with the Senator's proposals.

Mr. J. Phelan: The Minister said these people required help.

Mr. Cowen: I think the proposals are nuts.

Mr. J. Phelan: Why did the Minister not bring his own proposals?

Mr. Cowen: I do not agree with the Senator's proposals.

Mr. J. Phelan: Why is the Minister bringing this proposal forward if he does not agree with it?

Mr. Cowen: I have explained why I brought it forward. It is in response to the nonsense the Opposition was going on with.

Mr. J. Phelan: The nonsense, such as it was——

Mr. Cowen: The people have spoken on this.

Mr. J. Phelan: ——was originated by the man who used to occupy the office the Minister occupies now.

Mr. Cowen: Who is that?

Mr. J. Phelan: Michael McDowell. The Minister might remember him, although I know he is gone a couple of weeks.

Mr. Cowen: He never occupied my office.

Mr. J. Phelan: He said stamp duty of €3 billion——

Mr. Cowen: That is another inaccuracy.

Mr. J. Phelan: The Office of the Tánaiste. He was the Tánaiste, I think.

Mr. Cowen: The Senator is right on that. He has got one thing right today, in fairness.

Mr. J. Phelan: I might have missed that particular comment. He was the man who initiated the discussion regarding stamp duty. He indicated €3 billion was being collected that we did not need. That introduced a level of uncertainty into the property market and as a result of his proposals, the Opposition brought out proposals of its own. The Minister is perfectly entitled to disagree with them.

Acting Chairman: I would like to take part in this debate at this point but I am precluded, as I am in the Chair. Perhaps the Senator would stick to the facts.

Mr. J. Phelan: I am sticking to them, in fairness. I listened to over an hour of an uninterrupted contribution from the Minister. What I am really trying to do is get him to respond to the suggestion of Senator O'Toole.

Mr. Cowen: I will do that in two minutes.

Mr. J. Phelan: I would like him to respond to the recommendations as proposed.

Mr. Cowen: I will do it in two minutes.

Mr. Norris: I will be very brief as I am interested to hear what the Minister has to say. First I should say I am not impugning the Minister's honour at all, as he seems very tetchy on that.

Mr. Cowen: I am not.

Mr. Norris: Indeed he was.

Mr. Cowen: I am not.

Mr. Norris: I would not have to be a professional physiognomist to read the Minister's face, I can assure him.

Mr. Cowen: I am not. It is just that the Senator gets away with those charges too often.

Mr. Norris: Not at all, go on out of that. I would not accuse the Minister of consistency anyway because he tried to blackguard me—

Acting Chairman: Senator Norris.

Mr. Norris: —from my decent parliamentary interruptions and then he riddled that poor lad—

Acting Chairman: Senator Norris.

Mr. Norris: —with interruptions himself. So I am not expecting consistency from him and we did not get it on the stamp duty issue either.

Acting Chairman: Senator Norris should defer to the Chair.

Mr. Norris: I beg your pardon.

Acting Chairman: I should point out that if the Minister is to make a reply he will need to do so quickly.

Mr. Norris: Absolutely. We can argue the case any way we want but there is no doubt there was a change of position. The Minister has stated it is reactive but that is not particularly good Government. All we are saying is in justice, and to use a phrase dear to the heart of the Soldiers of Destiny, in fairness, some people were given the impression there would be no changes. There has been a change in the stamp duty regime and people were caught out. It should be backdated to that period.

There is a phrase, "The lady doth protest too much." I think the Minister blustered a little bit too much and I think I touched a bit of a raw nerve. I have no doubt, as a consumer, that the Minister's position was undercut by the Taoiseach, one way or another. Many other political consumers felt exactly the same way.

Mr. Cowen: No matter what I say, one way or another the Senator will hold that view anyway as he clearly does not believe what I have to say about it. That is fair enough and at least we have cleared that up. From the Senator's perspective, he will maintain that myth regardless of what I say. Similarly, my position seems to be misrepresented by the Opposition because that is the only way it can argue the matter. That is fair enough. I thought the idea of coming to the Seanad was to clarify issues rather than people continuing to throw brickbats on the basis that I was in a position I certainly was not in.

Mr. Norris: We should expect a few red herrings and white elephants.

Mr. Cowen: That is the first point but I will quickly get to another. Everything we have done here is prospective from the date of the announcement. In the normal course of events we would announce this on budget day. That it is prospective is a fundamental. That is the case with all tax changes, which are prospective from the date of the announcement. We were not in a normal situation because we were in the abnormal environment pre-election, and people got into arguments. To stick to the point, I am putting forward a proposal for enactment which is prospective from the date of the announcement. [Mr. Cowen]I left it at the shortest possible period in order to avoid any speculation between announcement and enactment. That would have been the case if, as is normally the position, we were dealing with this matter on budget day.

The lesson to be learned, in order to avoid any confusion in the future, is to ensure that these debates take place in a budgetary context so that a Minister of Finance, regardless of his or her political persuasion, who wishes to make changes to the social welfare code, the tax code or whatever may do so from the day of the announcement or from a later date but not retrospectively. For that reason and regardless how well-intentioned they might be, I cannot accept the recommendations from the Senators.

I made the announcement in response to a situation created by others. My announcement was prospective from the date on which it was made — 30 April — and came about as a result of a recommendation from the Revenue Commissioners who state in their guidance notes that deeds must be presented within a month of execution. In technical terms, therefore, the date included in the Bill is 31 March, whereas the political announcement related to 30 April. It is prospective and not retrospective. I cannot, therefore, accept recommendations which seek to introduce a retrospective effect to the announcement I made, which, in the normal course, would have been made and enacted by means of financial resolution on budget day.

Acting Chairman: As it is now 6 p.m., I am required to put the following question:

That notwithstanding anything in Standing Orders, the Bill is hereby read a Second time; the sections not disposed of are hereby agreed to in Committee; the Title is hereby agreed to in Committee and the Bill is accordingly reported to the House without recommendation; that Fourth Stage is hereby completed and the Bill is hereby received for final consideration; and that the Bill is hereby returned to the Dáil.

Question put and declared carried.

**Ethics In Public Office (Amendment) Bill 2007:
Order for Second Stage.**

Bill entitled an Act to amend the Ethics in Public Office Act 1995 and to make provision for connected matters.

Senator Pat Moylan: I move: “That Second Stage be taken today.”

Question put and agreed to.

**Ethics In Public Office (Amendment) Bill 2007:
Second Stage.**

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

Tánaiste and Minister for Finance (Mr. Cowen): As Senators will be aware, there is already a substantial body of legislation in place to regulate the ethical standards of people in public office. This includes the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001, as well as the Electoral Act 1997. There is also a statutory code of conduct for office holders and this House and the Lower House have adopted codes of conduct, drawn up by the Select Committee on Members’ Interests of each House, for their non-office holding members.

Last year, the Taoiseach and the then Tánaiste decided that the ethics legislation should be strengthened to deal with the circumstance where friends offer support for personal reasons and accepting such support would not be likely to influence an office holder or Oireachtas Member in the discharge of his or her functions or duties. It does not take much imagination or experience of life to realise that there can be very human circumstances in which it would be entirely legitimate for an office holder or a Member of this House or the Lower House to accept such support. At the same time, it is legitimate to expect, because of the position he or she holds, that such an office holder or member would not be the only person to make that judgement but rather that the matter would be subjected to judgement by an independent body before the support is accepted.

6 o'clock

Accordingly, the Government decided that the ethics legislation would be amended to require an office holder or a Member of the Dáil or Seanad who proposes to accept a significant benefit from a friend for personal reasons only to seek the confidential opinion of an independent body — the Standards in Public Office Commission — that acceptance of the benefit would not be likely to influence the recipient in the discharge of his or her functions or duties. The Bill does this and so gives us an opportunity to reinforce the integrity of public life in Ireland.

I will now outline how the Bill will operate. Senators will be aware that the Ethics in Public Office Act 1995 provides that gifts given to office holders, that is, the Taoiseach, the Tánaiste, Government Ministers, Ministers of State, the Attorney General, and the Chair or deputy Chair of the Dáil or Seanad by virtue of their office, are deemed to be gifts given to the State unless the gift is a political donation, in which case it is subject to the Electoral Acts; given by virtue of some other office held, for example, the position of chairperson of a local sports club; or given by a friend or relative for personal reasons only.

This Bill relates to the last exception. It requires officeholders and non-office holding Members of the Oireachtas not to accept benefits worth in aggregate more than €2,000 from a friend for personal reasons only in a period covered by an ethics statement unless they have obtained the Standards in Public Office Commission’s opinion that acceptance would not be likely to influence the recipient in the performance of his or her functions or duties as an officeholder or member.

There can be times where a benefit is offered on an occasion when it is not practical to refuse it, for example, if it is offered without prior notification at a public function. The Bill provides that in such circumstances, the officeholder or member must seek the opinion of the Standards in Public Office Commission on the benefit afterwards.

The Bill defines a benefit as including a gift or loan of money or property or the supply of services. The €2,000 threshold will apply to benefits from the same friend in a period covered by an interests statement under the Ethics in Public Office Act 1995, typically a calendar year. For a gift or loan of money, the amount of the gift or loan will be what counts. For services or a loan of property, the value will be the commercial value less any amount paid by the recipient. If more than one benefit is involved before the threshold is exceeded, it is the one that brings the total over the threshold that the Standards in Public Office Commission must be consulted about.

I should say a word here about the choice of €2,000 as the threshold at which the opinion of the Standards in Public Office Commission must be obtained. As usual, there is a balance to be struck. On the one hand, the figure needs to be

small enough to be meaningful as an ethics requirement. On the other hand, it needs to be big enough that officeholders and Members do not have to spend their time valuing and counting every ordinary gift they receive from their friends. It also needs to be big enough to avoid the Standards in Public Office Commission having to deal with applications about relatively minor gifts. An amount of €2,000 is a fair compromise between these two sorts of consideration.

The Standards in Public Office Commission will have power to ask the officeholder or Member applying for its opinion to provide any further information it considers necessary for it to decide on the application. Such information might include, for example, details of the officeholder's or Member's official duties, the purpose of the benefit, the name and occupation of the donor, how long the donor has been a friend and whether he or she has given similar benefits in the past.

When it has formed its opinion, the Standards in Public Office Commission will notify the officeholder or Oireachtas Member in writing. If the officeholder or Member does not receive a favourable opinion from the commission, he or she must not accept the benefit or if it has already accepted, must return the benefit to the donor. If the donor refuses to take it back, the benefit must be surrendered to the Secretary General to the Government for disposal under the 1995 Act. If the benefit is non-returnable, the officeholder or Member must pay back its value, or if this is refused, must pay the value to the Secretary General to the Government. In such cases, its value will be its commercial price as determined by the Standards in Public Office Commission less any amount paid in respect of it by the officeholder or Member. Where a benefit or its value is surrendered to the Secretary General to the Government, it is regarded as a gift to the State and disposed of accordingly.

The process of obtaining the Standards in Public Office Commission's opinion will be a confidential one. The commission will be precluded from disclosing information about an application for its opinion without the consent of the person concerned or the Minister for Finance. This is appropriate, given that the application will be about benefits offered or given by a friend for personal reasons only. As the Bill is drafted, the prohibition will not apply to an investigation by the Standards in Public Office Commission or to a report by the commission to the Oireachtas, but as I will mention later, I will propose an amendment to provide that the commission's investigations of possible infringements of the new requirement are to be held in private unless the commission considers that there are compelling reasons otherwise.

The Bill will oblige officeholders and Members of the Oireachtas to make a statement to the Standards in Public Office Commission that they

are in compliance with the new requirement at the same time as they make their annual statement of registerable interests or "nil" statement. It will not be necessary to say whether the opinion of the commission was sought or to provide details of any benefit. All that will be necessary will be a simple statement in writing that the person has complied with the law.

Overall, these new provisions represent a balanced way of dealing with a very human situation. On the one hand, there are occasions where support from a friend for personal reasons only is reasonable and would not be likely to influence an officeholder or Oireachtas Member in the performance of his or her duties or functions. On the other hand, there is an obligation on officeholders and Members of the Oireachtas to observe the highest standards of behaviour. The Bill proposes a way of balancing these considerations by ensuring while support from a friend is permissible, nevertheless where such support is significant the opinion of an independent public body — in this area the Standards in Public Office Commission — must be obtained before it is accepted or retained.

The Bill also updates the thresholds for registerable interests in the Ethics in Public Office Act 1995 and the threshold at which a gift given to an office-holder by virtue of his or her office is deemed to be a gift to the State. These monetary thresholds have not been increased since the passage of the Act, apart from being changed into convenient amounts in euro at the time of the euro changeover in 2002. They have effectively stayed the same for 12 years, and I see no reason for the House to be defensive about increasing them to levels that are more realistic in today's world.

Criticism has been made of the Government's decision to propose increasing to €2,000 the figure of €650, which applies to gifts, to property supplied or lent or a service supplied at less than the commercial price, to travel facilities, living accommodation, etc., and to gifts received by an office-holder by virtue of office. I do not accept this criticism. The Ethics in Public Office Act 1995 was the first attempt to set thresholds in this area, and it is by no means unreasonable that this first attempt should be reviewed now in the light of much experience in 12 years. The world is a much different place from what it was 12 years ago and while €2,000 is not an insignificant amount, it is not a large amount either. After 12 years, the amount is being set not just for 2007 but for the next period. The €2,000 for these thresholds is the same level set as the threshold beyond which the Standards in Public Office Commission must be consulted about benefits from a friend for personal reasons only. It seems to me to be a reasonable figure.

A misconception has emerged that the €2,000 figure relates to election expenditure or political donations seems. It does not, as political donations are covered by the electoral Acts. I am

[Mr. Cowen.]

confident the Members of the House, and of Dáil Éireann, will agree it is desirable to require an independent opinion before office-holders and Oireachtas Members accept significant benefits from a friend for personal purposes and that it is also desirable to update the ethics thresholds to reflect the realities of today's world. This confidence is based on the fact the committees on members' interests in both Houses were consulted about the Bill's key provisions, including the increased thresholds, and both are in agreement with the proposed changes. The Dáil's committee welcomed the proposals and considered they would further strengthen the accountability of Members to the Oireachtas and to the public in the performance of their official duties and responsibilities.

I welcome the Seanad's committee's technical amendment to state clearly that nil statements — where an office-holder or Oireachtas Member has no registerable interests to declare — are, like statements of interests, to be sent to the Standards in Public Office Commission rather than to the Clerk of the relevant House.

I intend to introduce several amendments on Committee Stage. Some are technical such as that concerning a statement of compliance with the new requirement is a stand-alone statement and not part of an annual declaration of registerable interests. Other amendments deal with the obligations *vis-à-vis* the new requirement of an Attorney General who is not an Oireachtas Member and to set the test for benefits as those not likely to materially influence the recipient, as this is the terminology already used in ethics legislation, for gifts as registerable interests. The amendments also state the Standards in Public Office Commission has the power to investigate infringements of the new requirement and that such investigations are to be held in private unless the commission considers there are compelling reasons otherwise.

One amendment addresses a long-standing concern of the Seanad's committee on Members' interests that it be stated that non-office holding Oireachtas Members are treated the same as anyone else to whom the ethics legislation applies in investigations of complaints on specified acts. This is separate to the subject of the Bill but it provides an appropriate opportunity to address the matter and I am pleased to be able to do so.

The Bill will provide assurance to the public that where an office-holder or Oireachtas Member is offered a benefit or benefits — be it a gift, a loan or the use of a service — worth in aggregate more than €2,000, typically in a year, by a friend, for personal reasons only, then the opinion of the Standards in Public Office Commission must be obtained and that acceptance would not be likely to materially influence the office-holder or member in the performance of his or her functions or duties. I commend the Bill

to the Seanad and I look forward to hearing the views of Senators on all sides of the House on it.

Mr. Finucane: This Bill is just not good enough. The Ethics in Public Office (Amendment) Bill 2007 does not achieve all that it could and does not go far enough in making elected officials accountable for gifts and benefits they receive.

The Bill does two main things. It increases the threshold for gifts to Ministers and creates a new system for moneys given to Deputies and Senators by friends. Under the Bill, a Minister will be able to keep gifts given to him or her in an official capacity as long as they are worth less than €2,000. This figure is more than twice what it should be if adjusted for inflation, €997.80, and that means that Ministers get more into their pockets from property that would otherwise belong to the State.

The Bill creates a new system whereby a Deputy or Senator would have to seek the approval of the Standards in Public Office Commission, SIPO, before accepting a gift of €2,000 or more. If SIPO feels that the gift would not compromise the Member of the Oireachtas, he or she may accept and keep it. Otherwise it cannot be accepted. This begs the question why such a high threshold was chosen by former Deputy Michael McDowell and the Government. The sum of €2,000 is very significant and it seems that the Bill *de facto* legalises gifts of up to €2,000 to politicians without any scrutiny.

My party campaigned in the previous general election on a manifesto that included a commitment to introduce a new code of conduct for elected Members and officials to deal with complaints. This would be administered by the Standards in Public Office Commission which would have the powers to suspend or fine or both if, after due process, elected Members or officials were found to have acted unethically. It is a great shame that the Progressive Democrats and the Green Party decided to prop up Fianna Fáil and hold back real ethical reform. It is difficult to take seriously any ethics legislation coming from the present Administration. The reason we have this type of politics goes back to the attitude the Taoiseach has taken. He refuses to set standards, either for himself or his Ministers, and that is a core issue. Politics must command respect because it sets standards for those who assume high office.

Fine Gael does not pretend to believe standards of personal propriety have not been damaged by this Taoiseach. We abhor the notion that it should be acceptable that a Minister for Finance would allow a "dig out" to be organised on his behalf when speaking in his capacity as a sovereign minister of a government. That is wrong.

Much media focus in recent times has concentrated on Deputy Beverley Flynn. We are talking about legislation imposing a cap of €2,000, yet Independent Deputies are claiming the deals they

made were secret and involved millions of taxpayers' money. In the interests of openness and transparency, whatever deals were done with those Independent Deputies should be made public by the Government. I disagree with what Deputy Flynn said recently to the effect that in her case, it only mattered to the people of Mayo what deal was done. That is not right or proper in politics.

Much of the media reporting has focused on RTE's action in recent times. Despite what the Minister for Enterprise, Trade and Employment, Deputy Martin, said on "Questions and Answers", as regards the intervention of the Taoiseach, I believe a nod and a wink in the right direction was good enough for RTE in making a decision. All the nods and winks were given by the Taoiseach in his intervention. What he did on radio at the time was deliberate and calculating as regards Deputy Beverly Flynn and was not prompted, as such, by the interviewer.

RTE's vision, mission and values document states clearly that it will deliver a value for money service and be honest and transparent in all of its activities. To meet these commitments, the station must now spell out the nature of this settlement and the reasons behind it. It must also spell out exactly how it will ensure that the costs it has incurred as a result of the settlement, and the wider import of the decision, will not negatively affect investigative journalism in the future.

There is precious little in this Bill concerning the need for root and branch reform of the ethical framework governing local government activities. These debates occur against the backdrop of a decade of revelations relating to the planning system and the perception, perhaps based on fact, of a major systems error in local government.

It is the view of my party that at the commencement of a meeting or if an interest becomes apparent during the course of a meeting to discuss planning permission, councillors should be required to declare whether they have personal or prejudicial interests. That is one area I would like the new Minister for the Environment, Heritage and Local Government, Deputy Gormley, to examine. Councillors who are auctioneers should not be involved in a decision-making capacity in the framing or reframing of draft development plans for local communities. Like it or not, they have a vested interest in submissions and their success, from which they may benefit. I have said at local level that councillors, regardless of their party affiliation, should not be involved in the drafting of draft development plans for local communities. The sooner there is movement in this direction, the better. We also favour the establishment of an independent local government standards board with dual responsibility for issuing guidance on the code of conduct for local government members and investigating allegations of breaches of the code.

No doubt the three Government parties and the Independents that have decided to run along-

side them feel somewhat smug today. They are passing a weak Bill, perhaps in the belief that the electorate does not care about ethics or clean Government. In the future many people will become conscious of the defects in the ethics legislation, and in this regard the Bill is a missed opportunity. It was framed on foot of developments involving the Taoiseach and the former Tánaiste, Michael McDowell, and introduced as a fig leaf by the latter to cover up certain deficiencies that existed and to placate certain members of his electorate.

Mr. Hanafin: I thank the Minister for his very comprehensive explanation of the Bill. There is no doubt that, on occasion, we see opposition for the sake of it. I often wonder whether the Opposition, if in Government, would introduce a similar Bill to the one before us. The Acting Chairman can have no doubt that it would be because of its practicality in today's world.

Unfortunately we again heard criticism of our Taoiseach, who consistently does exactly what he says. This is proven by the fact that—

Mr. Norris: We cannot understand what he says so it is perfectly easy for him to do it.

Mr. Hanafin: He does exactly what he says and the truth of what he says is often revealed subsequently. In this regard, the attacks on Deputy Flynn have annoyed me because we often write in the sand all the good that people do while we chisel in marble the few mistakes they make. The Opposition has the chisels out tonight.

The Ethics in Public Office (Amendment) Bill 2007 has been drafted to fulfil the political commitment given in October that the ethics legislation would be amended in respect of gifts or loans to officeholders and Oireachtas Members from friends for personal reasons only. The Bill requires that an officeholder or Oireachtas Member must not accept benefits worth, in total, more than €2,000 from a friend for personal reasons only in a period covered by an ethics statement without first obtaining the opinion of the Standards in Public Office Commission that accepting it would not be likely to influence him or her in the performance of his or her official duties. If offered a benefit on an occasion on which it would not be practical to refuse it, the recipient must seek the opinion of the commission afterwards.

A gift can be a gift of money or property and includes a loan, be it of money or property. It also includes the supply of services. The commission can ask the recipient for any supplementary information it needs to form its opinion. If it cannot form an opinion that a benefit would not be likely to influence the recipient in his or her official duties, the recipient must refuse the benefit. Obtaining the opinion of the commission will be a confidential process. Officeholders and Members will have to make a statement at the same time

[Mr. Hanafin.]

that they make their annual ethics statement to the commission to the effect that they are in compliance with the new requirement. However, they will not have to state whether they have actually consulted the commission on any benefit or, if they have, provide details thereof.

In addition, the Bill amends the threshold for registerable interests and the threshold at which a gift made to an officeholder by virtue of his or her office is deemed to be a gift to the State. These thresholds are raised to amounts deemed more realistic in today's world. This is appropriate because the monetary thresholds listed in the primary legislation have not been increased since it came into effect in 1995.

Some time ago the Minister consulted the Select Committee on Members' Interests on the Bill. The committee welcomed the fact that the Bill, as introduced, met one of its two concerns regarding the existing ethics legislation. The Minister has announced that he will be introducing an amendment on Committee Stage to meet the second concern of the committee.

To demonstrate the comprehensiveness and detail of the Bill in terms of ensuring the maintenance of good practice, I will refer to the explanatory and financial memorandum. It states that the purpose of the Bill is to provide that ministerial and parliamentary office holders and Oireachtas Members are not to accept benefits worth in aggregate more than €2,000 from a friend for personal reasons in a period, usually a calendar year, comprehended by an interests statement prepared under the Ethics in Public Office Act 1995, unless they have obtained the Standards in Public Office Commission's opinion that acceptance would not be likely to influence the recipient in the performance of his or her functions or duties.

If offered a benefit on an occasion where it would not be practical to refuse it, the recipient must seek the opinion afterwards and must return or give up the benefit or its value if the Standards in Public Office Commission is unable to issue such an opinion. The Bill also increases the monetary thresholds for registerable interests and the monetary threshold at which a gift given to an office-holder by virtue of his or her office is deemed to be a gift to the State, as in the 1995 Act.

Section 1 defines the term "Principal Act", as meaning the Ethics in Public Office Act 1995. Section 2 provides that the statements prepared each year under the 1995 Act by office-holders and Oireachtas Members and sent to the Standards in Public Office Commission are to include a statement that they have complied with Section 4. It also provides that "nil statements", where the person has no registerable interests, are to be furnished to the Standards in Public Office Commission instead of to the Clerk of the relevant House of the Oireachtas, as is currently the case. Section 3 increases from €650 to €2,000 the mon-

etary threshold at which a gift given to an officeholder by virtue of his or her office is deemed to be a gift to the State.

Section 4 defines Ministers, including the Taoiseach and Tánaiste, Ministers of State, the Attorney General, the Chairman and Deputy Chairman of Dáil Éireann and of Seanad Éireann, and Members of Dáil Éireann and of Seanad Éireann, as "relevant persons". It provides that such persons are not to accept benefits worth in aggregate more than €2,000 from a friend for personal reasons in a period comprehended by an interests statement, unless they have obtained the Standards in Public Office Commission's opinion that acceptance would not be likely to influence the recipient in the performance of his or her function or duties as a relevant person, including the performance of such functions or duties by a person under the relevant person's direction. If offered a benefit on an occasion on which it would not be practical to refuse it, the relevant person must seek the opinion of the Standards in Public Office Commission within 30 days of accepting it.

A benefit can be a gift of money or property and includes a loan, whether of money or property. It also includes the supply of services, including travel facilities, accommodation, meals and entertainment. The value of benefits from the same friend in a period will be aggregated in determining whether the €2,000 threshold has been exceeded. For a gift or loan of money, the amount of the gift or loan will be what counts; for services or a loan of property, the value will be the commercial value less any amount paid by the recipient. Benefits received before the Bill comes into operation will not count.

The Standards in Public Office Commission can ask the relevant person to provide such further information, such as the purpose of the gift, the identity of the donor, his or her occupation, the length of time he or she has been a friend, whether he or she has given similar gifts in the past, as it considers necessary in order to consider the application for its opinion. The commission will notify its opinion to the relevant person in writing.

Unless the person receives the opinion of the commission that acceptance of the benefit would not be likely to influence the recipient in the performance of his or her functions or duties, he or she must not accept the benefit. If the person has already accepted the benefit, he or she must return it to the donor or, if the donor refuses it, must surrender it to the Secretary General to the Government. If the benefit is non-returnable, has already been consumed or used, the relevant person must pay its value to the donor or, if refused, to the Secretary General to the Government. In such cases, its value will be its commercial price as determined by the commission less any amount paid in respect of it by the relevant person.

A relevant person who is obliged to return a benefit or its value must do so within 30 days or

such longer period as may be determined by the commission. Where a benefit is surrendered or its value paid to the Secretary General to the Government, it or its value will be disposed of as if it were a gift to the State.

The commission will be precluded from disclosing information about an application for its opinion without the consent of the person concerned or the Minister for Finance. This prohibition will not apply to an investigation by the commission or to a report by it to the Oireachtas.

Section 5 requires the Attorney General, if not an Oireachtas Member, to furnish a statement of compliance with Section 4 to the Taoiseach and to commission at the same time as his or her annual statement of registerable interests under the 1995 Act, or, where he or she has no registerable interests, to furnish a statement on compliance at that time in any event. Section 6 updates the monetary thresholds for registerable interests in the 1995 Act. These are interests that are disclosable in annual statements of registerable interests under the Ethics Acts, and refer to items such as a remunerated trade or profession, shares, interests in land, property supplied or loaned.

This is a comprehensive Bill which covers every possible combination of events. The increase in the amounts and thresholds is a practical application for today's world. I commend the Bill to the House.

Mr. Norris: I commend my distinguished colleague on the Government benches on his brilliant rendition of the explanatory memorandum of the Bill. I hope he is a member of Irish Actors Equity because it was a superb performance. Senator Hanafin knew just where to draw the line. He did not treat us to the table of the existing thresholds. I thought for one wonderful moment he might but he did not luxuriate in that indulgence, and for that much I say: "Thanks."

Mr. Hanafin: It is all about timing.

Mr. Norris: The bits he read out were quite exciting but were not, as my friend and colleague, Senator Quinn, pointed out to me, up to the standard of his original intervention which had a certain kind of punch. All that old rubbish about things written in sand and chiselled in stone and that we must turn a blind eye to people's faults because they were in the past is not ethics.

As I said on the Order of Business, one of the problems with this is there is no definition of ethics. That leads me to conclude the Government does not have the slightest idea what ethics are, which is pretty plausible. I would have to say that not only does the Government not know, neither do the principal parties. The Minister knows perfectly well what happened the last time with all these limits and rubbish like that. Those in political parties charged with soliciting donations sent missives throughout the country soliciting contri-

butions for approximately threepence ha'penny underneath the limit. They received millions which they did not have to declare. That is precisely the understanding of ethics of all the principal parties and not only Fianna Fáil. They are all at it.

This is a kind of subterfuge and fig leaf to fool the public. The Minister kind of glanced at that in his concluding remarks when he said this was to reassure the public. I hope the public is not that gullible because this will do nothing in terms of ethics. This is because the people involved do not know what ethics are nor do they have the slightest understanding of what standards in public office, or in any kind of office, are.

I have been horrified over recent years by the number of people of all parties in this House who are plainly on the take over planning issues. I am not prepared to say we should turn a blind eye because they are human and that we should forgive them. That is fine in a Christian sense but we must attack the rot. I do not believe this Bill will do that. It is another little farrago which pretends to address the issue.

Decent people in this House — they exist in all parties and I presumptuously include myself among them — are put to the expense, trouble and irritation of signing off on all these blasted documents, which mean damn all, and then taking them off to get them notarised. Why do I have to pay €15 or so to get a declaration sworn that I have not got anything from anybody? Is it to keep the noses clean of the people who have been on the take for years?

I refer to the language here. We have heard people say at tribunal after tribunal that it was a political donation. It is a political donation when it suits and it is not one when it does not.

I sympathise with the Minister who I think is a decent and honourable man, but I refer to the company he keeps. I refer to this stuff about the gene pool and persons of like mind. As I said earlier, have a look at them. There is a whiff off them which would blind Almighty God.

I would say to Senator Hanafin that I do not believe it is fair to pillory people, especially those who are not in this House, but there was a public libel action as a result of which somebody who is a Member of the other House was found to have no reputation. Now that person just assumes she will be brought into Cabinet at some stage. The Minister can shake his head but I would like to see the Taoiseach shake his.

Even in regard to that individual, if we are serious about ethics in public life, let us have a look at banks. They got away with murder. Many people in this country who were bank officials, including this particular woman, were put up to it by banks. What about their ethics? Allied Irish Bank, for example, threatened a journalist who told the truth and said the late Mr. Haughey owed a million. It denied that in public, undercut him and exposed him to the dangers of libel. Did anybody ever do anything about that? That is

[Mr. Norris.]

where the real issue lies and not in saying I got sixpence ha'penny and the loan of bicycle from my granny, which is the kind of nonsense involved in this legislation.

I refer to so-called dig outs, Paddy the plasterer and all this type of stuff. I have great affection for the Taoiseach. While there are many ways in which he has done a good job, as Minister for Finance he received very large and confusing sums of money for which he has offered very peculiar explanations. His excuse was that legislation was not in place then and he says it is being introduced now to ensure people know how to act.

The point about ethics is that if one does not know behaviour is wrong until it is included in legislation, one is on very shaky ground. I agree with that branch of philosophers on the law who say it is almost impossible to legislate for morality. They observe that when such legislation is enacted, it is for public consumption. If there is someone in either House with malign intent, the Tánaiste knows as well as I do that the Bill will not stop them. The legislation is designed to tell the public that we are doing something, but it is an enactment which is unlikely to be effective where someone has a serious, fraudulent intent. The Bill is a waste of time which will not prevent dig-outs and all the rest of it.

I pay the Tánaiste a compliment through the Chair. He would have made a very fine barrister as he has a command of detail and can home in on it as I found out this afternoon. I do not know if the Tánaiste was watching the politics programme I saw last weekend on which it was said that while Government parties spent €15 million on the election, they returned only about €6,000. While I cannot stand over the figures, I will not withdraw from the contention that there was a great deal more in the coffers, mostly from business interests, than was accounted for openly. The contributions of business have had a disastrous effect on the American political system. Such contributions, especially those from sectoral or industrial interests, should be monitored carefully.

I would not give a damn if everything had to be recorded. I received a couple of offers of financial assistance in this election. I wrote back to say that while I was extremely grateful because nothing could be a more convincing indication of the genuine nature of a person's support than the tangible offer of money, I did not feel I could accept. I have an income as a public representative and receive allowances and certain secretarial services. The offers were not for significant sums of money, which was what was terribly moving about them. Of the offer of €10, I thought "God bless that lad down in Kilkenny who offered it". While I was touched by the offer, it would not have been honourable to accept it. If I had, why should I not have had to record it? The whole lot should be recorded, especially by political parties and not just by individuals.

The legislation is a lamentable waste of time. It is a fig leaf intended to gull the public because we are, rightly, concerned that there are some in our midst who do not have the standards expected of people in Irish public life.

Mr. Dardis: The Bill represents a considerable step forward in consolidating the legislation which was put in place previously. I was a member of the sub-committee established by the Committee on Finance and the Public Service which considered the so-called "blue book" and formulated recommendations for the original ethics legislation. It is a complex area. While we all know what we would like to achieve, to formulate wording and effect legislation is very difficult. One is either ethical or not in one's outlook. One of the problems I have with the legislation, not of itself but with regard to the people who are governed by it, is that I am not sure it will make those who wish to be evasive or who are guilty of misconduct compliant and correct. Unfortunately, the people who are compliant and who do their best to submit their returns in a proper, timely and accurate manner are the people who sometimes find themselves in difficulty as a result of questions that are then raised by the Standards in Public Office Commission. There is a mismatch there but how it can be addressed is a different matter.

The threshold of €2,000 is perfectly reasonable and appropriate. The Minister made the point that we live in a different time so the increase from €650 to €2,000 is reasonable. I have lifelong friends and last year I visited them in their villa in Spain. I stayed there for several days and we dined out a number of times. Frequently they paid for the meal. Travelling home on the aeroplane it occurred to me to wonder if I should have to declare the visit. It is entirely unreasonable that one should. These are people I have known all my life. I will bring them out when they return here, and probably return the compliment. There must be some degree of balance and proportion.

Consider also events such as the Ryder Cup or a rugby international and the situation where people are offered tickets. These events, particularly in the corporate sector, have become extremely expensive days out. Again, one might query the propriety of accepting such tickets. However, if one has been going to Lansdowne Road for the past 45 years for each match, as I have, and, on the way out of a function before a game, somebody offers one a ticket, what is one to do? I am aware that something that is given on the spur of the moment is covered, but it can reach a point where the system gets so silly as to be wrong.

Senator Finucane made a point about the requirements that might be imposed on auctioneers and people at county council level. The important issue is that one is aware of the vested interest and that it is declared. The interest should be declared and if one is prudent, one will

probably not intervene in the debate and, if one is even more prudent, one will not vote on the matter. Again, however, I am not sure whether we are going overboard in terms of the minutiae or the degree to which we ask people to be conscious of their obligations under law. That is not to say that ethics are not required.

Senator Norris spoke about the definition of ethics. Enough volumes have been written over enough generations to make it problematic as to how one would define ethics. There are enough textbooks on the matter in the universities to occupy academics for many years. However, if something walks like a duck and quacks like a duck, it is a duck. We know it when we see it and we should know what ethics are.

I have always considered the nil return to the clerk silly. One had to make a nil return to the clerk and if one was making a different return, it went to the standards office. That did not add up.

There is one large defect in the reporting requirements. Quite legitimately, we must report investments, property, farm land and so forth. However, one could have €10 million in cash deposited in the bank or elsewhere and one is not required to report it. If people intend to get up to mischief, it is more likely to happen with cash. I do not know how one overcomes that problem. If somebody has a large amount of cash on deposit, they should not be required to declare how much cash they have, just as one is not required to declare how much one has in investments, but simply that they are over a certain level. It is reasonable that people should be required to declare that. Perhaps it might be considered in future legislation.

This legislation represents an improvement, although not a major step forward. Some of the major steps were taken in the past and this measure adds to that legislation. Such legislation was absent at one time, which was wrong.

I know from reading Roy Jenkins's life of Gladstone that when Gladstone was Prime Minister, he accepted an invitation from somebody whose name I cannot recall to go on his yacht to the south of France and stay at his villa for approximately two months during a recess. I doubt he had to pay for a bottle of wine or a meal. It was all regarded as perfectly acceptable by the standards of the time. It would be perfectly unacceptable by today's standards and I understand why this is the case. However, a question of proportion is raised and I will return to the point that if people want to misbehave, they will do so in spite of legislation. Sometimes, the main onus falls on the people who are most compliant and most anxious to fulfil their obligations under legislation and a balance must be struck.

Mr. Ryan: It is a great pleasure to debate ethics with a man who recently and famously on television told us he did not need anybody to put him straight. I accept the absolute ethical compliance and standards of the Minister for Finance. My

debates with him are more about what he tolerates in others. I am taken by Senator Dardis's comment that the use of cash deposits would be the type of thing associated with questionable behaviour. I do not believe the man sitting in front of me will ever sit in his office in Tullamore and wait for somebody to arrive with a suitcase full of cash. To put it mildly, he does not need me to put him straight.

It is a question not of ethics for which one can legislate but the conscientious sense of what one should not do, not because a law or rule states one should not but because one knows it is wrong. Waiting in an office for a suitcase of money is wrong. I am indifferent as to how the public interpreted it. I am satisfied it was wrong.

I had an unfortunate accident with the electorate in 1993 and lost my Seanad seat. I had a debate and argument with the returning officer on whether I was entitled to the full recount which I was refused. I threatened to go to the High Court but did not do so. I received a phone call from a friend of mine who is a very successful business man living in Switzerland and working in banking. He asked me why I would not go to the High Court and I stated I could not afford it and I thought I would not win. He offered to pay the total cost of going to the High Court and Supreme Court. I refused the offer and he then offered to pay for my next election which would have been entirely legal in those days. I refused and I do not claim any wonderful moral superiority. It was obvious to me that it would be wrong. Under present legislation it would be illegal.

This is an Irish matter. I have no doubt that if the stories which emerged about the Taoiseach did so in any northern European country, he would have had to leave office. I am also fairly convinced that if they emerged in the United States, he would probably have had to leave office. Recently, Senator Dardis, the Cathaoirleach and I visited the United States. The legislation we have is extraordinarily generous by the standards of the United States. Senator Dardis can correct me if I am mistaken in my recollection that members of the United States Congress are not allowed accept a gift in excess of \$50.

Mr. Dardis: In Maryland.

Mr. Ryan: I think it is \$25 in the Maryland Assembly. It is either \$25 or \$50 for the US House of Representatives. For example, when one of the people we met was prevailed upon by a supporter to be his guest at a major sporting occasion — the supporter was a successful businessman who had an expensive box in the stadium — the member of the House of Representatives ended up paying out \$1,000 that he had to pay back for accepting the hospitality. It was so much in excess that the only solution was to do that.

I thought what we had learnt and, incidentally, what the Standards in Public Offices Commission

[Mr. Ryan.]

reported during the week was that people are learning how to be clever. I am not imputing to anybody in this room any false standards. I am simply saying that some of us, perhaps, tolerate things because they have always been there and we need to stand back from them. I do not believe it is correct that I can accept gifts up to €1,999 from a person or a number of persons on an annual basis and not have to declare them. I should be prohibited from that. That is the price one pays. That level of generosity handed out on a regular basis by a number of people outside politics is not the way to persuade the public that we are above suspicion.

I am not disputing for a second that those who want to be crooked will be crooked no matter what we do. That is not the issue. The issue is the statement we make of what we believe to be right behaviour. I should say, before I bring the considerable wrath of the Tánaiste down on my head, that I am not claiming some kind of moral superiority. I claim that I live by standards that I think most ordinary people do. I think most ordinary people will believe that saying it is fine for a member of the Oireachtas to accept gifts of that magnitude regularly for personal use and without anybody knowing about it is wrong. That is not the way to persuade people we are what we claim to be, which is above suspicion. That is really the problem. What we would tolerate in other people, what would be acceptable in ordinary life is not acceptable for us.

As a result of what has happened, and the greater proportion was from and within one political party, we are left in a position where we have to earn back trust, and we have singularly failed to do so. Putting in place legislation such as this, as Senator Dardis has correctly said, will not make the crooks honest but it will probably turn the honest into the appearance of crooks in the eyes of the public because that scale of generosity is unimaginable to most people.

Most people cannot imagine getting a gift of €2,000. We are setting it as the standard below which there is no disclosure. That is wrong and I profoundly disagree. Those figures should have gone in the opposite direction, although I appreciate the argument is about inflation. Those figures should go in the opposite direction if we are to be seen to be serious about what most of us are trying to be serious about.

Ms Cox: I am delighted to have the opportunity to contribute to the debate on this legislation. The Tánaiste's statement that the ethics legislation should be strengthened to deal with circumstances where friends offer support for personal reasons and accepting such support should not be likely to influence an officeholder or Oireachtas Member in the discharge of his or her functions or duties is correct. However, I fundamentally disagree that the €2,000 threshold is an insignificant amount in the Ireland in which we

live where the basic minimum wage is €8.65 per hour. For a person working 39 hours, this comes to €335 per week or €1,453 per month gross. An amount of €2,000 is almost six times the weekly rate for someone on the minimum wage. I do not know where the Tánaiste comes from but in Galway, €2,000 is not an insignificant amount. In my household €2,000 is not an insignificant amount and it is not good enough to suggest that it is acceptable for Members of the Seanad, Members of the Dáil and officeholders to accept gifts for personal use up to a value of €2,000 in a calendar year from any number of people.

Since I became involved in politics in 1995, the view of people has always been that politicians are dishonest, unethical and corrupt. We strengthen that image by maintaining that €2,000 is insignificant and can be accepted by officeholders without influencing them. Perhaps €2,000 would not influence me, but I would not like to put it to the test and I do not believe others should be asked to put it to the test either. If Members of this House or officeholders need to get a "dig out", so to speak from their friends, then let us allow them to get such a "dig out" from their friends but only in the context that the old threshold of €650 is enough. A sum of €2,000 is too much for Members of the Oireachtas or officeholders to be allowed to accept.

Multinational organisations throughout the world have what they call a no gifts policy. They advise people dealing with their organisations not to send gifts and not to take any of their employees to lunch, send Christmas presents or buy them a drink in the local bar because they are not permitted to accept it. That represents worldwide corporate ethics. However, the Government is stating that such a level of ethical behaviour is not good enough for Members of these Houses and officeholders. We will allow a person to take €2,000 from Joe, €2,000 from Paddy, €2,000 from Paddy's wife and €2,000 from Paddy's girlfriend and it is all acceptable. An officeholder could get €8,000, €10,000 or €12,000 every year for personal reasons.

Let us say that I spend all my salary on paying my election expenses, or on gambling, drink or whatever the problem is. If people give me a "dig out" and I am a Member of this House, I should not be entitled to such a "dig out" without declaring it. A sum of €2,000, which is six times the weekly minimum wage, is unfair and only serves to reinforce the image that every politician is corrupt. I will not support the Bill and will call for a division on it.

Mr. Quinn: I welcome the Tánaiste back to the House. He is being kept very busy today. As I was not sure about the Bill, I asked myself a few questions about it. Is the Bill necessary? Is it sufficient? Will it achieve its objective? Will it inhibit worthwhile or other action that might not otherwise have happened? Is it fair to raise the

threshold from €650 to €2,000? Unfortunately, the Bill is necessary. Since I entered the House almost 15 years ago, a number of ethics Bills have been enacted but the issue of gifts has not been covered. However, last October, the Taoiseach promised this would be addressed. Times have changed and Senator Dardis referred to Gladstone. When he sat in his office one day, he discovered he had posted at the expense of the state a letter using a penny stamp. He took a stamp out of his pocket, tore it in half and threw it in the waste bin. That standard is far removed from where we are today.

I am not sure the Bill is sufficient but the Standards in Public Office Commission will decide whether it is acceptable. The legislation will set a standard that will help people to decide whether gifts are acceptable. It is unlikely the Bill will achieve its objective but it is a step in the right direction. I dislike the thought of more legislation because the Bill will inhibit otherwise worthy objectives. There is a possibility people who have been successful in life and who would be valuable Members of the Houses may decide there are too many disadvantages to seeking election and devoting time and attention to working in the Oireachtas where they would have done so 20 years ago because there was less intrusion into people's daily lives.

I sat on the better regulation forum, established by the Government earlier this year. Impact analysis was considered for better regulation in that before legislation is introduced, its likely impact should be analysed. One of my fears about this legislation is that it could inhibit and disadvantage those who might have been tempted to enter the Houses and give of their time to help the State. I do not have a problem with the increase in the threshold from €650 to €2,000 but I acknowledge Senator Cox's comments and I understand why people are concerned about this because it might not be a large amount to some whereas it may be to others. However, the Minister has in mind continuing inflation because the threshold will be in place for a number of years.

Reference has been made to the regime in the United States. I am on the board of an organisation that collects political donations. It has a number of rules, one of which is it only allows contributions by individuals and not companies. The organisation does not allow contributions by foreigners and, therefore, I cannot support its political activities. There are difficulties in accepting a gift.

Senators Ryan and Dardis referred to accepting an invitation to attend a football match in the US and then discovering the cost of the package. A friend of mine accepted an invitation from a US biscuit company to attend a golf match in Florida every year but when he was told by his company that he could no longer accept the gift, he sought to pay for the package because he still wanted to attend. However, it was embarrassing for shareholders of the biscuit company and the

shareholders of the companies whose executives accepted the gifts when the cost of the golf package emerged.

The legislation is a step in the right direction but it is a pity we must move in this direction because it presents disadvantages. However, the Minister has it right and I congratulate him on it.

Ms White: The contributions of Senators Cox, Dardis and Quinn were very interesting. As Senator Cox said, the public has a problem with politicians. If one says one is a politician, it is presumed one is up to something and one is not 100% honest. However, based on my experience as a business person, one is either honest or one is not. Senator Dardis has already stated that one either plays it straight or does not. From my own experience, as human beings we must every day practise and discipline ourselves so we can have a standard of ethics and honesty.

With my own company I used to put the young people I employed on the straight and narrow, telling them not to take anything not belonging to them. If they asked, it may be given to them. This was particularly true as chocolates were so tasty.

When being elected to the Houses of the Oireachtas, the people, our electorate, place great faith in us. We are here to represent the people and be accountable to them. Being elected places great responsibility on us to behave and be seen to behave in a way that respects the people and this House.

The Bill before us is a start. It specifies the amount which relevant people, such as Deputies, Senators and Ministers, may receive from friends for personal reasons before the opinion of the Standards in Public Office Commission must be sought. The Bill clarifies the mechanisms by which a recipient must declare and return donations when necessary, that is, when the Standards in Public Office Commission cannot state that accepting it would not be likely to influence him or her in the performance of his or her official duties.

I am especially pleased to see there are a number of ways in which the commission may ensure that an unacceptable donation may be reimbursed. For example, if the donor will not take the donation back, the recipient must give it to the Secretary General to the Government. If the donation was not financial in character and the donor will not accept reimbursement, the recipient must pay an amount to the value of the donation to the Secretary General to the Government.

This provides strong direction to recipients as to how they should proceed when they have received a donation from friends for personal reasons only. This is to be heartily welcomed. We should be grateful for this legislation as it clarifies the matter for us and may help us confront the media and public citizens. As the Minister stated

[Ms White.]

in his speech, this Bill gives us an opportunity to reinforce the integrity of public life in Ireland.

Mr. Cummins: I welcome the Minister to the House. Legislation such as this is necessary but raising the limits from €600 to €2,000 is ludicrous. The current requirement to disclose the acceptance of donations of even €600 is more than sufficient in my opinion.

In the past ten years I probably received less than €1,000 in total donations and I find it incredible to think politicians on any side of the House could accept several donations of up to €2,000 from individuals in the wake of this legislation. That is unacceptable and the public would not view it as acceptable for public representatives and politicians, who are paid well, to accept contributions such as this. It is wrong.

It is also wrong that people who do not get donations must go through red tape from the Standards in Public Office Commission. It is ludicrous that people not in receipt of donations must have everything noted down and have it signed by a peace commissioner or notary public. Such a procedure may be necessary for people in receipt of large donations but for those receiving minimal donations, or none at all, it is ludicrous for them to have to go through the red tape. Raising the limit to €2,000 sends out the wrong message to members of the public. After all, it is taxpayers who pay us and they pay us well. To allow people to accept several donations up to €2,000 without declaring them is despicable.

Tánaiste and Minister for Finance (Mr. Cowen): I thank the Senators who contributed to the debate. I will try to deal with a couple of the points that were made.

A number of Members do not seem to realise that gifts given to officeholders by a friend or relative for personal reasons only are, regardless of the amounts involved, exempt under existing legislation. We need to address that situation in light of controversies that arose. In 1995, it was felt that we should exempt gifts given by relatives or friends for personal reasons from the provisions of the ethics legislation. I am now trying to find a threshold — before now there was none — that would be reasonable in all circumstances. This is a matter of judgment and there is no scientific accuracy involved.

If people want to do wrong or if they are involved in doing wrong, they will, regardless of the legislative framework, proceed with what they are doing. What we are trying to do is show the public that there are rules and regulations with which Members must comply. We are also trying to highlight the fact that there is a commission which oversees matters in this regard.

I am trying to strike a balance. Senator Quinn referred to trying to avoid intruding into a person's personal affairs, regardless of whether he or she is an officeholder or Member of the Houses

— who may, no more than any other citizen, require or be obliged to obtain assistance from a relative or friend. There are a number of circumstances, for example, a person falling ill, in which a family would come together to deal with matters. However, it is not for me to speculate on the exact nature of such circumstances. I merely wish to emphasise that there are no limits in place at present and that payments such as those to which I refer are exempt.

We are intent on reducing the level of exemption to amounts of €2,000 or less which are being used for personal reasons and which were provided by a relative or friend. A person would be obliged to obtain the agreement of the Standards in Public Office Commission that accepting an amount greater than €2,000 would not in any way materially influence or compromise him or her in the performance of his or her duties. There may be circumstances where that is the case but at least we are providing a third party interest to help determine the position rather than, as is currently the case, allowing an individual to make a judgment call on his or her own.

Relative to where matters stand, the Bill represents an improvement in terms of what will become subject to third party confirmation. It is a legislative response to this specific issue and to statements made by the Taoiseach and the then Tánaiste.

The other aspect of the Bill relates to updating the position in respect of what should be the amount which applies to gifts, to property supplied or lent or a service supplied at less than the commercial price, to travel facilities, living accommodation, etc., and to gifts received by an officeholder by virtue of office. I am stating that, for consistency purposes, this amount should be set at €2,000. Again, it is a matter of judgment. I do not expect everyone to agree with me. There are some who suggest that the amount should be no more than €50, while others regard the figure of €2,000 as striking the right balance. There are arguments on both sides and individuals have their views. I am trying to strike that balance. I do not accept that everybody regards politicians as corrupted. We have had a general election in which everyone has participated.

Ms White: Hear, hear.

Mr. Cowen: People have come out and voted. They have not voted because they think the people they elect are corrupted or unfit for public office. They entrust the running of the country, the parliamentary functions under our Constitution and our executive functions to us on the basis that they believe at this time that whatever Members have been successful, we will face the same sort of outcome. I wish those in this House who must go through that process in the coming weeks well.

We must not be so defensive as to characterise this profession as starting from the wrong place.

Public accountability means that whatever mistakes are made or where a breach of trust occurs, they are dealt with and have consequences. Accountability is about putting in place mechanisms and systems to ensure we do not have a systems failure of the magnitude that may have caused the breach of trust in the first place so that one learns from that lesson, there are consequences for the individual and one moves on with the system, its reputation and that of the profession intact. There are circumstances where the finger can be pointed and a breach of trust occurred in respect of certain individuals or instances in the past. That is a fact.

Since the mid-1990s, we have sought to set up a framework, given the interaction of business and politics and the cost to individuals of engaging in public life and seeking to be elected to public office. We have devised a legislative framework, including codes of conduct, for officeholders and Members of the Oireachtas. On the one hand, from his perspective, which I am sure is sincerely held, Senator Cummins made the point that we should have certain limits. He also made the point that since he is not involved, why should he be asked to sign all these forms. If we are to have credibility, we must all undergo the discipline of adhering to whatever framework we are being asked to deal with so that the public can have confidence in the generality of all of us. The fact that we are being asked to do it is not to suggest that there is a suspicion that one is not right. It is a question of providing an objective and transparent method by which people can see that one is abiding by the rules set down in the legislation.

As I have said, that is the principle of accountability we are trying to discharge. There can be a view about levels and amounts and there will always be a debate about this issue. It is for me to emphasise in a context of winding up this Second Stage debate that the present law provides a full exemption in respect of support from relatives and friends for personal purposes only. We are introducing a threshold where none existed before and learning the lessons for the purpose of maintaining public confidence. If there was any confusion or controversy about it in the past, we are now saying that this is the clarification in legislative form that we wish to bring to the table at this stage based on the balancing of necessary issues concerning on the one hand, intrusion and accountability and on the other, personal arrangements within a family that may be required. We can all think about human circumstances where that would be necessary and where no public trust is in any way at risk by reason of the availability of that for the person concerned. It is about finding that balance.

I know that in the politically correct age, there are people who can go to a total *de minimis* rule of having no exemption or an exemption of €50. Someone could make an argument for an exemption of €200, €300 or €2,000. The impact of such a move must be gauged. We must be mindful of

the extent that it could deprive us of people entering public office if they believed such intrusions would not allow them to go ahead. Various Members gave their perspective on the provisions but I am trying to strike a balance and improve the current arrangements. I am taking the opportunity to update the various thresholds which have been in place for nearly 15 years. We do not need to be as defensive as some are in this area. One does not legislate for integrity but instead provides a method of transparency that gives confidence to the public that Members are abiding by certain rules and regulations in ensuring public life is not tainted by corruption.

Question put and declared carried.

An Cathaoirleach: When is it proposed to take Committee Stage?

Mr. Leyden: Tomorrow.

Committee Stage ordered for Wednesday, 4 July 2007.

Sitting suspended at 7.25 p.m. and resumed at 7.35 p.m.

**Personal Injuries Assessment Board
(Amendment) Bill 2007: Order for Second Stage.**

Bill entitled an act to amend and extend the Personal Injuries Assessment Board Act 2003.

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

Question put and agreed to.

**Personal Injuries Assessment Board
(Amendment) Bill 2007: Second Stage.**

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

Minister for Enterprise, Trade and Employment (Mr. Martin): The amendment of the Personal Injuries Assessment Board Act 2003 centres on the activity following the Personal Injuries Assessment Board, PIAB, making a formal award. While PIAB awards mirror court awards in that both have regard to a book of quantum to determine the appropriate award to be given, some claimants choose to reject their award and commence litigation proceedings in the hope of receiving greater compensation. It is their right to choose this course of action and the Bill before us in no way interferes with that right.

However, as proceedings advance, some claimants are accepting the same amount as the PIAB award but also recovering legal costs and additional costs of up to €1,500 to cover the cost of engaging a solicitor to assist with the original PIAB claim. The proceedings are therefore unnecessary for the claimant to receive the same

[Mr. Martin.]

level of award and this development completely undermines the rationale and positive impact of the PIAB. If it is allowed to continue, the consequences will be far-reaching and the cost burden will fall on the consumer and business. We must not forget that it is only a few years since businesses were being squeezed out of existence by the spiralling costs of insurance. The PIAB has done a great deal to address this unhappy set of circumstances.

The Joint Oireachtas Committee on Enterprise and Small Business made the following recommendation in its Third Interim Report on Reforms to the Irish Insurance Market, "Where, not having accepted a PIAB award, the court award is equal to or less than a PIAB award, legal costs should not be allowed to the claimant." The proposed legislation will implement this recommendation.

Section 1 of the Bill adds two new sections to the Personal Injuries Assessment Board Act 2003. The new section 51A provides that where a claimant rejects a PIAB assessment that has been accepted by a respondent and where he or she fails in any subsequent proceedings to get more than the amount determined by the PIAB assessment, he or she will not be entitled to legal costs. The new section 51B provides that no legal costs shall be allowed for the making of an application to the PIAB. Section 2 of the Bill provides for the citation of the new Act.

The PIAB was established in April 2004 as part of the Government's insurance reform programme with the aim of allowing certain classes of personal injury claims, in respect of which liability is uncontested, to be settled without the need for the costs associated with litigation. The threat of rising insurance costs at the time posed serious risks to Irish business and the economy generally.

Under the Personal Injuries Assessment Board Act 2003, claimants are obliged to submit claims to the PIAB. They may submit their claims directly or may employ a solicitor at their own cost, as is the case with the Employment Appeals Tribunal. Since its establishment, the PIAB has successfully fulfilled its legal obligations. It is now assessing claims three times faster and four times cheaper than under the old litigation system. To the end of May 2007, the board had made actual savings of more than €45 million on awards totalling €115 million by comparison with the old, unwieldy, adversarial and litigation-based system. This is quite an achievement in such a short space of time and can be only good news for accident victims, business and consumers in general, who have seen big reductions in the cost of their insurance premiums.

The Personal Injuries Assessment Board has succeeded in establishing a new non-adversarial culture of settling claims. It has put paid to the long wait for compensation and the adversarial approach to the process that previously led to huge uncertainty and stress for claimants. Within

a short number of years the old system has been replaced by a speedy, low cost, user-friendly system.

I refer to examples of how the Personal Injuries Assessment Board has pared down the personal injury claims process in a wholly positive way. In 2005, the number of personal injury cases going through the Irish courts system dropped from more than 35,000 cases in 2004 to fewer than 5,000. The effects are felt throughout the courts system where valuable time has been freed up to deal with cases that should more properly reside there.

The board is a new body which has significantly changed the environment for making personal injury claims and is the subject of regular challenge. I am aware of these challenges and the Government will take whatever steps are necessary to ensure the board is not undermined in its work and in its objectives.

It is projected by the PIAB that an absence of corrective legislation has the potential to lead to the rejection of almost all PIAB assessments which will subsequently proceed to litigation for the sole purpose of securing costs. The Bill addresses the issues I have described in order to ensure that the stated Government policy of streamlining the settlement of personal injury claims is not permitted to be circumvented in the manner currently evidenced.

The current amendment is a short technical proposal designed to address a significant risk to the intent of the Act. With this in mind the cooperation of Senators in assisting the smooth passage of the Bill through this House would be appreciated.

Mr. Coghlan: I welcome the Minister to the House and thank him for his outline. Notwithstanding what he has said, the Opposition is not happy with the Bill. Fine Gael supported the setting up of the Personal Injuries Assessment Board but we cannot support the Bill. It was this party that first called for it to be set up and led a charge on the cost of insurance and the cost of living in general and forced the Government to act. However, a legal and possible constitutional principle is being trampled upon. The purpose of the Bill is to provide for a situation where a claimant rejects a PIAB assessment that has been offered and where he or she fails in the courts to win more than the amount offered by the board. I understand the logic behind this proposal; nobody wants to encourage frivolous claims and nobody wants to tie up the time of the courts unnecessarily nor add to the costs incurred by business and employers.

The Bill is a step too far, aiming as it does to restrict, through discouragement, the exercising of the legitimate, democratic and legal rights of citizens. I refer to statements from representatives of the Government at the time of the passing of the original legislation which set up the Personal Injuries Assessment Board in 2003. It is

in the context of that debate and the undertakings of the Ministers in Government at the time that we raise these objections today.

The then Minister for Enterprise, Trade and Employment, Deputy Mary Harney, stated during the Second Stage debate in this House:

I am convinced the introduction of the PIAB, as well as the other reform initiatives being undertaken by the Government, will lead to a proper functioning market that will attract new entrants into the market and provide the much needed competition to drive premia down further.

Fine Gael believes this to be the case. While premia could always be lower, the Personal Injuries Assessment Board has done great work in helping reduce costs. Where is the evidence that people going to the courts are doing otherwise? Deputy Michael Ahern, the then Minister of State at the Department of Enterprise, Trade and Employment, stated at the end of that debate:

The PIAB is not designed to deny people's access to the courts, nor their entitlement to seek independent legal advice. The priority for the PIAB will be to implement fair procedures in accordance with the principles of natural justice as apply in this documents-only procedure. At the end of the Personal Injuries Assessment Board process, the parties are entitled to reject the award if they consider they would secure a more favourable outcome through the courts system.

Why is there to be a U-turn? At the time of the publication of this legislation, we were specifically informed that access to the courts would not be denied or discouraged. Those who feared legitimate claimants would be denied their day in court were placated time and again by the Government which said they would not be discouraged or forced out of the courts.

I wish to quote another Minister, the former Minister of State, Deputy Fahey, who stated in the Dáil:

It has also been alleged that respondents will consent to a case going to assessment with the full intention from the outset of rejecting the award and fighting liability in court. This makes no financial or tactical sense. Why would a respondent waste fees on the PIAB and then incur litigation costs? Delaying a case never operates to the advantage of the respondent but always enhances the value of the claim with the passage of time, which hampers rehabilitation. If potential defendants consider that they have good prospects of defending a case in full, they are anxious to do so at the earliest opportunity so that the reserve against potential liability can be taken off their books.

That is exactly what we are arguing today. There is no incentive to anyone who is simply trying to play the system to go to the PIAB with the full

intention of frivolously going to the courts. Only where there is a legitimate concern at the decision reached by the board would a decision to proceed to the courts follow.

We supported the establishment of the PIAB but laid down some important markers. We made the point that Article 34 of the Constitution prescribes that justice must be administered in courts established by law, by judges appointed under the Constitution and, in general, must be administered in public.

There are in law very specific provisions which allow the exercise of limited functions and powers of a judicial nature by other than judges. Clearly, however, the exercise of such powers must be in accordance with the principles of natural justice and with fair procedures. Under the original legislation injured claimants are effectively obliged by law to present their claims to this board which will operate in secret and will effectively deny them the right of any independent advice, assistance or representation. Despite these concerns, we favoured the Bill. This debate is a step too far. We must draw a line and reconsider whether it is appropriate that the State seek to influence and discourage people exercising their legal rights. For that reason, we will oppose the relevant section of the Bill.

I was very taken by the statement issued today by a young barrister colleague of mine in the other House, Deputy Creighton, who believes rushing the Bill through both Houses without proper debate is not correct. She has argued well in that she states that the Bill will narrow the options available to members of the public seeking justice and proper recompense when they have been wronged. The Bill is being rushed without public consultation as though it was emergency legislation ensuring that no views, perhaps other than those of the Government and the limited offerings in this House, will be heard. Perhaps it is overboard in regard to the views of the insurance companies.

Deputy Creighton has made an earnest call, which I ask the Minister to take on board, to allow for consultation with the Attorney General and to give him breathing space to investigate the constitutional issues which arise in all of this.

Mr. Leyden: I welcome the Minister and the senior officials in the Department. I also welcome Ms Patricia Byron, chief executive of the PIAB, who is in the Visitors Gallery. I wish the Minister success on his re-appointment as Minister for Enterprise, Trade and Employment. I was delighted when he was re-appointed because I have been at many public events which he has attended and heard many of his speeches. He has a grasp of enterprise, trade and employment. As someone who served in the trade Department, I know the intricacies of that Department and the Minister has brought great knowledge to it. Certainly, he has contributed greatly to the success of the Fianna Fáil Party in the general election

[Mr. Leyden.]

by his appearances in press releases and at media and other events. In his Department, the Minister has shown he is someone who is alert to and can cope with the competition we will face in future. It is another of the reasons for our success.

I suggest to Deputy Creighton that she leave her interests outside the House when making statements on the Bill before us.

Mr. Coghlan: I simply picked up on a statement which was issued.

Mr. Leyden: I presume it was a vested interest speech.

Mr. Coghlan: I could not possibly speak for a Member of the other House.

Mr. Leyden: I was in another field before being elected to the House, but it is important to consider the legislation from the perspective of the consumer. The Bill was published before the election. The Joint Committee on Enterprise, Trade and Employment, of which Senator Coghlan was a member—

Mr. Coghlan: And honoured to be so.

Mr. Leyden: —recommended unanimously that this short Bill should be brought before the House to amend the Personal Injuries Assessment Board Act. I note that the Joint Committee on Enterprise and Small Business had a poor election with its Chairman, Vice Chairman and several members losing their Dáil seats. I hope the trend does not extend to the Upper House, including Senator Coghlan.

Mr. Coghlan: I would want to mind my back, would I not?

Mr. Leyden: It applies to us all. The Fianna Fáil parliamentary party supports the Bill unanimously. While the party includes quite a number of lawyers who have certain concerns about the legislation, they feel its provisions are necessary for the consumer and the overall good of the community. The original legislation, which was enacted when the Minister for Health and Children, Deputy Harney, was the Minister for Enterprise, Trade and Employment, represented a significant and revolutionary innovation. When Fianna Fáil entered Government five years ago, insurance was the single most significant issue affecting trade and Irish business. The cost of insurance has dropped by approximately 50% in the interim, which is amazing. That we have tackled car and personal injuries insurance costs has changed a significant facet of business in Ireland. The PIAB has been responsible in the main for the changes which have come about. It was a significant innovation for the Government to establish another semi-State organisation at a

time when we were starting to reduce their number.

The PIAB, which was framed in 2004, has been very successful in achieving its aims. It has reduced the cost of claims for the consumer. Under the courts system, legal fees represented approximately 46% of claims, whereas current processing costs represent only 7% of awards to claimants. Claims used to take an average of three years to process, but this has now been reduced to 7.43 months, which is a major change. The PIAB has now reached full-flow activity and expects to deliver compensation payments in excess of €100 million annually from 2008. Clearly, the PIAB has been a great success from the points of view of consumers and the courts which no longer have to process the costly and time-consuming cases which are now resolved by the board.

However, a trend has emerged which was not envisaged in the original Act and a way around the system was devised. Some solicitors will reject an offer made by the PIAB but agree to a similar one afterwards and then charge fees. The Government has therefore had to bring forward the amending legislation.

I understand, and the Minister may be able to confirm, that he consulted the Attorney General who advised that the Bill is constitutional. Circumstances have emerged which require to be remedied. The Bill provides a better deal for consumers by closing a loophole the original Act did not anticipate. If an amendment to address the issue which has arisen makes the working of the PIAB more successful, the Minister is to be commended on making it with the advice of his senior officials and the Attorney General.

I put on record our admiration for Ms Dorothea Dowling, the non-executive chairman, and our colleague, Senator O'Toole, the vice-chairman of the PIAB, who have brought great expertise to this area, as well as for Ms Patricia Byron and her team who have been extremely successful. In the words of a former Taoiseach, they have done the State some service. We commend their work and their running of the organisation.

Mr. O'Toole: He lost the vote as well.

Mr. Leyden: Well, he did some service. We will not lose the vote tonight. I have a personal involvement or interest through a family member but it is not a vested interest. The working of the organisation has been exemplary.

Mr. Coghlan: Nobody doubts that.

Mr. Leyden: I feel personally involved in this because I was a member of the committee on enterprise and small business which was faced with this dilemma in 2002. Senator Cassidy, who was a Deputy at the time, was chairman of that committee and former Deputy Martin Brady was

vice-chairman. The committee spent many hours of work on this. We were most impressed with the strong submission made by Ms Dorothea Dowling. It was as a result of her submission and the impact of the previous Minister and the present Minister that the PIAB came into being.

The Minister, given his responsibility for trade, will be aware of the effect of this legislation. This is the first Bill the Minister has brought before the House since his re-appointment as Minister. I commend the Bill to the House, and hope it will be unanimously agreed by the Members. It is in the best interests of consumers. Solicitors have found plenty of work opportunities. They can be more constructively engaged in important legislation. There is an amount of registration work available with regard to new properties and the proper registration of those properties and of wills. The running of legal practices has changed slightly given that this lucrative cash cow is somewhat removed. Nevertheless, I have not met any hungry solicitors or barristers recently. They are surviving quite well on the work that is available. In this area, our concern is the consumer.

Mr. O'Toole: I thank the Minister for bringing this legislation before the House. My colleague and fellow Kerry man, Senator Coghlan, accused the Minister of rushing the legislation but if I had my way, it would have been before this House last April. Far from being rushed, the Bill was published last April and there have been newspaper articles about it over the last three months. Everybody has had a chance to examine the legislation and offer their view.

I must declare a vested interest in this as I am vice-chairman of the Personal Injuries Assessment Board. I am proud of what it has achieved and to have been part of that. My colleagues, Senator Leyden and Senator Coghlan, have also made a huge contribution. We might have differences of opinion with Senator Coghlan tonight but that does not take from his committed interest in this.

First, I will clarify what we are doing tonight. We are correcting an issue in the Bill. The Minister will be aware that the PIAB conducts a constant assessment of how the legislation works and its efficiency. It is our hope that, perhaps, towards the end of next year we might examine this and decide whether some things need to be changed. There will be time for consultation with all groups and the joint committee on enterprise and small business might deal with it at that stage.

I will explain what happens in simple language. The PIAB goes through a process and arrives at a figure, which is offered to the claimant. That might be the end of it; the claimant might accept the figure and the case is over. However, because of another court award, we are unable to deal directly with most of the claimants. Now, the solicitor claims that he or she might be happy with the amount being offered but is not happy with the legal costs. The costs are sent to be taxed,

assessed and paid by the registrar. We are effectively dealing with a situation where there is a cost of up to €1,800 being placed on something which we assess as being worth €80. This is one of the issues raised. It does not deny anybody his or her day in court. It goes further than what the Joint Oireachtas Committee on Business and Small Enterprise discussed, which was that if somebody goes to court and does not receive a higher award he or she should not get costs, which is the format in other court cases.

To reply to Senator Coghlan, in cases which go to court the assessment work of the PIAB with which the solicitor has no engagement is now valued at up to €1,800 and is added to the costs. We are going backwards. I wish to recall the debate we had in 2004. Both sides of the House were completely misinformed by information.

Prior to the debate, Mr. Conor Maguire of the Bar Council came before the Joint Oireachtas Committee on Business and Small Enterprise and told us the answer was to make personal litigation what was termed a "lawyer-free zone". He introduced this phrase to the debate. I and my colleagues, Patricia Byron as chief executive, and Dorothea Dowling as chair of the PIAB, are accused of having a go at legal people. We want to work the legislation as it exists. At that stage, Mr. Maguire said the projected costs to the State would be between €10 million and €30 million per year and that the number of people required to run it would be 200 or 300.

There is no cost to the State. The PIAB is self-sufficient and self-funding and will continue to be. It has a maximum of 85 employees at full flow. During the debate on the original Bill, Fine Gael Senators made impassioned debate about how difficult it would be for claimants to go before the PIAB and make their cases without solicitors. I had to explain to my colleagues this would never happen because it was a paper engagement only and was like sending in one's car registration form.

I had to hold the hand of my colleague, Senator Leyden, after the debate because he was extremely concerned. He had spoken to local solicitors who thought they would be out of work. I am glad he made the point today that they have plenty of work. The view stated was that the PIAB was established to get rid of lawyers and that they would have no more work. This was despite the fact we stated at best 25% of cases would go to court whereas at the time only 10% went to court because 90% were settled. A threat to lawyers never existed.

I have one message for lawyers. Nobody understands the law better than them. What the PIAB does is implement the law of the land. If they have war it is with us as legislators and me as a Senator. It is not with the PIAB or the people doing the work. They are simply the messengers of us, the legislators.

8 o'clock

[Mr. O'Toole.]

In the Minister's speech, he stated the PIAB is challenged regularly and the Government will take whatever steps are necessary to ensure the board is not undermined in its work. I ask the Law Society who will receive a report on it to read this. It is simple, primary school sixth-class English. This is the will of the people and the legislators and it will operate. If difficulties exist they should sit down with us and tell us what are those difficulties and we can work them out. We do not need to be at war with each other.

We have reduced from three years to seven months the settlement of cases. Is there anything more to be stated? I have high regard for the views of my colleague, Senator Coghlan, on this general issue. If difficulties exist I want to hear what is the solution. He made a valid point on the premia. Unfortunately, the PIAB does not have any control over premia. Senators Leyden, Coghlan and myself as members of the Joint Oireachtas Committee on Business and Small Enterprise have a role in it. We started on that road. All of the insurance companies came before the committee and were asked about their profits.

We also indicated that we would like more people in the market. At this stage we can do no more. The premia have reduced. However, may I state gently to my colleague Senator Coghlan it is incorrect to state a U-turn on the right of appeal has occurred. There is no U-turn on the right to appeal. What we are saying is that if people go to court their costs should be awarded on the basis of the work of the solicitors in the court or attached to the court case, not attaching to the work done by the PIAB. If this legislation is not passed this evening we would go backwards.

I remind the House that prior to 2004 not a month went by in this or the other House when a Member did not stand up and cry about their neighbour's child, their nephew, or son or daughter who was either unable to get or had to pay €3,000 per year for basic insurance cover. We knew those people and we talked about them. Senator Coghlan and I mentioned them. People starting up businesses had to self-insure, they had to carry the risk themselves because they could not get insurance cover. That is only four years ago and we are not going back to that time.

In regard to consulting with the Attorney General, I presume the Attorney General has seen this legislation. I know he would have to have seen the legislation but I would like to hear the Minister put that on the record and that we are not making this up as we go along. This is pro-consumer legislation. What have we done? We have reduced the time taken to process a case from three years to seven months. We have reduced the cost of premia to 1999 rates. We have saved the State approximately €45 million. Each one of those euro can be multiplied by eight. Apart from not costing the State anything, the PIAB has one third of a billion euro and is at full flow and meeting every target.

Much debate took place in the media before Christmas to the effect that we would never reach full flow. Misinformation was put out that we would need to deal with 200 odd cases per week and that we were dealing with an average of only 45 or 50 cases or whatever. I told the House that was not the case and that, in fact, we were close to that number. We have now reached that number and have met all targets and are still assessing where we are going.

The Minister need have no worries. The team running the PIAB come under extraordinary scrutiny from its board, month after month. As chair of the finance committee, I can assure the House we are getting value for money, that there is a constant assessment of costs and that the PIAB is delivering on every target and on every key performance indicator we have set up.

The PIAB is pro-consumer and is doing the business. It exists for us and for the people. It is a winner for everybody, including the lawyers. The lawyers have not been put out of business nor will they be. It is in nobody's intention to do that. Our intention was simply to deal with cases that never went to court in any case. People said we should deal with cases that do not need to go to court. I could give the Minister 12 examples on the lack of stress. A number of people who have gone through the PIAB process have told me they were dreading the thought of going to court, of having to give evidence, of being cross-examined and so on. There is a great sense of relief and freedom from stress.

I am the ICTU nominee on the PIAB. From a worker's and an employer's point of view it gets people back to work earlier. It means people do not have to stay out of work for two years until the case is over. I could speak for a long time on this issue. I compliment the Minister for putting the PIAB in place. It has met all targets set by the Oireachtas. I wish to reassure Senator Coghlan that all the problems he has raised can be dealt with. The point he has made, which has not been dealt with, in regard to the profits of the insurance company is a valid one. It is not an issue for the PIAB but for the incoming joint committee on enterprise and small business. The outgoing chair of the former committee has made it the next target to be dealt with. We have had the insurance companies come before the committee, we have asked the direct questions and looked at their accounts and have insisted that they make information available to the PIAB. There are also other difficulties which we are dealing with under the PIAB but we will not deal with them this evening. Under constant attack from all sides we want the Oireachtas to understand that we are doing what the Oireachtas sought of us.

I commend the Bill to the House. It is important, effective and key to the continuing success of the PIAB.

Mr. Hanafin: I also support the Personal Injuries Assessment Board (Amendment) Bill. As a member of the Joint Committee on Enterprise and Small Business, I was proud to have been part of the group that took submissions and played some part in the establishment of the PIAB. I remember those submissions and I remember jobs being lost at the beginning of the last Dáil and this Seanad because people could not get insurance. Even if they were prepared to pay the large premiums, businesses were closing and we needed to take action. The Government took positive action and the PIAB is one of the great successes of the last Dáil and this Seanad.

The provisions of the Bill are as follows. Section 1 provides that two new sections are added to the Personal Injuries Assessment Board Act 2003. The new Section 51A provides that where a claimant rejects a PIAB assessment that has been accepted by a respondent and where he or she fails in any subsequent proceedings to get more than the amount of the PIAB assessment, he or she will not be entitled to legal costs. Section 51B provides that no legal costs shall be allowed for the making of an application to the PIAB. There are no costs to the Exchequer as a result of the provisions of the Bill.

International interest in the PIAB model is encouraging. It seems that Ireland is once again the inspiration for how others might do things better. It is one of the non-financial benefits of the new alternative. Even more satisfying is the growing evidence that those who are entitled to compensation are getting their money more quickly without the stress of adversarial litigation and in the broader context without society paying the bill for avoidable costs often involved in the old system. This is not to deny the most important role of the courts. It is solely the preserve of the Judiciary to administer justice in cases that are defended. Such challenges still arise, either on the basis of liability for the accident or to attack the extent of damages alleged, especially with the new provisions on exaggerated claims under the Civil Liability and Courts Act 2004.

PIAB is but one part of the Government's insurance reform programme but its success has extended beyond the role of the statutory assessors making awards on cases within its remit, as it is clear that a new culture has developed. Gone, or at least departing, are the days when potential defendants denied everything including the actual occurrence of an accident which even they themselves may have witnessed. This has been replaced with a more realistic, if only pragmatic, approach that there is little point in incurring substantial litigation costs on a case that a judge is not likely to dismiss when the alternative now exists of an early resolution to the benefit of the injured party as well as the financial benefits to respondents, many of whom are now insured at a lower cost than in the last century. This can be only good for the health of the Irish economy

especially with the new competitive challenges ahead in the expanded EU context.

The PIAB has focused on facilitating early resolution of claims and this has been achieved by facilitating effective communication between the core parties, those injured and those liable to pay compensation. It is clear that redress is best served by prompt investigation, required by the PIAB 90-day timeline, and a non-adversarial system which focuses on compensating victims of personal injury accidents and those responsible. The lower volume of cases involving dispute over liability are released by the PIAB for adjudication in the courts.

The impact of the PIAB on society is most evident in our review of the Courts Service data where 15,000 High Court writs were issued in 2004 compared with 750 in 2005. The figures are more compelling in the Circuit Court where some 20,000 civil bills in respect of personal injury claims were issued in 2004 and approximately 3,000 in 2005. This is significant and permits the courts to focus on the wide range of other cases which require court time.

Regarding savings on the cost of delivering compensation, the PIAB confirms a saving of €4 million on litigation costs in 2005. At the time of releasing the PIAB report in 2006, this figure had moved to €13.1 million in July 2006 and projecting those volumes conservatively this figure was expected to rise to more than €20 million at the close of 2006.

The work of the Minister, the Department and the Joint Committee on Enterprise and Small Business, and the resolve of Oireachtas to introduce the PIAB deserve our continuing support. I commend the Bill to the House.

Minister for Enterprise, Trade and Employment (Mr. Martin): I thank all the Senators who contributed to the debate. I took on board what the Oireachtas joint committee recommended during the previous Dáil. This Bill is not being rushed. There was disappointment we did "rush it through" the last Dáil but I was anxious to have the legal position thoroughly examined and to make sure the advice I received was considered. The Bill has been overseen by two Attorneys General and we are well aware of the issues raised by the Law Society and Senator Coghlan. As Senator O'Toole stated, the right to go to court has never been denied.

I am surprised by the Fine Gael position. There was a great deal of jousting during the previous Dáil about rip-off Ireland and Fine Gael's wonderful website. However, Senator Coghlan's contribution would suggest the website will come down quickly.

Mr. Coghlan: I am not up to speed with the website.

Mr. Martin: The legislation is about preventing the rip off of the consumer or the system. It pro-

[Mr. Martin.]

vides for efficient and effective services and competitive approaches to the way issues are addressed by society. Much will be said in the coming months and years about the threat to competitiveness in Ireland but the theme of analysis conducted by the National Competitiveness Council and other bodies is similar. They are saying the domestic economy is still not competitive enough and competitive forces have yet to be unleashed. While the FDI sector is productive and competitive, the domestic sector needs more competition. That is why we abolished the Groceries Order, to which there was much opposition. The PIAB is a good illustration of how the Government and the Oireachtas can bring in new mechanisms and approaches that are more efficient and competitive, which reduce costs for businesses and ordinary people. The board has achieved this dramatically.

Senator Leyden referred to the number of businesses and people complaining about job losses because of cost issues in the economy. However, the costs involved in these cases are not needed and, as Senator O'Toole said, this is simple stuff. The day is long gone when bills of £1,800 were racked up for form filling in such cases. That is no longer sustainable or tenable in a modern Ireland, which must be competitive in the global environment. Senator Hanafin articulated the economic impact of the legal changes.

I pay tribute to Senator O'Toole for his role as vice-chairman of the PIAB, where he was very effective. Both himself and Dorothea Dowling, the chairperson, have given some service to the State, as Senator Terry Leyden said. However, PIAB claimants receive their compensation in a non-adversarial system and this cannot be overstated. A client attended my clinic recently and I had to tell him I could not act in the case because of the challenge to the PIAB, which is in the higher courts. We cannot say to people that they should not do X, Y or Z. The client to whom I spoke is under enormous stress to have his personal injuries claim addressed. That is replicated throughout the system. However, the PIAB has removed much of the stress and trauma for claimants because they do not have to wait impossibly long times for the resolution of their cases.

Processing costs under the board are calculated on a fixed cost basis and they are 70% cheaper than under the old litigation system. On accepted awards, actual savings of €45 million have been made to date. These savings occurred without any diminution in the size of awards to the injured parties. The board promotes the early settlement of claims to a service centre, which is open six days a week from 8 a.m. to 8 p.m.

By facilitating contact and the exchange of papers between the parties, it is estimated that 40% of claims are resolved before assessment by the PIAB. To date the PIAB has made over 10,000 assessments and it has delivered its assessments, on average, 75% faster than the law courts. The

average time frame for an assessment to be made is 7.4 months from the date of consent, which is extremely favourable when compared to 36 months under the old system.

It has freed up the courts. The number of High Court cases has reduced from over 15,000 in 2004 to approximately 2,500 in 2006. Need we say any more than that? The estimated numbers of personal injury cases in the Circuit Court have fallen from 20,000 in 2004 to 5,000 in 2006.

I note Senator Cassidy has joined us this evening. When he chaired the relevant Oireachtas committee he did enormous work on the insurance question, and he knows the impact this legislation has had. Monthly insurance cost indices produced by the Central Statistics Office show that the cost of consumers' motor insurance is now at May 1997 levels. It is an extraordinary story and it is very rarely one can point to something like this, with the cost being brought back to the level of ten years ago.

These are significant benefits to claimants and society as a whole. There will be no going back to pre-PIAB days. I reiterate that the Government stands four square behind the PIAB in its efforts to make this work. The Oireachtas entrusted this task and these set of objectives to the board in terms of its interpretation of the will of the people to do things better in Ireland, to do them more simply, more efficiently and more effectively.

I mentioned motor insurance. Data from the CSO also shows that the cost of home insurance in May 2007 has dropped to below November 2001 levels. A report on RTE's "Drive Time" in November 2006 also indicated IBEC's view that employers' liability insurance costs do not represent the burden they once were. Those are very significant factors, outcomes and outputs from this project.

The PIAB offers an independent and impartial monetary assessment of damages based on medical evidence in a non-adversarial document-based system without the need for an oral hearing. Claimants can be assured that the amount of damage reflects what is awarded in the courts and it is a matter for each claimant to either accept or reject this fair and impartial assessment. If they decide to reject this assessment and enter the litigation route, they must be aware that there are risks regarding legal costs.

There is no intention in this amendment to the Personal Injuries Assessment Board Act to interfere with claimants' rights of access to the courts. However, the Bill is entirely consistent with the objectives of the principal Act, to prohibit in the interests of the common good the bringing of unnecessary legal proceedings. I believe the Act and this Bill to be definitively pro-consumer in so much as it highlights the cost risks in taking legal proceedings and it contributes, and will continue to contribute, to lower insurance costs.

At this stage I appeal to Senator Coghlan and Fine Gael to withdraw the opposition, as it is mis-

placed. Their stance seems anti-consumer and against the best interests of the common good and our overall desire to make our system more competitive, effective, and above all, non-adversarial for the thousands of claimants in the country.

Question put and declared carried.

Acting Chairman (Labhrás Ó Murchú): When is it proposed to take Committee Stage?

Mr. Cassidy: Now.

**Personal Injuries Assessment Board
(Amendment) Bill 2007: Committee and
Remaining Stages.**

Question proposed: "That section 1 stand part of the Bill."

Mr. Coghlan: There is no argument with the efficiency or effectiveness of the very good work of the PIAB.

I share the Minister's view that Senator O'Toole is an able advocate and that he has done important work as vice chairman of the board. I have great respect for the Senator and for his views.

No one doubts the good work of the board, its achievements in respect of the early settlement of claims or its meeting of other targets. The only point at issue relates to public access to the courts and whether citizens are being frightened off taking the legal route. We are at one with regard to the need to promote a necessary consumer measure. We are all pro-consumer. The only issue that arises relates to a fundamental right and an important constitutional principle. The nub of our concern relates to whether the Bill aims to reduce the power of the Judiciary to make awards in respect of costs and whether this, in turn, could be interpreted as an attack on the judicial power of the State.

I was delighted to hear the Minister state that he has received assurances from two Attorneys General in respect of this matter. I was not aware of that fact. However, we have a serious reservation in respect of the area to which I refer. No one is arguing against efficiency or increased competitiveness. We are at one on such matters. I wish to clarify that my party is only concerned about the fundamental constitutional principle.

Mr. O'Toole: Senator Coghlan's remarks are very helpful because they reduce this to a simple issue. For the past four or five years, Senator Coghlan has been a supporter of the work of the PIAB in reforming this area.

I wish to focus on the issue of access to the courts. I reiterate the point I made in 2004, namely, that if the PIAB was doing anything to curtail the rights, constitutional or otherwise, of

any citizen, I would be opposed to it. Not only has this matter been examined by two Attorneys General, the board's lawyers have considered it. I assure Senator Coghlan that if there were the slightest indication that the board was curtailing people's right of access to the courts, its members would be unhappy.

The entire point of the PIAB is conflict resolution. It represents a method of doing business without conflict. It offers a mechanism to resolve all those cases in which it was asked why those involved did not settle and in which people were afraid to settle because of issues of liability, etc. Anyone who is unhappy with the PIAB should have no second thoughts about taking a case before the courts. The important thing to remember is that people will not lose anything by doing so.

We were previously obliged to reassure people that if they took the PIAB route, they would not lose anything, including time. We asked the Government to reduce the Statute of Limitations from three years to two so that even if it took nine months to deal with a matter and someone was then obliged to go through a slow courts system, he or she would be no worse off than previously. As matters stand, people are a great deal better off. We took the action I have outlined to reassure those who raised issues such as that to which Senator Coghlan referred.

The next issue that arose was whether the PIAB would make matters more difficult for people. There is no indication that this is the case.

Another aspect of this matter is whether the PIAB is blocking people from accessing the courts. The answer is "No". I assure Senator Coghlan that if that matter is brought to the attention of the board, the Minister will not be obliged to wait because its members will approach him and highlight the fact that a flaw exists and must be dealt with. It will not happen and, under current structures, it is not happening.

If anyone peruses the contributions I have made in the House over the past 20 years, they will discover that I am one of the few Members who does not criticise lawyers in respect of the fees they charge. I never heard of a person who was in trouble seeking a cheap lawyer. Lawyers earn their money when they go into court and I do not have a difficulty with that. They are entitled to whatever fees they command. That is not the issue. The issue is about being awarded costs of, for example, €1,800, to do something we would carry out in our office at a cost of €80. That is a major mismatch. This is all we are trying to deal with here. It is no more than that.

It is important that Senator Coghlan raised the points because if he is concerned about access to the courts, it is our duty to reassure him and give him an absolute commitment that were that to be the case, it would be part of our assessment when we came to reassess and look at this, perhaps

[Mr. O'Toole.]

towards the end of next year. We always said that we should look at it after it had been in operation for five years and see whether things needed to be tightened up.

In the meantime, the board is now dealing with the issues and I am certain that the proper and understandable concerns of Senator Coghlan are not justified. They do not stand up and it is not a problem. The board is working very well. Perhaps Senator Coghlan has been given some examples of people who had difficulty getting into the courts. We do not know of any.

We should remember that what we are doing in respect of the PIAB and what this legislation is doing falls far short of what I and Senators Coghlan, Cassidy and Leyden asked for in the Oireachtas Committee on Enterprise and Small Business. We asked that if somebody went to court to appeal the ruling of the PIAB and was awarded less, he or she should get no costs at all. That was the unanimous view of our committee. It is important to put on record that this does not go as far as that. This meets the need of the day, does not go further by curtailing the rights of people or cutting across them, and leaves them better off than they were before.

Minister for Enterprise, Trade and Employment (Mr. Martin): I have already made the point that this does not deny the right of access to the courts in any shape or form I have made this point on a number of occasions since the debate began and in my earlier contributions. It simply does not do this, as Senator O'Toole has articulated.

Mr. Coghlan: There is a respectful difference of opinion on this issue. The explanatory memorandum states that claimants will not be entitled to legal costs in the circumstances set out. This is an area of concern to me and people on my side of the House in so far as it impinges on or frightens people from going to court or impinges on the right of the Judiciary or limits its independence.

Mr. Martin: Let us go back to where we were. In my speech, I said that we did not want to go back to pre-PIAB days. We are saying that it does not interfere with the independence of Judiciary in any shape or form. The Act transparently does not do that. I understand where Senator Coghlan is coming from and his fears and concerns but they are clearly not——

Mr. Coghlan: I am glad to hear of the Minister's assurances.

Mr. Martin: The point I am making is that there is another side to this story and there is always balance in these kinds of situations.

Mr. Coghlan: Of course, there must be balance.

Mr. Martin: The balance is this. Let us get real and practical here. Should the system have to fork out €1,800 for something that can be done for €80? That is the beginning and end of this issue. My view is that——

Mr. Coghlan: If we can do that without infringing people's civil rights——

Mr. Martin: That is what we are doing. I take Senator Coghlan's point. We do not want to infringe anyone's fundamental right to pursue cases with solicitors and go to court. Under no circumstances are we doing that. In every walk of life, people take these decisions to go to the courts while being aware of the issues and costs.

Mr. O'Toole: I take the point made by Senator Coghlan and know now where he is coming from. I have not read the explanatory memorandum but I know what he is talking about. It is a misinterpretation. Perhaps the memorandum is inelegantly written. It says that people may not have legal costs awarded to them because there was no legal activity. What it is saying is that when somebody fills in a form and sends it to the PIAB, all the work is then done by the board. Everything, including the assessment, is done by the board and a figure is arrived at.

For work already done by the board, lawyers are claiming costs and can receive €1,800 for simply filling out of a form. That is not to say that if it is appealed in the courts, a lawyer is entitled costs. However, they are not entitled to any costs before it goes to court. A lawyer cannot, on top of the costs for running a case, claim a further €1,800 for work already done by the board. This misunderstanding may be due to how the explanatory memorandum is drafted. The Bill does not intend to deny anyone of their legal costs. Costs necessarily incurred in the running of a case will be paid. This provision is to prevent work done by the board for €80 being used by lawyers who then charge €1,800 for it.

Mr. Coghlan: I am not arguing on behalf of the legal profession and its right to fees. This is about a citizen's fundamental right and ensuring there is no infringement on the independence of the Judiciary.

Question put and declared carried.

SECTION 2.

Question proposed: "That section 2 stand part of the Bill."

Mr. Coghlan: I am opposed to this section.

Question put and declared carried.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question, "That the Bill do now pass", put and declared carried.

Acting Chairman (Mr. Leyden): When is it proposed to sit again?

Mr. Cassidy: Tomorrow at 10.30 a.m.

Adjournment Matter.

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Mental Health Services.

Dr. Henry: I welcome the Minister of State at the Department of Health and Children, Deputy Smith, to the House and congratulate him on his appointment. I believe this is his first time in the Seanad and I hope he will be here many times.

I believe Senator Quinn said earlier that we try to introduce legislation as best we can. We all put an effort into it. I know enormous effort was put into bringing forward the Mental Health Act. Unfortunately, as so frequently happens with legislation, when it comes into practice, flaws are found that cause difficulties for those who have to deal with it. Such has happened with the Mental Health Act.

There is considerable confusion with the Criminal Law (Insanity) Act 2006, which frequently deals with the same set of people, except that with the latter Act, they have been involved in some type of crime. Certainly, at times the two Acts are not in concord and are not working in the best interests of those who come within their remit. I hope this will be rectified soon, and perhaps this could happen under the Mental Capacity and Guardianship Bill I have left on Second Stage and which I trust the House will start working on rapidly.

A considerable amount of work needs to be done with the Mental Health Act. As the Minister of State knows, it is being reviewed and the former Minister of State and Deputy, Tim O'Malley, examined the review. However, a great deal of distress is being caused to patients in one area, namely, under section 21(2). As the Minister of State knows, this section deals with the transfer of a patient from the community to the Central Mental Hospital. This will be someone who has not committed a crime but has been taken seriously ill with a mental illness and is in either a general or a psychiatric hospital. The person in charge will have decided it is wiser to transfer the patient concerned to the Central Mental Hospital either for his or her benefit, or perhaps for the safety of others. It should be noted that such people are probably considered to be a risk to themselves or to others.

Very detailed processes must take place before the person is transferred from the community hospital to the Central Mental Hospital. These are, however, very long and drawn out. The provisions of sections 17 and 49 of the Act quite rightly must be applied to such a person. These sections relate to what happens when the commission hears from the clinical director in the community hospital that he or she wants a person transferred to the Central Mental Hospital. There is a period of 14 days in which the clinical director can apply to the tribunal. However, there is two weeks' grace before it is necessary for the tribunal to be set up. Setting up a tribunal takes some time. Let us say it takes another two weeks. Section 49 sets out all that must take place with the tribunal, so this is not a very speedy process.

While that is going on, the patient is still in an unsuitable situation. Even if he or she is in a psychiatric hospital, there may be no locked ward and this may lead to him or her being isolated and segregated, which is really very ill-suited to the needs of an ill person over a prolonged period. In the event the tribunal says the person should be transferred to the Central Mental Hospital, the patient has two weeks in which to appeal to the Circuit Court against the transfer. Nobody is objecting to any of these processes. When the Circuit Court hearing is due — six weeks will have elapsed by this stage — it may not sit because of the court taking holidays for three months. The patient now faces a very long period, four and half months, during which he or she may be held in very unsuitable conditions. The Circuit Court, when it finally sits, must give an opinion on the case. This could imply a wait of six months, which is entirely unsuitable. None of us ever envisaged this but, unfortunately, in practice there have been prolonged delays in transferring people from psychiatric hospitals to the Central Mental Hospital.

Will the Minister amend the Act and do so faster than any of the other amendments required, such that the clinical director of the psychiatric hospital can contact the clinical director of the Central Mental Hospital in order that the patient can be transferred thereto, if it is considered better, while the process takes place? The latter hospital has much better facilities. Everything in respect of the tribunal and Circuit Court should be exactly the same except that the patient should be in a more suitable abode on foot of what the psychiatrists in charge of both institutions feel is best for him. One should remember the patient has not committed a crime but is so seriously ill that the clinical directors of the two institutions feel he could be a danger to himself or others. Not one person in either House of the Oireachtas wanted to see any ill person confined and possibly isolated in an unsuitable institution when the legislation was being passed. It is important, as a matter of simple humanity, that the Minister of

[Dr. Henry.]

State try to have this anomaly addressed as soon as possible.

Acting Chairman (Mr. Leyden): I welcome the Minister of State with responsibility for children, Deputy Brendan Smith, and congratulate him on his appointment. I wish him every success in that role.

Minister of State at the Department of Health and Children (Mr. Smith): I thank the Acting Chairman for his welcome and appreciate the warm welcome of Senator Henry.

I am addressing this matter on behalf of my colleague, Deputy Mary Harney, Minister for Health and Children, who is unavoidably absent. She is bereaved by the loss of her mother and I am sure I am speaking on behalf of everybody when I extend to her and to all her family our sincere sympathy.

I thank Senator Henry for raising this matter. As the Senator is aware, the full provisions of the Mental Health Act 2001 came into operation in November 2006. The Act provides significant safeguards for people who suffer from a mental illness. All instances of involuntary detention are now automatically reviewed by an independent mental health tribunal.

In the first seven months of the full operation of the Act, more than 1,200 mental health tribunals have been held to review instances of involuntary detention. In these seven months, eight mental health tribunals were held to review proposals to transfer a patient to the Central Mental Hospital. The Act does not allow for the direct involuntary admission of a person to that hospital. However, if the clinical director of an approved centre believes it would be for the benefit of a patient, or necessary for the purpose of obtaining special treatment, the clinical director may propose the transfer of the patient thereto. The proposal is then reviewed by a mental health tribunal.

The transfer of a patient to the Central Mental Hospital cannot take place until a mental health tribunal has determined that such a transfer would be in the best interest of the health of the patient concerned and until the period for the bringing of an appeal to the Circuit Court has expired. If an appeal is made, the transfer cannot take place until after the appeal is either determined or withdrawn.

In April this year, the then Minister of State with special responsibility for mental health undertook a review of the operation of the Act following consultation with a wide range of stake-

holders. Senator Henry referred to this earlier. The issue of transfers to the Central Mental Hospital was considered as part of the review. The review acknowledged that the time period required by the Act before a patient may be transferred to the Central Mental Hospital can cause difficulties for approved centres. However, it would not be appropriate to erode the safeguards afforded to patients by making it easier or quicker to transfer a patient to the Central Mental Hospital.

People with mental illness should be cared for and treated in the least restrictive environment possible. I do not consider it appropriate to amend the Act to allow for direct involuntary admission to the Central Mental Hospital or to lessen the protection afforded to patients in other approved centres. I appreciate the difficulties that may be experienced by local services but these will be addressed by the development by the Health Service Executive of regional intensive care rehabilitation units for patients who may be difficult to manage, as recommended by A Vision for Change.

I understand Senator Henry is not seeking re-election to this House. I wish to compliment her on a very long and illustrious career in the Upper House of the Oireachtas. I developed a friendship with Senator Henry over many years from when we both served on the British-Irish Interparliamentary Body. I always recall her positive contribution and outlook towards the development of relationships between our two islands. We were both members of that body at a time when the relationship between our two nations were not as productive nor as friendly. Thankfully we have arrived at a period of peace. I compliment Senator Henry on her contribution to the Oireachtas.

Ms Henry: I thank the Minister of State for his very kind words. I think our time on the British-Irish Interparliamentary Body was productive.

I wish to extend my sympathies to the Minister for Health and Children, Deputy Mary Harney, on the death of her dear mother, whom I had the privilege to meet several times.

Acting Chairman: I wish to be associated with that expression of sympathy made by the Minister of State and Senator Henry to the Minister on the death of her beloved mother. The Minister will understand we cannot be present at the funeral tonight as the House is sitting.

The Seanad adjourned at 8.50 p.m. until 10.30 a.m. on Wednesday, 4 July 2007.