



# DÍOSPÓIREACHTAÍ PARLAIMINTE PARLIAMENTARY DEBATES

# SEANAD ÉIREANN

**TUAIRISC OIFIGIÚIL—*Neamhcheartaithe***  
**(OFFICIAL REPORT—*Unrevised*)**

*Wednesday, 5 December 2007.*

# SEANAD ÉIREANN

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Dé Céadaoin, 5 Nollaig 2007.  
Wednesday, 5 December 2007.

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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Paidir.*  
*Prayer.*

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## Business of Seanad.

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

The need for the Minister for Health and Children to ensure a resource such as "Good Morning Inishowen" is adequately funded and rolled out regionally, given the simple but important support it gives to elderly and vulnerable people in their homes.

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

The need for the Minister for Enterprise, Trade and Employment to outline the actions he is undertaking with the various agencies to bring about job creation in Thurles following the closure of a succession of companies in the town over recent years.

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

## Order of Business.

**Senator Donie Cassidy:** The Order of Business is No. 1, Defamation Bill 2006 — Committee Stage, resumed, to be taken at the conclusion of the Order of Business and to adjourn not later than 2 p.m. if not previously concluded; and No. 2, statements on the budget for 2008, to be taken at 6 p.m. and to conclude not later than 8 p.m. if not previously concluded, with the contributions of spokespersons not to exceed ten minutes, those of other Senators not to exceed eight minutes and on which Senators may share time. Business will be interrupted from 2 p.m. to 6 p.m. for the Budget Statement.

**Senator Frances Fitzgerald:** Will the Leader be moving the motion on Zimbabwe?

**Senator Frances Fitzgerald:** Senator Quinn yesterday sought a debate on Northern Ireland. Members who watched the news in recent days will have been struck and impressed by the visit of the First Minister and Deputy First Minister to the USA, its success and the response to it. Senator Quinn's call for a debate is appropriate. In the course of that we should discuss the ongoing situation of the family of Paul Quinn and their call for support. A support group has been formed but there are disturbing reports in the media today about how Paul was singled out, attacked and died from his injuries. The Government should do what it can to support the family, given the awful events that befell Paul.

I also raise the disturbing problem of drug abuse, especially cocaine abuse, and the sadness caused to so many families recently. The Minister was in the House for a debate on the matter during this session but it would be appropriate to have another discussion, specifically on cocaine, given recent revelations and the glamorisation of the drug. We are witnessing the serious consequences of that. Perhaps the Leader would consider having such a debate at a later date.

**Senator Joe O'Toole:** There have been many emotional discussions and debates about the merits of centralisation and decentralisation. In light of the agreement of all parties on the merits of decentralisation, it is unacceptable that there is a proposal before the Government at present to close the marine rescue stations in Malin and Valentia. It is appalling that we should do this. It shows a lack of understanding of the needs of seafarers. It is a classic ignorant east coast approach to a western issue. Anyone who has come through Dursey Sound or the Blasket Sound knowing that the Valentia rescue centre is within sight will know what I mean. It is not just about technology or radar screens. It is about hundreds of years of lore. It is about people who know the size of the swell two days after the waves have gone, who know the sounds of Sceilig Mhichíl agus Sceilig Bheag and can tell one from the other.

This action is appalling. It takes away from these two places. I do not know whether people know Malin Head and Valentia Island, but there is not a lot of work around and not much happening. The idea of taking away employment in those areas is unacceptable.

This is an all-party issue. The Minister should be told it is just not on. It is wrong and flies in the face of all we need. It was ironic that this hit the news yesterday when Malin station had just co-ordinated the rescue attempt for the Kennedy family in Inver in Donegal. The House should take a clear line on this and indicate that the closure is unacceptable. I would like the Minister to come to the House and discuss this so that we may explain to him that this is about more than technology and data. There is also a cost issue. The buildings and personnel are in place and any

**Senator Donie Cassidy:** No, not this morning.

[Senator Joe O'Toole.]

upgrading required can be done while retaining both stations.

To go from the local to the global, I wish to mention the plight of Íngrid Betancourt, the French-Colombian citizen who has spent five and a half years being held under torture, manacled, fettered and tied down by FARC guerillas in Colombia, who put themselves forward as supporters of human and civil rights. They are holding this woman without access to books or hygiene facilities, keeping her tied up with a group of male captives and forcing her to sleep in a hammock in the open air. She is the leader of the Green Oxygen Party in Colombia and has never done anything to aggravate any side of the conflict. She has been imprisoned and held captive for one reason only: she has opposed violence and terrorism.

The House should take a clear line on this. I would like the Minister for Foreign Affairs to recognise that Íngrid Betancourt is an EU citizen and therefore we should make every possible attempt to have her released. It is extraordinary and unfair. This is the type of thing that happened in the worst days of the gulags in Russia. We should put FARC in that context.

**Senator Fidelma Healy Eames:** Hear, hear.

**Senator Alex White:** I raise once again the issue of immigration policy. The Minister of State with responsibility for integration, Deputy Conor Lenihan, indicated yesterday it may be necessary to introduce legislation annually to deal with the issues of immigration and integration. I remain to be convinced it would be necessary to introduce legislation every year in any area of public policy, notwithstanding that this is an area characterised by change and development. The House might need to be convinced that legislation is needed every year.

Could the Leader arrange for the Minister of State to come to the House to facilitate a debate on the issue of immigration policy? Perhaps the Minister for Justice, Equality and Law Reform might indicate also to the House when it is intended to introduce the Immigration, Residence and Protection Bill 2007 which was published earlier this year by the previous Government. It is important, as the Minister has acknowledged on more than one occasion, that this issue be debated fully in these Houses.

The Minister of State has been hosting consultation sessions with various interested parties, which is also important. At this stage, six months on, however, he should be beginning to understand what the basic pillars of his policy are likely to be. Surely it is time for him to come to the House and explain what he has in mind so that we can debate these issues in the knowledge of their importance for our society and economy.

**Senator Dan Boyle:** I support the call by Senator O'Toole for the Minister for Foreign Affairs to articulate to the House the Government position on the continuing illegal captivity of Íngrid Betancourt, the leader of the Colombian Green Oxygen Party and a former member of the Colombian national assembly. Her situation has some relevance to Ireland because the arguments she was making in Colombia related not only to the use of violence in the country's political system but also to the drug culture which causes subsistence farmers to resort to growing the coca plant, which is having an effect around the world and most perniciously in our country, as we have seen in recent weeks. These are added reasons to identify with her plight. As a country, we need to work towards attaining her freedom and ensuring the people in Colombia who are forced to engage in a drug trade that causes difficulty throughout the planet are given alternatives. We must move away from the United States-led war on drugs that has helped create this situation in countries such as Colombia in the first instance.

**Senator Paul Coghlan:** As Senator O'Toole said, the closure of the rescue stations at Valentia and Malin would be a retrograde step. I have referred to this. These are two long-established stations which have rendered sterling service to the State as marine rescue centres. They are fine buildings and the staff are in place. It would be easier to upgrade these than to build anything new on the east or west coast. This was recommended, apparently, in a consultants' report some time ago. I do not know why the Government has ignored this. I join Senator O'Toole in pleading with the Government to reconsider this and stop the madness.

In view of the slowdown in the economy and the stagnant state of the housing market, I hope the Minister for Finance will take the opportunity today to reform the current stamp duty regime. The 9% rate of stamp duty is penal. We all know from our contacts throughout the land what is happening. There is a pent-up demand in the housing market but it has become stagnant because of the stamp duty rules. I hope the Minister will act today to bring life and stability back to the market and restore some measure of confidence.

**Senator Terry Leyden:** I support the call by Senators O'Toole and Boyle for action in the matter of the captivity of Íngrid Betancourt. The Minister for Foreign Affairs should come to the House to explain the circumstances of the case so that we can lend our voice in support of the release of the captive. This is related to what Senator Fitzgerald said about cocaine and the glamorisation of drugs in the media by certain journalists.

This leads me to my question to the Leader. What facilities do we have in the House to defend the integrity of Members from attacks in the

media? This morning on "The Tubridy Show", for example, disparaging comments were made about the Leader by Eamon Dunphy and about Senator Harris by Nell McCafferty, who called the Seanad "a tainted—

**An Cathaoirleach:** We have no control over the content—

**Senator Terry Leyden:** We have.

**An Cathaoirleach:** We have no control over the content of programmes.

**Senator Alex White:** I am sorry I missed that.

**Senator Terry Leyden:** I will make my point. Will the Leader utilise the facilities of this House? The job of the public relations staff paid by the House should be to represent and defend the integrity of Members. I do not believe the title of Senator is a tainted title.

**Senators:** Hear, hear.

**Senator Terry Leyden:** I do not believe we receive tainted money. Many fought hard to be elected to this House to represent the people. I resent the likes of Nell McCafferty or Eamon Dunphy disparaging this House in radio programmes. By the way, if anyone wishes to listen to the podcast of the programme, it has been censored as a result of what occurred this morning. The offending comments have been removed, as I found in the last half hour.

**Senator Fidelma Healy Eames:** Hear, hear.

**Senator David Norris:** I have consulted my distinguished colleague, Senator O'Toole. If the Defamation Bill goes through, Members who feel aggrieved about the comments on this morning's radio programme can take a class action.

**Senator Joe O'Toole:** Under section 9.

**Senator David Norris:** Yes. However, I think it is unlikely. I heard the programme, but was not particularly offended by it. It was not of great significance.

**Senator Terry Leyden:** The Senator is not easily offended.

**Senator David Norris:** One could not be if one was on this side and in this position at the back.

**Senator Terry Leyden:** We are sensitive over here.

**Senator Paul Coghlan:** So are we.

**Senator Terry Leyden:** The Senator was not insulted.

**An Cathaoirleach:** Senator Norris should confine himself to the Order of Business.

**Senator David Norris:** Given that No. 13, motion 2 in the names of the Independent Senators is concerned with the regrettable state of many hostels in terms of health and safety, could Seanad Éireann take note of the report on safety and fire issues that has been discussed widely this morning? Some hostels have no fire escapes. I have repeatedly stated it is a tragedy waiting to happen. I welcome that there was some action, but it is not enough.

I add my voice to those calling for the release of Ingrid Betancourt, a matter I raised previously. Such issues ebb and flow and I welcome the occasion to raise the matter. She is an innocent, decent and politically motivated woman. Apart from anything else, the Interparliamentary Union is committed to supporting parliamentarians in these types of difficult circumstances. We know that the people in question are moved around and sometimes tortured and killed. Ingrid Betancourt has been in captivity illegally for a long time.

I support Senator Alex White's call for a debate on immigration and integration. I feel offended when I hear the prayer everyday, as it is absurd of the House to invoke the name of Jesus Christ and state: "every word and work of ours may always begin from thee and by thee be happily ended through Christ". This is a farce. Did Jesus Christ instruct the Minister for Justice, Equality and Law Reform to issue orders for the deportation to Lagos of a 19 year old Nigerian girl without any means of support? Did Jesus Christ initiate and happily end the situation of the autistic boy who was similarly sent back to Nigeria? I voice my antagonism to the prayer, not because I object to proper religious ritual — I am a regular churchgoer — but the House's ritual is empty in the absence of real meaning.

We invoke the Christian notion in the Constitution, a legally valid concept. In a case I took, the Government argued successfully that I could not win because of the inclusion of the idea of Christianity in the Constitution. Where was that notion when the rights of those young people were being systematically violated? It is extraordinary. I approve strongly the idea of prayer but not when it is mere empty ritual and formula. If we believe these things, let us implement them properly.

**An Cathaoirleach:** The Senator's point is made.

**Senator Labhrás Ó Murchú:** I wish to take up Senator Fitzgerald's point on the abuse of drugs. There is no doubt about it being a malignancy, having reached serious proportions. Young lives are lost or harmed, in many instances beyond repair. It is important that the State focuses on this issue. When the State was under threat in previous years, the Government called in sections

[Senator Labhrás Ó Murchú.]

of the media, for example, and briefed them on the dangers.

Recently, I watched several television programmes. Seeing celebrities glamorising drug-taking in a flippant and subtle manner was disturbing.

**Senator Joe O'Toole:** Hear, hear.

**Senator Labhrás Ó Murchú:** It is a worrying situation for parents at home. They are at their wits' end and communities are under siege. The media must demonstrate responsibility. One of the reasons there is none is our lack of a focused approach. I request that there be discussions with the media at Government level to point out how vulnerable and easily influenced by celebrities young people are. If the celebrities ever listen, we should tell them that they have been particularly lucky in life, blessed with talents and given exceptional media exposure. They should demonstrate responsibility.

This matter can be pushed under the carpet no longer. It does not apply to a single section of society, as it occurs right across the board. We have all made calls, but they did not work. We need something more focused and fundamental.

**Senator Fidelma Healy Eames:** Since I stood in the Chamber yesterday, the devastating news of 500 job losses at Abbott Galway has been confirmed. One of the factors involved is the axing of the Shannon-Heathrow route by the Government. I ask that the Minister for Enterprise, Trade and Employment intervene and work with IDA Ireland, Abbott Galway workers and Galway Chamber of Commerce to put a range of measures in place to address the job losses' serious impact.

This may just be the beginning of the result of the axing. Shannon Airport provided connectivity between the west and the rest of the world. The Government must be ready for such fallout and have a range of measures in place. I ask the Leader to request that the Minister intervene and meet the workers, IDA Ireland and the Galway Chamber of Commerce.

**Senator Ann Ormonde:** I support Senator Alex White's request for a debate on immigration with the Minister of State, Deputy Conor Lenihan, as we would like to know the up-to-date position.

I agree with Senator Ó Murchú's comments on where society is going in terms of alcohol and drug abuse. The fundamental questions that must be asked are why has society deteriorated to this extent and why is it occurring. Celebrities are highlighted as examples for society, but fine people in our communities are trying to restore young people's quality of life. The Departments of Education and Science and Justice, Equality and Law Reform must play a role and, while I dislike the phrase, show joined up thinking. More

than ever, we must consider in a global context how best to correct this drain on society.

We need the relevant Ministers to engage in a joint debate on this serious issue. There was an example of the problem in Waterford two weeks ago and another example this week, but every page of yesterday's newspapers highlighted the issue of drug abuse in society. More than ever, parents must play their role. Will the Leader open a full discussion on modern society and hold it for a full day with a questions and answers session? We could ask the media for their opinions regarding why society has deteriorated.

**Senator Michael McCarthy:** I agree with Senators O'Toole and Coghlan regarding Valentia Island and Malin Head. Anyone living on the south-west seaboard is well aware of the tradition and legacy of the marine rescue station. In economic terms, 17 jobs on Valentia Island will be as sorely felt there as the 500 job losses in Galway or any heavily urbanised centre.

**Senator Joe O'Toole:** Hear, hear.

**Senator Michael McCarthy:** It would call into question the roles of IDA Ireland and Enterprise Ireland in promoting industry.

I agree with Senator Fitzgerald in respect of the growing problem of the cocaine epidemic. It is becoming socially acceptable to admit to snorting cocaine, but it ruins communities. Its most recent victim passed away at 12.30 p.m. yesterday in Waterford Regional Hospital. One can only imagine the torment and agony suffered by members of the Doyle family when they switched off his life support machine. A young man in the spring of his years who had beaten cancer has been lost to that drug.

We must bear in mind that when it is being snorted in Ballsbridge, etc., one is fuelling drug lords, the scum of society who murder people to gain money and who do not care about the consequences. In the 1980s, politics was set aside to deal with subversives. Politics now needs to be set aside to deal with this problem. A cross-party and integrated approach is needed to deal with this growing epidemic in society. We must confront the drug barons and remove some of the agony from those families grieving loved ones today.

**Senator Ivor Callely:** I support the calls on both sides for a debate on substance abuse and I look forward to participating in it.

In different capacities in the past, I have clashed with the National Roads Authority on its policy and strategy. I am happy that I won on two issues — central medians and petrol stations. However, the NRA has decided not to proceed with rest areas on motorways, an issue on which I thought I had won.

Last weekend, a vehicle which had pulled into the hard shoulder because of the lack of rest

areas was hit by a van and an innocent infant in the vehicle was killed. There are many other instances where people are not driving to their best because there is no safe haven in which to pull. Will the Leader find out the policy on rest areas, particularly on motorways, from the Department of Transport or the NRA?

Regarding No. 32 on the Order Paper, last night the other House passed a motion on the situation in Zimbabwe and the forthcoming EU-Africa summit in Lisbon. Many other democracies have passed similar motions. No. 32, a motion, will probably not be passed prior to the forthcoming EU-Africa Lisbon summit. Will the Leader consult with Opposition leaders to see if the motion can be passed without debate and then debated at a time when it can be fitted into the schedule?

**Senator Ivana Bacik:** I support calls by Senator O'Toole and other Members for the release of Íngrid Betancourt. I raised this as a matter on the Adjournment in this Seanad's first week. The last official statement of Government policy was the answer given to me then by the Minister for Foreign Affairs on Ireland's calls for the release of Ms Betancourt. There is a cross-party consensus for the Government to do more in supporting her release. A motion on this could be tabled which would have the support of all Members.

I attended an inspirational debate hosted by law students in Trinity College, Dublin, calling for prison abolition. A passionate speech was made by a leading British criminologist and former prison governor, Professor David Wilson. He made the case for decarceration and the closing down of prisons for all but the very hard-core and dangerous offenders in society.

**Senator David Norris:** Hear, hear.

**Senator Ivana Bacik:** Will the Leader ask the Minister for Justice, Equality and Law Reform for a debate on prisons policy? It is generally overlooked as the cliche is that there are no votes in prisons.

People are locked up for long periods. Last night, three young mothers in Cork were locked up for long sentences. The question never asked is what purpose does this serve? While the Minister is proceeding on the prison building programme at Thornton Hall, left to him by his predecessor, it would be worthwhile for the House to have a debate on prisons policy and ask the Minister what purpose is served by building more prison places and detaining people for long periods. Real alternatives must be examined and locking up fine defaulters and those who are no harm to society must be stopped.

**Senator Terry Leyden:** There are votes in prison.

**Senator Fidelma Healy Eames:** Senator Leyden knows that very well.

**Senator John Hanafin:** I welcome that we pray every morning in the Chamber before conducting our business. It allows us to renew our efforts to do our best and invoke God to assist us in our efforts. I note societies that turned their back on God — fascist and communist — and relied solely on Man's logic, rose and fell quickly.

The Shannon Airport issue was raised earlier. It is incorrect to make any association with the closure of Abbott Laboratories and Shannon Airport. Much in all that I would like the Shannon-Heathrow route to remain open----

**Senator Fidelma Healy Eames:** Has the Senator confirmation of that?

**An Cathaoirleach:** Senator Hanafin on the Order of Business.

**Senator John Hanafin:** The Shannon-Heathrow route cannot be blamed for everything.

**Senator Fidelma Healy Eames:** The Shannon issue is the Government's fault.

**Senator John Hanafin:** It is blamed for everything, even down to the recent storm off the west coast.

**Senator Fidelma Healy Eames:** Shannon is the Government's fault and it will have to take the fall-out for it.

**An Cathaoirleach:** Senator Hanafin without interruption.

**Senator John Hanafin:** I welcome the calls for a debate on drugs and alcohol use which would be worthwhile. Sniffer dogs are used in prisons to combat drugs being brought into them. Since sniffer dogs were introduced in Wheatfield prison, there has been a 60% decrease in people visiting. There has to be a direct correlation in this. That same sniffer dog had to leave Limerick prison because there was a price on its head.

(Interruptions).

**Senator Michael McCarthy:** The Senator is barking mad.

**Senator Jerry Buttmer:** The dog probably votes Fianna Fáil as well.

**An Cathaoirleach:** Senator Hanafin, on the Order of Business.

**Senator John Hanafin:** The dog may not be aware of the price but the point is that positive action does work.

There is also the issue of alcohol abuse.

**Senator Camillus Glynn:** Hear, hear.

**Senator John Hanafin:** Will the Leader note the opening hours of off-licences? It is wrong that many open at 9 a.m. and one can purchase a pallet of drink from them. When positive action is taken it works and more of it should be done.

**Senator Frances Fitzgerald:** That is the Government's fault too.

**Senator Jerry Buttiner:** What is the Government going to do about it?

**Senator Geraldine Feeney:** Wait for it.

**Senator Maurice Cummins:** I support Senator Fitzgerald's comments on the murder of Paul Quinn. I have raised the matter on several occasions in the House. Will the Leader ask the Taoiseach or the Minister for Foreign Affairs to meet the Quinn family? Intimidation continues, even for the McCartney family. The Irish and British Governments seem unwilling to accept the IRA, or its supporters, was involved in the brutal murder of Paul Quinn. It seems to be peace at any cost. We all want the Good Friday Agreement to prosper but not with peace at any cost, which seems to be policy. I ask the Garda is given all possible resources to bring these brutal murderers to book as soon as possible.

The House recently had a debate on drug policy but I call for another one in view of the increasing problems with drug use, in particular cocaine. In my city, Waterford, we have recently seen the devastation caused by drugs. We must take whatever measures we can. As Senator McCarthy has stated, this problem must be treated in the same way as we dealt with criminality in 1997 when CAB was formed. This problem must be faced down and the strongest possible measures the State has must be used to tackle the problem.

**Senator Feargal Quinn:** I thank Senator Fitzgerald for responding to my request for a debate on Northern Ireland. Yesterday, I spoke on Northern Ireland on the Order of Business. I hope we do not regard it as a competitor for jobs because they are losing jobs in Derry as much as we are in Galway. We must support and regard Ireland as a united island and not regard Northern Ireland as a competitor.

The International Food Policy Research Institute has stated global agricultural production will be reduced by 16% in the next 12 years, which will make it harder for poorer people around the world to get enough food to eat. At the same time, Europe is encouraging land to be set aside and paying farmers not to grow food. In the future, people will look back at how we behaved in Europe at a time when there were food shortages and people starved. It might perhaps be due to global warming which we are tak-

ing steps against. However, we in Europe are taking steps to discourage the growing of food. Future generations will ask whether we were interested in the ability to feed the world's population if we in Europe refuse to sacrifice whatever benefits we get by discouraging the production of food to encourage set aside and to pay farmers not to grow crops.

**Senator Camillus Glynn:** It would be remiss of me not to speak about recent tragedies connected with drug-taking. In a previous life I was professionally involved with the kind of people who take drugs. People should remember that when they buy drugs they deal with death and when they take them they dabble with death. Everybody should open their ears to the plea from the family of the young man who died in Waterford. There is no such thing as a good drug. Every drug has a downside. The worrying aspect of the drugs scene is that new preparations are coming onto the "market" and we have no notion of their components, which makes it all the more worrying.

I would like our spokesperson on fisheries, Senator John Carty, to consult with the Leader and the Minister for Agriculture, Fisheries and Food to have a debate on the manner in which the fish stocks in County Westmeath are being denuded. There have been articles on this subject in two or three issues of the *Westmeath Topic*. Local fishermen complain that the Royal Canal, the River Inny and several other small lakes and rivers have been completely denuded of fish stocks. Everything is being taken out, even the fingerlings and nothing is put back. Something must be done about this because it is an outrage and a scandal. Westmeath is known as the lake county and has always attracted its fair share of the angling fraternity, from home and abroad. That, regrettably, is no longer the case. I request a discussion on this matter in the House at the earliest possible opportunity.

**Senator Jerry Buttiner:** I join those who have asked the Leader to facilitate a further debate on the drugs strategy. When he speaks to the Minister of State at the Department of Community, Rural and Gaeltacht Affairs with responsibility for this area, he might ask the national forum on drugs to convene to gain the consensus on the issue which exists across the House.

There is a malaise in our society. More and more people are looking for a temporary high. We must get the message out to the drug barons and dealers who prey on the vulnerable that they have no place in our society. Those who glamourise drugs in the media miss the point that drug dealers do not care about anything as long as they get their money. Will the Leader give this urgent attention?

The family of the poor man who died in Waterford this morning asked people "young and old who may be tempted to dabble in potentially

lethal substances to simply say No!" That is the most potent message we can send out.

**Senator Joe O'Reilly:** The crisis caused by cocaine and substance abuse is extremely serious and pernicious, reaching into every community. We need to debate a strategy to deal with this. Young people need the confidence to say "No". There should be a drop-in centre for young people in every urban centre in the country, such as a café with discreet counselling services and an infrastructure for youth. The physical facilities exist and the service could be achieved with a low capital outlay. This should be done as quickly as possible.

There should be a holistic programme, dealing with substance abuse, inside and outside schools. There should be a junior Minister specifically responsible for substance abuse.

**Senators:** There is.

**Senator Joe O'Reilly:** I concur with Senator Ó Murchú's remarks about celebrities and the media. This is a national crisis which requires all-party agreement and the relevant Minister to come to the House and harnessing all State agencies and taking a holistic approach. We must, however, create a society in which young people can have the confidence to say no. That is the kernel of the solution.

**Senator John Carty:** I support Senator Glynn's call for a debate with the Minister of State at the Department of Agriculture, Fisheries and Food, with responsibility for fisheries, Deputy John Browne to come in to the House to discuss the inland fisheries. It is a problem in Westmeath and many other parts of the country. I will take this up with the Leader and the Minister of State.

**Senator Pearse Doherty:** Will the Leader ask the Minister for Education and Science to come to the House, or to introduce a scheme to ensure that primary schools are secure? In my county four primary schools have been vandalised by young thugs over the past 20 months. They burnt one school to the ground, vandalised and stole from the others. This is an attack not only on the schools but on the community. We must consider tougher security measures such as CCTV cameras outside the primary schools. I am sure this problem is not confined to Donegal but is replicated across the 26 Counties.

I would like to have a debate on the electoral register. The closing date for submissions to the new 2008-09 register fell last week. When it is published on 15 February it will once again be inaccurate because we are not using enough resources to deal with the register in a proper, planned, systematic way. I would like the relevant Minister to come to the House to address these issues to ensure that everybody who is entitled to

vote will be on the register in plenty of time to cast his or her vote in the next election.

**Senator Donie Cassidy:** Senator Fitzgerald and 14 others made a strong point about drug abuse. I take their common sense proposals for meeting the challenge seriously. The Government appointed Deputy Carey as Minister of State with special responsibility for this area. Drug abuse is increasing at an alarming rate. We send our condolences to the family of the young man who died in Waterford. Various tragedies that never before happened in our society are happening now.

Everyone drove under the influence of drink when the law did not inspire fear but random breath testing has changed that. The same must happen in respect of drug abuse. The law must inspire fear. There should be a mandatory prison sentence for someone caught with more drugs than allowed for personal use. That person should go to prison for as long as possible to deter others from such activities.

I listened to a broadcast on national radio this morning and heard the evidence of those who run establishments responsibly some of whom I know. I also heard the stewards who look after the venues saying what they must do in respect of substances they find in the toilets and everywhere else in some establishments. It was an eye-opener. This is the most serious challenge facing our society. I am pleased to hear that all parties are in unison on this matter and the Minister will come to the House as early as possible to discuss the matter. Members know colleagues in parliaments across Europe and might be aware of ideas that were successful. We should see where these ideas succeeded and implement best practice where possible.

Senators Fitzgerald, Quinn and many others asked for a debate on Northern Ireland. I gave a commitment in the House yesterday to have the Minister for Foreign Affairs, Deputy Dermot Ahern, come to the Chamber in this regard and he has agreed. It is now a matter of finalising a date in his diary. I abhor the brutal murder of Paul Quinn. This type of activity cannot be condoned in a civilised society.

Senators O'Toole, Ó Murchú and Norris referred to decentralisation proposals concerning Malin Head and Valentia Island. I support the calls made in the House on the Order of Business as the proposals relating to these landmarks, given their strategic positions, defy logic. There should be all-party agreement in this House to oppose this strenuously and I will ensure the Minister comes to the House for a debate on the matter before the Christmas recess.

**Senator Paul Coghlan:** Hear, hear.

**Senator Fidelma Healy Eames:** I thank the Leader.

**Senator Donie Cassidy:** Some Senators, led by Senator O'Toole, expressed strong views on the long detention of the Green Oxygen Party leader in Colombia and we join them in their call. I will not hesitate to seek agreement among the leaders on this matter to see how this worthwhile proposal can be progressed as an act of humanity is sought.

Senators Alex White, Norris and Ormonde called for a debate on immigration and integration. I can contact the office of the Minister for Justice, Equality and Law Reform, Deputy Brian Lenihan, after the Order of Business to see if this can take place.

Senator Coghlan spoke of the slowdown in the economy but I understand it has grown at a rate of 4.75% this year, which puts it in the top five in the world. This rate is twice that of most European countries, so the Irish economy is still a great success story.

**Senator Paul Coghlan:** We just want to give a lift to the stagnant housing market.

**Senator Donie Cassidy:** It is the responsibility of positive thinking Senators such as Senator Coghlan, who have survived in this House for a long time, to see that good news comes first.

**Senator Jerry Buttiner:** What about the budget deficit?

**Senator Fidelma Healy Eames:** What about the people at Abbott in Galway?

**Senator Donie Cassidy:** Members can be assured that this afternoon the caring Minister for Finance will look after senior citizens, as Fianna Fáil always has done through the years.

**Senator Jerry Buttiner:** What about cutbacks in community care packages?

**Senator Donie Cassidy:** We never took 20% or 25% from senior citizens on budget day as that would have been against all we stood for.

I will pass Senator Norris's views on fire safety on to the Minister. Senator Leyden mentioned this morning's "The Tubridy Show" and I take on board his views. It is an entertainment show and the two individuals involved are star performers. There is a major difference between a chat show and the serious business and responsibility of passing new legislation and amending legislation. Ireland plc has benefitted from the dedicated work of Dáil Deputies and Senators and no other country has experienced the success we have. All fair-minded people would agree they would love to be in the position we find ourselves today on budget day, 5 December 2007.

Senator Callely referred to the Road Safety Authority. I know he has a great deal of expertise in the area as a former Chairman of the Joint Committee on Enterprise and Small Business and Minister of State. I agree with his sentiments and

will pass on his views to the chairman of the Road Safety Authority, Gay Byrne, after the Order of Business.

I will see how I can progress No. 13, motion 22 with the leaders as I understand there is now an amendment to it. Senator Bacik called for a debate on prison policy and I already have given a commitment in this regard, depending on the Minister's availability.

Senators Norris and Hanafin have personal views on the prayer that is said at the start of proceedings in the House. I believe the prayer is a good start to the day but I welcome any suggestions the Senators might have, which we could consider at the Committee on Procedure and Privileges, CPP, on improving mindsets and having the Holy Spirit touch Senators in a stronger way than usual at certain times.

**Senator Jerry Buttiner:** Oh come Holy Spirit.

**Senator Donie Cassidy:** In the words of the former Senator Paudge Brennan, it is never the wrong time to do or say the right thing, so I await Senators' proposals in that regard.

Senator Quinn referred to international food policy and expressed strong views on the EU's policy on set-aside schemes. The Minister can come to the House on this matter and I intend to propose to the CPP that we invite Commissioner Charlie McCreevy to come to the House in the next session. Senator Quinn's proposals may allow us make our presence felt in this area.

Senator Carty, and Senator Glynn especially, cited declining fish stocks in the lake county of Westmeath. This is part of Senator Carty's portfolio and I will contact the office of the Minister of State at the Department of Agriculture, Fisheries and Food, Deputy John Browne, to arrange this debate.

Senator Doherty called for a debate on education and expressed strong views on vandalism in schools in the Donegal area. The proposal regarding closed circuit television is worthy and, knowing the parish spirit in Ireland, could be adopted easily by a community. Linking it to a Garda station is the important part. I will pass on the Senator's views to the Minister.

The proposal made to the House on the electoral register is a serious one and I know many of us are anxious to see it adopted as accurately as possible. I will pass on the Senator's views but I am still of the opinion that postmen are the only people who can do this properly.

Regarding the need for incorporating postmen in this way, I spoke to a housing officer yesterday who told me a horrific story of a 62 year old man living in appalling conditions. No one knew of this case but the postman who mentioned it to the housing officer at a hurling match last weekend. When the matter was investigated, the officials could not believe the conditions in which the man was living in this day and age. Given the services provided by postmen and the postal

service, they should be encouraged to work more closely with the agencies of local government. Involving postmen in creating the electoral register would be a great step forward in rural and urban areas.

**Senator Fidelma Healy Eames:** I had a request regarding the Minister for Enterprise, Trade and Employment, Deputy Micheál Martin, intervening on job losses at Abbott in Galway.

**Senator Donie Cassidy:** This matter is regrettable as Abbott has made an immeasurable contribution to Ireland. Thousands of people in this country are still employed by Abbott and will remain so as the company has been in this country for more than 60 years. Galway is a university city with its own airport and a substantial pool of expertise. This matter concerns Enterprise Ireland, IDA Ireland and its chief executive, Sean Dorgan, and it is still before the Joint Committee on Enterprise, Trade and Employment. I came directly from that committee to be in the House. I will pass on the Senator's views to the Minister. I welcome the announcement by Baxter in Mayo of the €75 million investment it will make in coming years in the western region.

Order of Business agreed to.

#### Defamation Bill 2006: Committee Stage (Resumed).

##### SECTION 12.

Question again proposed: "That section 12 stand part of the Bill."

**Senator Jim Walsh:** As I said yesterday, I appreciate the Minister's comments on lodgments. However, we should examine this further. If an appeal is based on the substantive issue of defamation, the costs will accord with the decision of the Supreme Court in this regard. Nobody can argue with that. However, an appeal based only on the award of damages exposes the plaintiff, who has succeeded in vindicating his or her good name, to a financial loss.

Will the Minister consider before Report Stage whether provision can be made whereby costs would not be borne by the plaintiff where the appeal relates only to the award of damages? If necessary, this could be ameliorated such that the costs would fall individually to the parties concerned and could not be claimed by one against the other. I understand this would be an unusual legislative provision. However, I am seriously concerned that a person who vindicates his or her good name in court should incur significant costs where the defendant, who has been found guilty, appeals the award granted. That is unfair.

**Senator David Norris:** On the issue of the Supreme Court second-guessing a jury, I refer to the words of the then Chief Justice, Mr. Finlay,

in *Barrett v. Independent Newspapers Limited* that the assessment by a jury of damages for defamation has an "unusual and emphatic sanctity". This is an interesting point to bear in mind.

While I will not rehearse everything I said on this matter on a previous occasion, I draw the Minister's attention to a case that was then unreported, *Independent News and Media plc and Independent Newspapers (Ireland) Limited v. Ireland*, which was related to the case of *De Rossa v. Independent Newspapers*, in which the defendants lost their case in Ireland and so sued in the European Court of Justice. This was the argument made in Strasbourg in 2005 by the legal representatives of the State:

The applicants were effectively asking the court to assume that jurors were unable to value reputation in accordance with certain factors outlined to them in order to arrive at a rational and proportional decision without further guidance. Not only was that an inappropriate assumption but the calculation made by a jury attracted an even wider margin of appreciation than that completed by, for example, a judge. In this latter respect, they explained why framing and applying defamation laws in a modern democracy was a complex exercise requiring a delicate calibration of a variety of interests. The domestic authorities were therefore clearly better placed to judge how the most appropriate balance could be struck in a given situation and, further, an authority comprising a group of informed, reasonable and conscientious citizens (a jury) would be best placed to reach that balance given their direct and continuous contact with the realities of life within their countries.

I recount this to put on record the great significance attached by august legal authorities to what has been described as the sanctity of juries. There was some suggestion yesterday that jurists are mere Joe Soaps who could not be expected to know much. We must bear in mind that legal authorities do not take that view. This Government, in its last incarnation, announced here the doctrine of the continuity of the two Houses of the Oireachtas. One assumes the Minister will agree there is an unbroken seam between the last Government and its representation in Europe and this Government.

I am sure I will be allowed a flashback because I am steaming with a cold. This flashback relates to the question of feelings, as they are assessed in damages. We have been told that feelings are not of any consequence in this regard. I draw Members' attention to the judgment of Henchy J. in *Barrett v. Independent Newspapers Limited*. He stated:

It is the duty of the judge to direct the jury that the damages must be confined to such money as would fairly and reasonably compensate the plaintiff for his injured feelings and for

[Senator David Norris.]

any diminution of his standing among right thinking people as a result of the words complained of.

The learned judge, Mr. Justice Henchy, placed feelings first. The question of feelings is relevant, therefore, despite what was said here yesterday by learned and august barrack room lawyers such as Senator O'Toole and others whose blushes I will spare, although I am sure they will not spare mine as they seek to correct me. Although they can be glossed any way one likes, these are the learned words of Mr. Justice Henchy to whom, for his reasonable, decent and humane dissenting judgment in my own case, I shall be forever grateful.

**Senator Denis O'Donovan:** I was lost in the wonderful outlinings of my colleague, Senator Norris. He has distracted me from my train of thought and diverted me in another direction. Will the Minister clarify the issue of costs? Senator Walsh gave the example of a successful plaintiff who subsequently incurs the costs of an appeal by the defendant on the basis of the award granted. In the event of the Supreme Court granting €80,000 rather than €100,000, for instance, the person who has been defamed would be penalised on costs.

The National Union of Journalists, RTE and other elements of the media have made the point *ad nauseam* that the costs incurred in libel and slander cases are so severe that they far outweigh any award granted. Even where a relatively minor reduction of the figure awarded is ordered on appeal, the cost of that appeal is levied entirely against the unfortunate litigant who has already proved that he or she has been defamed. This is a cause for concern. A case heard in the Supreme Court for seven or ten days, with senior and junior counsel, could involve legal costs of €500,000. A plaintiff whose award has been reduced from €100,000 to €50,000 thus would incur a net loss.

On the question of libel and defamation, have our parallels in Europe been considered with the thrust of this Bill? My knowledge of libel and slander is that mainland Europe has a far more liberal approach, even in the European courts at Strasbourg. There was an interesting case involving a politician in Austria, I believe, who was very fond and proud of his reputation. He was taken to task by a particular newspaper on a few instances and he sued the publication. I am not entirely sure if this happened in Austria or Germany. The politician lost the case and appealed it to the European courts.

There appears to be a number of precedents in European courts where the court has taken a liberal view, particularly when a politician is involved. The courts appear to deem that if a person is in the public eye running for office, or succeeds in becoming a Minister, that person is fair game.

When I chaired the Joint Committee on the Constitution, we reviewed the area of libel and slander under the Constitution. Of all European countries we would be seen as one of the more conservative nations, with our awards in general being much higher than others in Europe. At the higher echelons of our European courts, the area of libel and defamation, which this Bill tends to marry, is treated far more liberally and is less kind to the person instigating the action. This is particularly relevant to politicians because, irrespective of whether we like it, politicians have had a stand-off with journalists, especially over the past 20 years, in terms of there being a shift this way or that.

If we were to be honest, we would like the current system retained. On the other side there is a hue and cry by the print media and journalists in general that our awards and old defamation and libel laws have been far too generous to the plaintiff.

**Senator David Norris:** I support Senators Walsh and Donovan on a point, to be fair, which was raised by the Minister. It appears wrong that if a person gets an award and appeals it, he or she may be seriously penalised despite having won in the first case. The example from the figures given by my two colleagues was very persuasive.

The notion of lodging money into court introduces a slightly indecent element of gambling. The courts are hoping to get it right but they may wrong-foot the plaintiff by so doing. A very astute adviser on one side may indicate a certain award will be received, but if it is dropped slightly the other side may be punished by attacking their matter of cost.

**Senator Alex White:** The plaintiffs have astute advisers also.

**Senator David Norris:** Yes, but they do not always have the best. There is no question that the newspapers can always afford the best. There is a disproportion there.

**Senator Alex White:** Absolutely not in defamation.

**Senator David Norris:** I am surprised a member of the Labour Party would support multinational corporations in the way the Senator has.

**Senator Alex White:** That is untrue.

**Senator David Norris:** Socialism is changing and I know there is a middle way and a new Labour.

**Senator Alex White:** That is silly.

**Senator David Norris:** I am on the side of the small person in this.

**Senator Denis O'Donovan:** The Taoiseach is a socialist.

**Senator David Norris:** They must be defended.

I welcome Senator O'Donovan's honesty in saying what we all know, that this Bill is a result of intensive lobbying by media interest and the press barons. The politicians, by and large, have strong and serious reservations about it. I hope the Minister will be in a position to take on board at least some of the amendments put before the House today.

**Senator Alex White:** I was going to address the last issue later as it is perhaps a bit more relevant to other sections but as the point has been again made by Senator Norris, I will address it.

In the context of dealing with defamation law, the fact that the newspaper industry has pressed for change and some of the changes included in this Bill may be welcomed by the industry does not of itself suggest we should oppose them. If I have a view on a matter, the fact that somebody else, whom I dislike or even detest, holds the same view does not undermine the strength of my opinion.

Senator Norris is going a little over the top or is at least missing the point when we talk about freedom of expression and freedom of the press. This is not just something going to the pockets of the press barons. It may, of course, because it suits them. I am more interested in access of the public to the maximum amount of information, free comment and debate in a modern democratic society. The fact that the newspaper industry is also on that side of the argument should not push us off our perch. With respect, Senator Norris is confusing two different things.

**Senator David Norris:** I have experienced a gross obfuscation of my views. It should be a lesson to us all.

**Senator Alex White:** I would be perfectly happy to have a debate on the newspaper industry but it seems the most serious issue in that area is the proliferation of ownership and control among a small number of people, whether it is the O'Reillys or anybody else. A small number of people nationally, and increasingly internationally, control the newspapers and media. Governments clearly must intervene in that regard to ensure we have real freedom of the press and get away from the concentration of ownership among a small number of people.

I regard freedom of expression as precious, and to throw out this in the wide latitude that ought to be given to debate on public issues——

**Senator David Norris:** I hope the Senator is not using it there as well.

**Senator Alex White:** —does not line me up with press barons, irrespective of whether I am a

member of the Labour Party. I am perfectly free to make the argument in the context I make it. I will not fly off the handle as other people seem to do at the least suggestion in here but I take exception to the coupling of the argument I am making, in the context of freedom of expression, with the notion of the big bad press barons. I am very critical of those as well.

**Minister for Justice, Equality and Law Reform**

**(Deputy Brian Lenihan):** We have had a very wide-ranging debate on this section and it has afforded Senators an opportunity for a quasi-Second Stage debate. I will add my tuppence worth.

On the net issue of the section, I have indicated to Senators that I am anxious to reconsider the section in terms of its consequence for an order for costs in the Supreme Court. That issue should be examined. It is desirable that we have a section confirming the appellate powers of the Supreme Court in this area.

It is also important that if the Supreme Court is to substitute a verdict for the verdict of the jury in the High Court — a power it has and which we are confirming in the legislation — there should not be serious implications for costs for a plaintiff who has succeeded in the High Court action. I am prepared to review the matter on Report Stage.

On the wider matters raised, Senator Norris referred to judicial authorities in connection with the jury and the central function of the jury in our law of defamation. I stated yesterday that the Supreme Court has confirmed that the jury is an appropriate constitutional tribunal for vindicating the reputation of the citizen, and that is not an issue in the legislation. The right of a citizen in Ireland to have his or her reputation vindicated before a jury is carefully protected and preserved in this legislation.

That a jury verdict can be appealed to the Supreme Court is also a well-established feature of our legal system and it is not proposed to change this. The courts and the Supreme Court have tended to view the verdicts of juries with great respect and Senator Norris quoted an authority to that effect. The courts and the Supreme Court have tended to view the verdicts of juries with great respect and Senator Norris — I was going to say Judge Norris — quoted an authority to that effect, which is as it should be. He also referred to judgments regarding the question of feelings. The point I made about feelings is that they are not the gist of the action. It is not possible to sue for hurt feelings in our law — it is possible in some other legal systems. It is necessary to establish an element of falsity or rather the newspaper must disprove the falsity of the statement on which the plaintiff is suing.

**Senator David Norris:** I understand other speakers discounted the notion of feelings altogether.

**Deputy Brian Lenihan:** Once someone establishes that he or she has been defamed, of course feelings come into the equation in the assessment of damages as Senator Norris outlined very well.

The Senator questioned whether we should have lodgements. Lodgements are a well-established part of our civil litigation system for the obvious reason that they discourage litigation. Litigation is very expensive for the State, which has an interest in this matter along with the parties. The State provides machinery for the adjudication of civil disputes, which is the courts system. Equally the State has an interest in discouraging parties from recourse to civil proceedings that are heard at full length, which is done through the lodgement system. The whole purpose of the lodgement system is to encourage individuals to settle their claims. The view is taken, to which I subscribe, that it is in the public interest to quieten claims and settle matters in so far as they can be settled. We are always outlining how undesirable it is for matrimonial proceedings to go their full distance and how desirable it is for parties to settle their unhappy differences before they enter the courtroom. However, that applies to most disputes. The State provides a lodgement system to encourage individuals to settle their disputes. A lodgement system needs to be a central feature of defamation law in our system.

Senator O'Donovan referred to the level of award for damages. In the continental jurisdictions the levels of awards for damages are lower than they are in common law jurisdictions. We have used the examples and experiences of other common law jurisdictions in deciding how to reform the law here. That brings me to Senator Alex White's general reflections on how we should reform our defamation laws. In this area we are dealing with powerful media organisations irrespective of whether their ownership is concentrated or diffuse. They are powerful organisations and can command substantial legal expertise. There has never been a shortage of intrepid and able lawyers willing to take them on. They are very powerful organisations that cannot be allowed to dominate debate on a subject like this. As the class of potential plaintiffs has no equivalent lobby group, it is important that careful scrutiny be given to this legislation.

That is why governments in most common law countries have embarked on an extensive period of consultation, discussion and report before proceeding to houses of parliament in this area. That has been the experience in the United Kingdom and has also been the process in this jurisdiction. The Bill did not fall out of the sky from the headquarters of some powerful media organisation. Considerable work was done by the Law Reform Commission and the Mohan committee. This issue was considered in great detail. The arguments on each issue were assessed. My philosophy on this legislation is that anything we can do to encourage the media organisations to apologise more readily is to be welcomed. Any-

thing that promotes a culture of greater responsibility in writing in media organisations is to be encouraged. This legislation is a substantial step in that direction.

**Senator David Norris:** This point goes to the matter of the press council. The Minister raised the matter of apology. A few years ago, *The Sun* newspaper was admonished very strongly by the British Press Complaints Commission for publishing particular photographs of Princess Diana. *The Sun* dutifully published the PCC's judgment and then republished the offending pictures under the heading "This is what all the fuss was about, folks". That effectively undermined the Press Complaints Commission. It depends on the quality of the apology, its sincerity and the prominence it is given. I understand that matter is addressed later in the Bill. I know the Minister is sympathetic on this issue. Apologies can be given tongue in cheek and in such a manner that the newspaper gets a second strike at its victim.

**Deputy Brian Lenihan:** We will be able to revisit apologies.

Question put and agreed to.

Section 13 agreed to,

#### SECTION 14.

Question proposed: "That section 14 stand part of the Bill."

**Senator David Norris:** This section relates to the reliance on a defence of truth. I made a point during the Second Stage debate and I regret that I did not table an amendment. I wish to signal that I will table such an amendment on Report Stage. Truth is the very best defence because nobody could possibly object to newspapers publishing truth however painful it might be for the person embarrassed or inconvenienced by that truth. The person against whom the allegations have been made in a newspaper should be entitled at a relatively early stage through his or her legal representatives to know the basis upon which that claim of truth is being made. On Report Stage I will table an amendment along the following lines: "Where the defendant relies upon truth as a defence he or she should be obliged in the pleadings contained in the defence to set out the facts upon which he or she will rely in the defence". That would give the plaintiff the opportunity to examine it, rather like the notice for further and better particulars, etc. If an appalling claim is made about somebody and the defendant relies on the defence of truth, it is only fair that the other side should get the opportunity to examine it in order to prepare for proper cross-examination in the process.

**Senator Denis O'Donovan:** I accept what the Minister said earlier that the Bill did not fall out

of the sky or originate as a result of a considerable media lobby. There has been considerable thought by successive Governments and the Law Reform Commission. The Minister also mentioned Mr. Mohan's input on the matter. We are enlarging on the old phrase, "justification". I may be wrong in this. However, my perception is that to prove something beyond yea or nay, the burden of proof is much stronger to prove something is true before a judge and jury. Is there a *raison d'être* for using the word "truth", as I would have felt the old defence of justification was quite acceptable? I saw no great desire by any lobby to use the word "truth". While I may be getting this wrong, I feel the use of the term "truth" raises the bar. It is much stronger to establish truth rather than justification in a court of law, especially before a jury.

Certain justifications can be claimed. I was at a meeting the other night at which I was told "Sure you're all on the take and looking for more money", which is a general perception. However, the truth is that 95% or 98% of politicians are decent, honest and hard-working people. Justification and truth are at different levels. We are raising the bar. I ask the Minister to explain why he is making this change. While I may be missing the point, I feel there will be a far greater onus on the defence to establish that something was true beyond yea or nay. Justification seems to be easier to establish from a court perspective.

**Deputy Brian Lenihan:** If Senator Norris tables an amendment on the question of what a defendant should plead, naturally I will examine it. However, this Bill already requires that a defendant must swear a verifying affidavit on the defence filed and the defence will have to be verified on oath. This is a substantial change in the existing law.

On the point made by Senator O'Donovan, section 14(1) is a restatement of the existing law and section 14(2) is a restatement of an existing statutory provision. There is no new law in section 14; there is no change of substance but there is a change of wording. The defence of justification, as Senator O'Donovan rightly said, is being renamed the defence of truth but they have been the same in substance for more than 100 years.

The Law Reform Commission pointed out that originally the word "justification" was used to describe all the defences available in a defamation action. The defences of qualified privilege and fair comment were then developed and the term "justification" was restricted to the plea of truth. Subsection 14(1) will make the substance of the law the form of the law in providing that the defence is a defence of truth. With regard to Senator O'Donovan's point, I am not sure if it makes any difference on the substance of the law but it does mean the law is clearer and more intelligible. For that reason it is desirable to have the

expression of truth there as this is at the heart of our defamation system. We put truth at a premium and those who utter falsehoods pay for them.

Question put and agreed to.

## SECTION 15.

**Senator David Norris:** I move amendment No. 3:

In page 12, subsection (2), lines 3 and 4, to delete paragraph (f).

I oppose the inclusion of judges in the exemption from defamation. The Minister has strengthened my feeling on this matter when he talked about truth. Why would a judge want to lie about anybody? Judges should not make outrageous or untrue comments about anybody. After all, a judge should know better than anybody else the primacy of truth and the reason for telling it. In vigorous argument between the combatants in a court case or in a robust debate in this or the other House, I can understand it and there is an argument for protecting people by absolute privilege. Will the Minister explain why a judge would wish to libel somebody? What part of a judicial function is it to libel the ordinary citizen? A libel by a judge on a citizen in the course of a judgment which is protected is far more damaging.

Some people are of the opinion there should be a clear definition of defamation at the beginning of the Bill. It is defined in section 5(2) as:

. . . the publication, by any means, of a defamatory statement concerning a person to one or more than one person (other than the first-mentioned person)...

Why would judges wish to do this? I know it is a practice and the Minister probably is aware it is a practice. I am sure the Minister can remember back — I certainly can — to the days when Nell McCafferty was writing *In the Eyes of the Law*. A number of judges routinely and for the purposes of entertaining and diverting the audience in the court made the most appalling comments about people which if made outside a court probably would be libellous. We are just reciting a whole list of establishment figures who have to be protected. I do not see any reason to license the Judiciary to lie about the citizenry.

**Senator Alex White:** I support this section and disagree with Senator Norris. I do not think it is a licence for judges to defame people. I ask the Minister to confirm this but my understanding of this protection — if it can be called such — is practically ancient. Authority for this proposition goes back at least 400 years —

**Senator David Norris:** I disagree.

**Senator Alex White:** It certainly goes back to the early 17th century. The principle is a very

[Senator Alex White.]

good one. I suggest if Senator Norris reflects on it, a good analogy is the protection afforded to us in this Chamber. We have a responsibility in this House to debate public issues, to deal with the cut and thrust of those issues. There have been occasions when — I will not say Senator Norris — some of our colleagues over the years may have been tempted to engage in very robust analysis and debate of issues and of the conduct of individuals. They have speculated on individuals and their actions and on what they ought to have done. This Chamber affords a protection for both Senator Norris and me and other Members. We are not exposed to being sued for libel in circumstances where we stray into that area, albeit one hopes, on rare occasions. In other circumstances we could end up in the High Court being sued for defamation. There is a very good reason for that protection and if Senator Norris reflected on it, he would see it is right he has that protection in this House. It is not a protection that should be abused but it is right that Senator Norris has that protection.

The same applies in regard to the exercise of a judicial function. The independence of a judge is vitally important to the conduct of his or her duties. Judges must be fully and entirely independent in the exercise of their important job. If they are to have a concern or a fear that they may be sued for defamation in respect of remarks they might make — these are sometimes very intemperate and I have criticised in this House remarks made by District Court judges — this would risk undermining the important independence of their function. Judges should be able to administer justice in a free, impartial and independent way. I suggest to Senator Norris it is quite wrong to interpret this section as being a protection for a member of the establishment — that we are singling out individual members of the establishment and giving them protection that is not given to other people. The issue is to do with the function they exercise for the community and for society. We as a community believe it important that judges have full independence in the carrying out of that function. This is for the protection of the community rather than it being a licence for individual members of the Bench to say whatever they want about whoever they want at any time. Senator Norris is under a misconception of what is at stake. A very important principle is at stake and it is the same principle that applies in this House and in the other House in the protection of persons. Those of us engaging in public debate in the House can at times stray into areas that could expose us to suit, even without knowing it; we could defame somebody.

It would undermine the effectiveness and the important independence of the role of the Judiciary if this section of the Bill were to be changed. Senator Norris's proposal would constitute a change. I do not have before me the particular provision of the 1961 Act but I am almost

certain a similar provision exists in that Act. It is our law, as I understand it, that judges cannot be sued for defamation in the exercise of their judicial function. They are not protected when they step down from the Bench and start, willy-nilly, to gratuitously defame or attack people. They ought to be protected when they are carrying out their functions.

I have other issues to speak about on the same section of the Bill.

**Senator Jim Walsh:** Like Senator White, I will refer to other examples in the section when they arise. Speaking on amendment No. 3, I fail to understand how a judge can be prevented from commenting on a case which is then reported. Because of the nature of the people who come before the courts, judges will often comment in very derogatory terms about the criminal activities of some of those people. It is right they should comment and that these comments should be reported.

I agree with the sentiments expressed by Senator Norris. There are many examples, in particular at District Court level, of judges who exceed what is fair and reasonable. While I appreciate the views expressed by Senator White, if we step over the line in this House, the Leas-Chathaoirleach will call us to account if we breach our privilege. However, a judge is master of his own comments in his own house.

While I fail to see how Members can deal with this issue in this Bill, I have long been an advocate of accountability for judges.

**Senator David Norris:** Hear, hear.

**Senator Jim Walsh:** There should be a judicial commission and were such a commission comprised exclusively of judges, I would have no objection. I refer to instances in which judges step out of line, of which there have been examples. The Oireachtas has conducted inquiries to deal with such issues and such inquiries should have had a structure other than the cumbersome model under which my colleague, Senator O'Donovan, was obliged to labour in one instance. It was a very difficult task. There should be a mechanism for dealing with this issue. When judges breach the privileges they enjoy, accountability to their peers should be an important component of the structures incorporated in the judicial system.

**Senator Eugene Regan:** I agree this provision is required. In the next paragraph, section 15(2)(g), privilege also attaches where a witness or a legal representative or a juror makes a statement. Consequently it would be entirely incongruous to exclude a judge performing his or her judicial functions from the protection of the privilege afforded in the Bill.

Under this section I also wish to ask whether —

**An Leas-Chathaoirleach:** Members should discuss only amendment No. 3 at present.

**Senator Eugene Regan:** Very well.

**Senator Denis O'Donovan:** I understand the reason Senator Norris tabled this amendment. In effect he asks for the removal of all protection from the Judiciary, which would be similar to taking a sledgehammer to crack a nut. However, I can see where he is coming from. I refer to the court case yesterday involving three ladies who were taking drugs back to County Cork and who went astray. The judge made certain remarks I considered to be highly appropriate. The amendment would place a severe curtailment on the Judiciary and would not achieve the correct result. It is common practice in all courts and in the District Court in particular for judges to tell a young brat who comes in with cock and bull story that he is lying through his teeth. As this is quite common, where would one stop?

Senator Walsh touched on a very important point and while I do not wish to stray from it, I consider the establishment of a judicial council or commission to be a necessity in future. Although a former colleague and previous Minister promised it some years ago, it has not arrived yet. Hopefully, like this Bill, it has been cooking for a long time and that when the time comes, like a Christmas cake, Members will get the mix right.

In my experience of approximately 30 years of dealing with judges and so on, our Judiciary and judicial system has served the country well since the foundation of the State. While there are exceptions, by and large we have some excellent judges and to remove section 15(2)(f) from the Bill would do far more harm and damage to the necessary defences than it would achieve. Consequently, Members must be extremely careful. I support section 15 in general and section 15(2)(f) in particular.

**Senator David Norris:** While I will be happy to withdraw the amendment, I am glad I tabled it because it has teased out a number of issues. I greatly welcome Senator Walsh's comments that were supported by Senator O'Donovan. I agree that one must protect the independence of the Judiciary. However, one of the instances given was very interesting. If, for example, a judge in his or her court told someone, who was what Senator O'Donovan referred to as a little brat, that he was lying through his teeth, this would get a headline. However, were that person to be found innocent the next day, damage would have been done. This is the kind of point I was making. While I did not expect this amendment to be accepted, I wanted to draw such a case to the attention of the House.

This strengthens the call made from the Government side for the establishment of a form of regulatory or overseeing body. I also accept Senator Alex White's comments in this regard.

While I am happy to withdraw the amendment, if the Minister responds he should indicate whether he agrees with his colleagues on the Government side. I refer to the necessity for some form of regulation in the circumstances that have been suggested, that is, if a judge makes plainly defamatory remarks that turn out to be unsubstantiated and damaging to someone who is found innocent. This is inappropriate and it is a question of regulating behaviour.

I agree that I took deliberately a sledgehammer to crack the nut. However, if the nut gets cracked by the mild blow of a nutcracker forged skilfully by the Minister, I will be perfectly happy.

**Deputy Brian Lenihan:** First, for the reasons outlined by all the Senators and accepted by Senator Norris, the effective operation of the judicial power in the State requires that absolute privilege should attach to the statements made by the Judiciary in court. Members of the Oireachtas enjoy such privilege and it is absolute in character. While Members also have a committee that regulates the abuse of that privilege, from a constitutional point of view it is clear that if Members enjoy this privilege for their effective operation, a co-ordinate branch of government, namely, the judicial power also should have that privilege. Moreover, apart from the question of equality, there are far more practical reasons that one must have such a privilege attaching to statements made in court, which have been outlined by Members in the course of their contributions.

Another reason becomes obvious when one considers the list of those to whom absolute privilege attaches. It attaches not only to statements made by judges or other persons performing a judicial function, but also to statements made by a party, a witness, a legal representative or a juror in the course of proceedings presided over by a judge or other person performing a judicial function. The reason for this is that in addition to being essential for the effective operation of the particular institution, the State has an interest in preventing further litigation about litigation. Were one not to have an absolute privilege attaching to court proceedings, one would have fresh actions stemming from disputes that were already resolved in the original action, in which points of fact were at issue. This would be a disastrous inconvenience for the State and constitutes the other reason for attaching absolute privilege in this regard.

However, the sentiment that motivated the tabling of this amendment concerned the issue of judicial conduct and misconduct. While this is an area in which Members must respect the independence of the courts, I can state that the Government is committed to a judicial council Bill that will provide for the regulation of judicial conduct. Of necessity, a great deal of such regulation must be self-regulation. However, there is a strong case for collective self-regulation in this area and this is in accordance with the Constitution. I am

[Deputy Brian Lenihan.]

aware that Senator O'Donovan explored the outer limits of the constitutional provisions that we possess in this regard.

**Senator Joe O'Toole:** However, his work was ignored. It is still sitting there.

**Deputy Brian Lenihan:** It is fair to say that his work came to a conclusion. One of the difficulties associated with spelling out in greater detail in the Constitution how one removes a judge is that it makes it easier to do so, thereby undermining the independence of the institution. However, there was a full exploration in the last Dáil as to how one would go about such an enterprise. As for the judicial council Bill, I am anxious to make progress in this regard and I await the views of the Chief Justice on this Bill.

**Senator Joe O'Toole:** Hear, hear.

**Deputy Brian Lenihan:** When I have those views to hand, I will introduce legislation on it. Senator Norris makes a fair point. While I do not wish to be seen to criticise the Judiciary as I am the Minister for Justice, Equality and Law Reform, it is important that utterances from the judicial bench do not damage people in their reputations. I recall that a wise District Court judge, who has now retired, told me that on his appointment, the first thing he taught himself to do was simply to read the statute, read the penalty prescribed by the Oireachtas and read it out to the guilty party when imposing sentence without making any other comments whatsoever regarding the imposition of sentence. It is a wise rule.

I await the views of the Chief Justice in this regard. While I understand the reason Senator Norris raised the issue, it cannot be dealt with in this Bill. It is a matter for a separate item of legislation.

**Senator Denis O'Donovan:** I wish all judges had that rule.

**Senator David Norris:** I thank the Minister for his undertaking and his understanding of what I was getting at and I am happy to withdraw it.

Amendment, by leave, withdrawn.

Government amendment No. 4:

In page 12, subsection (2), between lines 15 and 16, to insert the following:

"(j) a fair and accurate report of proceedings to which a relevant enactment referred to in section 40 of the Civil Liability and Courts Act 2004 applies;"

**Deputy Brian Lenihan:** The purpose of this proposed amendment to section 15 is to provide

for certainty that absolute privilege will attach to the reporting of family law cases. Section 40 of the Civil Liability and Courts Act 2004 provided for a relaxation of the *in camera* rule, with the key safeguard that the confidential nature of family law cases would continue to be respected. Section 40(3) specifically provides that nothing in any enactment can prohibit the preparation of a report of proceedings in family law cases on the publication of the decision of the court in those proceedings. The identities must not be disclosed. That is a safeguard of great importance. Reports under section 40(3) of the Act do not attract absolute privilege at present and it is important to clarify the law in that regard.

Senator White inquired as to whether the provisions in section 15 are new. They are new; they were not contained in the 1961 Act. This is a codification of the law on absolute privilege. For example, the absolute privilege enjoyed by a judge in judicial proceedings was something that rested in common law rather than in statute. In this section we are providing an exhaustive list of the circumstances in which absolute privilege can be claimed. Having examined various issues, this amendment was tabled to cover that point.

**Senator Alex White:** That serves as an introduction for the comment I wish to make on the balance of the section. As the Minister stated, it looks like an exhaustive list of circumstances which will be covered by absolute privilege. This is something new to our statute law. As lawyers would acknowledge, the very fact that it is a detailed list would give rise to a serious concern about matters which do not appear in it. If they are not in such a detailed list, it would be clearly seen to be our intention to have excluded them. In those circumstances I wish to raise two issues with the Minister and I am interested in his view on them.

Reference is made to courts, and it is quite proper that this is the case because, as we have already discussed, that is one of the fundamental areas that it is sought to protect. However, what is the position with quasi-judicial tribunals? I have a professional background in this area. In the previous debate speakers repeatedly pointed to worries about conflict. I do not have a conflict but I should point out that I do practise in the area of employment tribunals and have some familiarity with them. These are quasi-judicial tribunals set up under statute. Did the Minister consider whether privilege ought to attach to the proceedings of these tribunals? I refer to the Employment Appeals Tribunal, the equality tribunals, and perhaps the Labour Court. I am interested in whether the Minister addressed this issue and if so, why it was determined not to include them?

The second area relates to local authority meetings. Did the Minister consider whether privilege ought to attach to the proceedings of meetings of local authorities? I am sure he did

address the matter. What was his rationale for the conclusion that they ought not to be granted the protection of absolute privilege?

**Senator Eugene Regan:** Senator White raised the issue I wish to raise, namely, privilege for local authority meetings. In carrying out their public duties, councillors perform important work in the public interest. Was consideration given to the extension of this section to local authority meetings and local area committee meetings? The work of councils is significant. Much of European Union legislation is now implemented through local authorities. This is important work and there would appear to be a case that the privilege referred to in this section might be extended to local authorities and local councillors. I invite the Minister to comment.

**Senator Joe O'Toole:** I am completely opposed to the inclusion of local authorities in this section. They would be uncontrollable and that would give me cause for concern.

I was prompted to ask this question by the first point raised by Senator White. I am uneasy about an exclusive list, which is what this section appears to contain. We appear to have taken a decision to collate aspects of common law, existing legislation and the Constitution. Is it necessary to put into legislation something which is clearly understood to be protected? What is the rationale for including in legislation statements "made in proceedings before a committee of either House of the Oireachtas"? We know that to be the case, as it is covered in the Constitution and is stated at the beginning of every meeting. The extension of the privilege of the Houses to committees has been previously addressed. At the beginning of each meeting the basis on which the committee takes place is made very clear by each committee Chairman.

I find it interesting that in his protection of the Judiciary, with which I completely agree, the Minister intends to extend privilege to witnesses. Very often it is the comments made by witnesses in court that can cause a problem. In an earlier section we made it a requirement that when people put forward something in pleadings, they would have to swear an affidavit as to the factual nature of the statement, and that they stood by it, yet at the same time one can introduce a witness who can lose the run of himself or herself and say things about somebody in a court. This gives rise to serious questions. Why do we need to put into legislation something which is already covered either by previous legislation or by the Constitution, not to mention common law? It worries me to do that.

I remember arguing this case previously. When the first version of the Official Languages Act came before the House approximately five years ago, an issue arose concerning the provision that Members of the Oireachtas could speak in Irish or in English. I see the Minister is smiling but I

will not talk about the obvious. I opposed this measure vehemently. It was a tautology, to say the least, and completely unnecessary that something which is a constitutional right was being given a statutory basis. Why do we need a statutory basis for something which is constitutionally protected? This is unnecessary, unless there is a constitutional imperative to do something, which is not the case here.

Following that debate, in the next version of the Bill that section was omitted. I worry when something that is in the Constitution is relegated to a statutory protection. This is unnecessary. The point raised by Senator White is an important one. If one starts making lists then the fact that something is not on the list will give rise to questions.

**Senator Jim Walsh:** I am a strong proponent of the list approach because absolute privilege should be confined to where it is essential and necessary for people to function effectively. The question of local authorities is an interesting one. Councillors enjoy some privilege if not absolute privilege when speaking.

A case occurred in Wexford a quarter of a century ago when one of my colleagues on the county council criticised the management of the local landfill site in fairly condemnatory language. There was much agitation in the area because of the nuisance people encountered with flies, smells, etc., due to the way in which the site was managed. On the face of it, the comments made appeared to be fair but the landfill site employee whose job it was to maintain the site took a legal case against the councillor, who was a former eminent Member of the Lower House at the time or subsequently. The case went on for a considerable period but to the best of my knowledge he was found not to be in breach of making a defamatory statement. The judge sensibly took the view that in his position as a public representative, he was entitled to make the point but it struck me, with the points being put forward, that it is an interesting anecdote in terms of ensuring that councillors, in the genuine performance of their functions, are not exposed to similar circumstances which could inhibit them functioning effectively at local authority level.

**Senator Paddy Burke:** I support my colleague, Senator Regan, and the other speakers on the question of some form of privilege for local authority members. As one who served on a local authority for many years I do not believe there was ever an occasion where privilege was used but anything can happen in the heat of the moment and if occasions arise where the heat of the moment battle can be established, there should be some form of privilege for the member. Heated debate can take place in chambers and comments made in anger or in the heat of the moment. However, I agree with Senators who said there should be some form of privilege for

[Senator Paddy Burke.]

a local authority member. I ask the Minister to examine that because it is an important issue for local government.

**Deputy Brian Lenihan:** Members of local authorities enjoy qualified privilege and that is dealt with in the next section. A qualified privilege is a privilege to make an utterance or publish a statement in circumstances where the privilege can only be destroyed in the event of malice being established. That is the current position in regard to local authorities.

Senators should recall that absolute privilege is a drastic device. It means that all statements are immune from any actionability. When Senator Norris raised the question of the courts system I made the point that one of the reasons the courts must enjoy absolute privilege is not just because of the position of the Judiciary in the Constitution but because of the need to prevent litigation spawning further defamation actions. That is the fundamental reason we attach a privilege, for example, to the utterance of a witness in a court proceeding because as Senator O'Toole pointed out, the utterance of a witness in a court proceeding can often be reported and can often be defamatory but the State must attach absolute privilege to that statement because we cannot spawn another defamation action arising out of the facts in dispute in the court case. That is the fundamental justification for absolute privilege in court proceedings.

The absolute privilege the Houses of the Oireachtas enjoy stems from the Constitution. Senator O'Toole raised the issue of whether in the case of that absolute privilege, we should legislate for it and whether the legislation is superfluous. I agree with him that matter should be reviewed, and I will have it reviewed, and if there is any element of surplusage in the legislation which is additional to the Constitution and unnecessary, it should not be in the legislation. However, I do not agree with the Senator that it is a mistake to provide an exhaustive list. It is important, given the absolute character of this privilege, that we do an exhaustive list now. The constitutional references have crept in because there was an exercise to establish a comprehensive list of occasions of absolute privilege.

That leads me to the points of substance raised by Senators Alex White and Regan about the occasions that should qualify and whether there is a case for an extension. The Law Reform Commission examined the question of quasi-judicial bodies and came to the conclusion, reflected in the legislation, that absolute privilege does attach to a statement made in the course of proceedings involving the exercise of limited functions and powers of a judicial nature in accordance with Article 37 of the Constitution where this statement is connected with those proceedings and also, in subsection (f), made by a judge or other person performing a judicial function. Therefore,

a person performing a judicial function or a person exercising limited functions and powers of a judicial nature enjoys absolute privilege under these provisions.

The Law Reform Commission pointed out that defining a quasi-judicial function can be a difficult exercise in draftsmanship and it is impossible to provide an exhaustive list of quasi-judicial bodies. For that reason it included the reference to Article 37 in its recommendation because at least it provides a definition that has a foundation in existing case law. We can say with clarity, therefore, that a range of bodies will be covered by virtue of the reference to Article 37. The more general reference in the section to any person performing a judicial function would cover a wide range of bodies. It would certainly cover, for example, a county registrar exercising limited civil functions.

Regarding bodies on the employment law side, I would envisage, for example, that the Employment Equality Tribunal is a body exercising judicial functions and hearing and determining evidence and therefore statements made there would attract an absolute privilege.

On the other hand — Senator White will probably be better than me on this — the Labour Court as an institution is not necessarily judicial or quasi-judicial in its functions. It is not hearing evidence and making a determination on evidence.

**Senator Alex White:** It is somewhat controversial at the moment as to whether it is or not.

**Deputy Brian Lenihan:** Yes, my advice is be careful with regard to the Labour Court. The Labour Court may well enjoy a qualified privilege because the parties making statements there have an interest in making them and the person hearing the statements has a duty to hear them. There may well be a qualified privilege but it is desirable, as a matter of principle, to have an exhaustive list of the occasions to which absolute privilege attaches.

That leads me to the last question which Senator Regan, and all of the Senators, naturally raised and that is the question of local authorities. The current position is that they enjoy a qualified privilege. The question then arises whether an absolute privilege is attached to it. This House enjoys an absolute privilege for the effective operation of its system of supervision of the Executive but even in the experience of this House we have seen arguments about the abuse of privilege. We have a committee in each House to regulate the abuse of privilege so when an abuse takes place the House, of its own motion, can discipline a Member for a breach of privilege.

It is a drastic extension of the law to create very large numbers of bodies. In justice we could not confine it to county councils; we would have to include town councils as well. The number and range of bodies is so large, the problems of regu-

lation of abuse so extensive and the risk to the reputation is so great for those who could be defamed by these statements, that on balance there is not a good case for it.

Amendment agreed to.

**An Cathaoirleach:** Amendment No. 5 is a Government amendment and amendment No. 45 is cognate. Therefore, amendments Nos. 5 and 45 will be discussed together by agreement.

Government amendment No. 5:

In page 12, subsection (2)(r), line 44, to delete “under the Constitution” and substitute “by law in the State”.

These are technical amendments which provide continuity with the correct reference to a court established by law in the State, which is already correctly referred to in section 15(2)(i).

Amendment agreed to.

Progress reported; Committee to sit again.

#### **Fifth Report of Committee of Selection: Motion.**

**Senator Paddy Burke:** The Committee of Selection reports that it has discharged Senator Maurice Cummins from membership of the Joint Committee on European Affairs at his request and has appointed Senator Paschal O'Donoghue in substitution for him.

The Committee of Selection reports that it has discharged Senator Lisa McDonald from membership of the Joint Committee on the Constitutional Amendment on Children, at her request, and has appointed Senator Maria Corrigan in substitution for her.

I move: “That the report be laid before the Seanad.”

Question put and agreed to.

#### **Defamation Bill 2006: Committee and Remaining Stages (Resumed).**

#### SECTION 15.

Question proposed: “That section 15, as amended, stand part of the Bill.”

**Senator Jim Walsh:** On the section, I want to raise a number of points, including the point Senator White alluded to earlier with regard to the absolute privilege given to Members. I understand the necessity for that. There is a system to deal with it even though I have some reservations about abuses. However, paragraph (b) states, “contained in a report of a statement, to which paragraph (a) applies, produced by or on the authority of either such House.”. What we are discussing here is not the issue in the report but its subsequent publication, which can happen

even if it is defamatory. I understand the necessity for it but I have some reservations about it.

Paragraph (k) refers to comments made in proceedings before a committee of either House of the Oireachtas. If I understand this correctly, it confers absolute privilege on those comments. My experience is that a clear statement is made by the chairman of the committee to members of the public who attend the meetings to submit reports or make presentations that while the members of the committee enjoy absolute privilege, they do not. This provision appears to extend it to them. I have some concerns about that because a wide range of people attend those meetings and some of them might have axes to grind.

Paragraph (m) refers to statements “made in the course of proceedings before a tribunal”. I understand why the tribunal would be treated like a court but there have been many instances of people making audacious, unfounded comments as witnesses before the tribunals. Most objective observers would say that some of those comments were made for purely vexatious reasons and were without foundation. I cannot see a way of interfering with or qualifying the privilege. If Members of the Houses of the Oireachtas abuse the tremendous privilege they enjoy, they can be held to account by committees of the Houses. However, in the case of tribunals, that power does not always appear to be exercised by the chairmen. Where the chairman of a tribunal instinctively believes the comments made are defamatory and without foundation, is there a system whereby he could defer their publication for a period until the tribunal can establish their truth or otherwise?

I believe that if a structure has absolute privilege, there is a consequent responsibility to introduce a system of safeguards to ensure that if somebody wilfully comes into that structure and abuses such privilege, there must be a mechanism of correcting or stalling it. That is not in any way to interfere with people who make comments which they genuinely believe. A distinction must be made between the two. Perhaps it is not possible to deal with this but I feel particularly strong about this point. Any privilege we have must be accompanied by responsibility, and where that responsibility is not exercised there must be a system to correct or arrest it.

**Senator Eugene Regan:** The establishment of a tribunal of inquiry is generally a unique event and arises where the political system in a sense becomes somewhat dysfunctional, such that there is a loss of confidence in the system. It is a big step to set up a tribunal of inquiry. It cannot really complete its work without the privilege attached to it. We have long tried to ensure that Oireachtas committees work more effectively and deal with matters of public concern and with matters where there is, perhaps, a loss of trust in politics. The extension of absolute privilege to the

[Senator Eugene Regan.]

committees without qualification means that the committees can perform a very important function and could obviate the need for many of the tribunals of inquiry. The privilege proposed for the committees should stand.

**Senator David Norris:** I agree, but I support the points made by Senator Walsh. It is a fact that the chairmen of committees, in advance of hearing submissions from members of the public, clearly indicate to them that while members of the committee are covered by privilege, the witnesses are not. It is correct to put them on notice of this because some controversial matters have been broached at committees in which I have been involved, for example, transport, Tara and so forth. Such intemperance should be held in check, particularly if it involves impugning third parties who are not present to defend themselves. There has been a tendency for that to happen but in the transport and foreign affairs committees the chairmen were good at anticipating what was about to happen and knocking it firmly on the head.

With regard to tribunals, it is important to have a degree of privilege if they are to get to the heart of the matters being investigated. However, injustice can occur. There have been instances where people who have been described, at least in part, as fantasists have made very wild accusations which subsequently turned out to be incorrect and inappropriate.

**Senator Alex White:** The Taoiseach.

**Senator David Norris:** That includes our revered colleague from the other House. The difficulty is the matter of delay. The tribunal is not a court of law and has a lower standard of proof in terms of giving evidence, which is not tested in quite the same way. The tribunals always make the point that they are not courts. However, if somebody makes an outrageous, defamatory and untrue statement, and that is known to the tribunal, there is no rebuttal for a period of 18 months. That period constitutes a severe punishment for the innocent party. This is the element I believe Senator Walsh is trying to address. It might not be possible to address it at this point in the Bill but Senator Walsh has done a useful service by drawing attention to it. I am a strong supporter of the tribunals but I believe that some of them have been milked by the legal profession.

**Senator Alex White:** I seek clarification from the Minister on one point. My understanding of paragraph (k) is that a statement "made in proceedings before a committee" includes a statement made by a witness giving evidence at the committee.

**Deputy Brian Lenihan:** Yes.

**Senator Alex White:** As I listened to Senator Walsh I wondered if I was wrong but that is clearly its meaning.

**Deputy Brian Lenihan:** Senator Walsh referred to three paragraphs. The first is straightforward and refers to a report produced by or on the authority of either House of the Oireachtas. Clearly, a report of the House must have privilege attached. I am not sure whether it is provided for in the Constitution as well as in statute law. If statements in the Houses enjoy absolute privilege under the Constitution, the rationale for including reports is the same.

Fair points can be made on the other two matters raised by Senator Walsh. First, there is a change with regard to the proceedings of a committee of either House of the Oireachtas. It is a change on which I am open to persuasion and I would be happy to get the views of the Committee on Procedure and Privileges of each House to establish what are the wishes of each House with regard to the section. However, there is one difficulty I would like to highlight. Under legislation the Houses have powers of compellability. When a person is compelled to give testimony before the Houses, the Houses are embarking on a fact-finding mission, which would entail the attachment of absolute privilege to the utterances of witnesses. I propose to refer the matter to the committees and I will take into account their views. As Senator Walsh outlined, witnesses are at present advised of their qualified privilege. However, I will seek the view of the committees on this.

The final question related to the tribunals of inquiry. There is no doubt the manner of their operation has led to the traduction of reputation in a very improper way. However, this does not arise in this legislation. It has more to do with our determination to establish tribunals and the character of the terms of reference we attach to them. The tribunal of inquiry, as a device, is a method of transferring an issue from the political system to a judicial investigation. That is the basis of the legislation.

The system of tribunals was introduced in the UK in 1920 after an infamous saga known as the Marconi scandal, in which leading Ministers in the Liberal Government were alleged to have been involved in improper share dealings on the London Stock Exchange. A parliamentary committee of inquiry was charged with investigating the allegations but, of course, a parliamentary committee can become very partisan due to the domination of certain parties in the committee membership. Therefore, in 1920 the then Parliament of the United Kingdom decided to establish a machinery in which a judge would be brought in to investigate the allegations.

In the history of this State, many tribunals have been established to investigate natural disasters or matters which did not have a direct bearing on the Houses of the Oireachtas or the performance

of functions by Members. However, in recent years we have come to use these tribunals more extensively in these areas, which has given rise to much difficulty. That is why the commissions of investigation legislation was enacted, and many of the proceedings before those commissions can be conducted in private. The difficulty of public disclosure of private information by tribunals is also serious. As I made clear in the other House recently, the tribunals of inquiry Bill will give us an opportunity to explore these issues, but it is not intended to be brought into operation in advance of the completion of the current tribunals and their work within the envisaged timescales.

**Senator Jim Walsh:** I wish to make a suggestion. The Minister is prudent in consulting the Committees on Procedure and Privileges. It might also be useful, however, to consult with the Working Group of Committee Chairmen, because the members would have opinions based on practical experience, which might be helpful.

**Senator Alex White:** I wish to put on record my view that this is an entirely appropriate provision and that absolute privilege ought to attach to witnesses before committees of the Oireachtas.

Question put and agreed to.

Sections 16 and 17 agreed to.

## SECTION 18

Government amendment No. 6:

In page 14, subsection (1), line 37, to delete "Act" and substitute "section".

**An Cathaoirleach:** Amendments Nos. 6, 7 and 9 are related and No. 10 is a technical alternative to No. 9. These amendments will be discussed together by agreement. Is that agreed? Agreed.

**Deputy Brian Lenihan:** Amendments Nos. 6, 7 and 9 are drafting amendments. Amendment No. 6 is purely technical. Amendment No. 7 provides that the reference in subsection (2)(b)(ii) to "the defence of qualified privilege" be in accordance with all of section 16 and not limited to section 16(2). A similar amendment may be required in section 29(4), and I will examine this matter prior to Report Stage.

Amendment No. 9 proposes to improve the text of the Bill for greater clarity. Having considered the points made by Senators on Committee Stage in the last Seanad and the current wording of this subsection, I agreed that the drafting could be improved on. The proposed amendment improves on the original construction and a simpler approach is taken to this rather complex issue. Amendment No. 10 is in the name of Senator Walsh.

**Senator Eugene Regan:** The substitution of "public interest" for "public importance" is—

**Senator Alex White:** I do not think that is part of this grouping of amendments. We are discussing Nos. 6, 7, 9 and 10.

**Senator Eugene Regan:** We are not dealing with No. 8 at the moment. That is fine, thank you.

**Senator David Norris:** I thank the Minister for having read the previous debate and for making this clarification. I was one of those who raised the question of the obscurity of the language and I am glad he is operating in this fashion.

**Senator Jim Walsh:** This part of the Bill deals with the defence of honest opinion. My amendment, which excludes part of subsection 3(a), is superseded by the Minister's amendment, which removes section 3.

**Deputy Brian Lenihan:** We have helped the Senator to some extent.

**Senator Jim Walsh:** Yes, indeed. I welcome this change. The last time the Bill was discussed, I pointed out that the plaintiff must give an affidavit and the defendant is not defined in the Bill. I had some concerns that if one is suing a broadcaster or a newspaper — I will stick with the newspaper — it may be unclear who the defendant is. Is it the newspaper itself, the reporter or the editor? There may be a need to define who the defendant is under this section. If a defence of honest opinion is put forward, it comes back to whose opinion that was. I envisage difficulties and confusion in this regard and the possibility of obfuscation. As a consequence, there may be difficulties for the plaintiff in processing his or her case. I am not sure how this could be dealt with.

Let us say a reporter writes an article containing information which he or she believes to be true but the editor knows is not. Alternatively, a reporter may write an article knowing it to be defamatory and surmising it to be untrue, but the editor must defend the case. Are we leaving a lacuna that makes the processing of cases difficult? I ask the Minister whether there is a need to define the defendant and whether we might seek a responding affidavit from both the editor and the reporter in my example. Clearly, if the defendant is claiming the defence of honest opinion, this is being asserted to the court by both of them, because they both have a responsibility in the publication of the article — one writes it and the other decides to publish it, perhaps attaching a headline which puts a further spin on the issue. We know from reading headlines in newspapers that they often bear very little relation to the actual articles and can be very critical or defamatory in their language due to the focus on selling newspapers. We must be careful in this matter. Speaking as a non-legal person,

[Senator Jim Walsh.]

perhaps we should tighten the provision. I welcome the Minister's amendment in general, as it will improve the section immensely.

**Senator David Norris:** I welcome the Minister's amendment. All sides of the House fought vigorously on this section because, as originally drafted, it seemed to come dangerously close to meaning "this is true because I say it is true or I think it is the case". By prefacing something with "my opinion", it seemed to mean everything would be all right. I categorised it as the "Joan Rivers defence". At the time, she had advertisements on RTE for her show, which was called "Allegedly". To protect herself, she made a joke out of the issue by prefacing every appalling comment on the stars of the entertainment firmament with the word "allegedly".

Senator Walsh's concern regarding who should be responsible may be addressed by a later amendment if the Minister accepts it. I believe in

the timeworn American phrase "the 1 o'clock buck stops here". The buck should stop with the editor and proprietor. Amendment No. 39 in my name states: "In the case of a successful defamation action, the Editor and Proprietor of the newspaper which published the defamatory statement shall be liable for damages." This removes the journalist who may be vulnerable from the firing line and places the responsibility where it should be, as the editor is in command of the newspaper, the proprietor profits from it and they have legal staff.

Yesterday, a question was raised during the interview of a newspaper reporter who had been dealing trenchantly with the evidence given by the Taoiseach and the contradiction of that by Mr. Hynes, the former head of the national lottery. When asked whether he had further information, the reporter said that he had, but that his article had been "legalised". Passing articles under the scrutiny of libel lawyers is something that responsible newspapers do routinely.

I sympathise with journalists on this issue because there can be inadvertent libel. I know of one case in which a dear, old friend of mine who is no longer with us made a humorous off-the-cuff remark in a column about a comic. The comic did not have much of a sense of humour and I know the stress and strain caused to my friend as a consequence. It would do no harm to clarify that in terms of these actions, the buck stops with the two principal elements who should be responsible with all of the relevant safeguards, namely, the proprietor and the editor. I do not know whether this would satisfy Senator Walsh's situation.

**Senator Alex White:** We can return to this issue when it arises, but I am concerned on behalf of the plaintiff by Senator Norris's proposal. If the potential plaintiff — the little man or woman as described — must face multiple defendants in one action and decide who is responsible —

**Senator David Norris:** That is not what I am saying.

**Senator Alex White:** I know, but it could be the unintended effect of what the Senator has in mind.

I welcome the Government amendment and the language in the Bill. Senator O'Donovan raised the question of justification and was concerned that we would move from it to truth. The Minister was right to state that they are the same. The 1961 Act uses the word "truth" in seeking to explain what it means by "justification".

The terms "justification" and "fair comment" have other meanings in everyday language and it is right for this legislation to set them aside once and for all. When we use the term "fair comment" in everyday conversation, we mean something distinct in a colloquial sense. Over the years, we have imported that phrase into law, but it has unfortunately not helped. I know from direct experience of trying to explain to people what "fair comment" means that, from a legal perspective, it has always meant honest opinion. It is right to codify the meaning in legislation and refer to it for what it is, namely, the expression of an honest opinion or an opinion honestly held. We should remove the term "fair comment" from our descriptions of these matters in the same way we have replaced "justification" with what was always meant, namely, "truth". I welcome the section's clarity of language, which is carried through in the Government amendment.

**Deputy Brian Lenihan:** The defendant whose editor had one opinion about the honest opinion and whose journalist who wrote the article had a different opinion would be in a weak position in any court proceeding. The credibility of his or her case would be undermined by the conflict within the defendant's command structure in respect of the publication. Regarding this practical matter, Senator Walsh's concern is not real.

The section addresses the question of comment and opinion. It is important to bear in mind section 18(1) which states: "It shall be a defence (to be known, and in this Act referred to, as the "defence of honest opinion") to a defamation action for the defendant to prove that, in the case of a statement consisting of an opinion, the opinion was honestly held." In pleading the defence in defamation actions, the traditional defence of fair comment was to say of an article or statement that in so far as it contained statements of fact, it was true and, in so far as it was a statement of opinion, it was a fair and reasonable comment on matters of public importance. For the reasons outlined by Senator Alex White, this seemed to be a cumbersome way of describing the fact that an opinion cannot be proven as a fact, but that it needed to be shown as being fair and reasonable. The traditional law is being restated in the Bill in terms of an honest opinion.

Having examined the Bill and Senators' opinions on Committee Stage in the previous Seanad, I agree with Senator Norris that the language in the original provision lacked clarity. The Parliamentary Counsel has devised a better formulation in respect of the defence of honest opinion, one over which we can stand as a codification of existing law without going beyond current law. In that respect, I am happy with the provision.

Senator O'Toole raised a matter that will arise when we address section 24. I do not want to anticipate discussion on the section, but an attempt has been made in the legislation to codify all available defences in a defamation action. This is correct because we as legislators have a duty to define in exact terms the scope of this particular civil wrong. We cannot leave matters to be determined by the courts or leave issues open. Consequently, the drafting of this legislation has been a difficult exercise because some concepts with clear meanings in text books and judicial decisions must be translated into statutory form for the first time. This matter is an example of that type of exercise.

**Senator Eugene Regan:** I ask for clarity on section 18(3)(b). It states:

[T]hat defence shall not fail by reason only of the defendant's failing to prove the truth of those allegations unless -

(i) the opinion could reasonably be understood as implying that those allegations are true, or

(ii) the allegations are untrue and, at the time of the publication of the opinion, the defendant knew or ought reasonably to have known that those allegations were untrue.

Amendment No. 9 states:

(ii) where the defendant does not prove the truth of those allegations-

(I) the opinion could not reasonably be understood as implying that those allegations were true, and

(II) at the time of the publication of the opinion, the defendant did not know or could not reasonably have been expected to know that those allegations were untrue.

It is the use of the word "and" between the two subparagraphs that I query. Does it make sense to use it? The amendment also changes the wording from "the defendant knew or ought reasonably to have known that those allegations were untrue" to "the defendant did not know or could not reasonably have been expected to know that those allegations were untrue". What are the Minister's views on this wording?

**Deputy Brian Lenihan:** The purpose of the amendment is to give greater clarity to the provision. These are the circumstances in which the defence of honest opinion fails. It fails unless the defendant proves the truth of the allegations, which has to be there. If the defendant does not prove the truth of the allegations when dealing with a matter of opinion, the opinion could not be reasonably understood as implying the allegations were true. This is worded as "at the time of the publication the defendant did not know or could not reasonably expected to know the allegations were untrue." These are cumulative requirements under this amendment.

I will examine the fact that the two requirements are cumulative on Report Stage. It is an imposition on a defendant.

Amendment agreed to.

Government amendment No. 7:

In page 15, subsection (2)(b)(ii), to delete lines 14 and 15 and substitute the following:

"(II) the defence of qualified privilege,".

Amendment agreed to.

Government amendment No. 8:

In page 15, subsection (2)(c), line 19, to delete "public importance" and substitute "public interest".

**Deputy Brian Lenihan:** This amendment provides that the new defence shall be known as the defence of fair and reasonable publication on a matter of public interest and not public importance. Having examined the debates on the previous Committee Stage, I am persuaded by the argument that for greater clarity it may be better to use the term "public interest" which is well understood and well established in case law.

It also reflects recent developments before the courts where Mr. Justice Peter Charleton referred to the concept of public interest rather than public importance. I do not want to open a debate yet on Mr. Justice Peter Charleton's judgment. I would prefer to discuss this under another section.

**Senator Eugene Regan:** I welcome the change to the wording which is appropriate.

**Senator Alex White:** If we had continued with the term "public importance" the courts would have been adjudicating as to what constituted a matter of public importance. Controversy would have arisen with the inevitable and almost paternalistic sense as to what a court thinks is an issue of public importance. I welcome the substitution as the concept of public interest is known to us. Although it is not without its own contro-

[Senator Alex White.]

versies, it is much more attractive than the narrower notion of public importance.

**Senator Jim Walsh:** I have some reservations about this amendment as it may be lowering the bar. The thrust of my argument on this Bill is not to allow that to occur. I appreciate what was said by the legal Members about public importance. However, the terms “the opinion related to a matter of public interest” may not necessarily mean it is in the interest of the public. There may be a legal connotation. Public interest could just be a curiosity and, therefore, I am concerned a defence could be mounted with only a low level of proof.

I stand to be corrected but the term “public importance” is clear. In a legal setting it might not be as well defined as I interpret it to be. Public interest could be anything, however, even the result of last night’s match. I am not convinced by the substitution of the terms “public importance” with “public interest”. I do not want to split hairs on it but it is fundamental when it gets to court as to the level and threshold for the judicial assessment of whether it was correctly done.

**Senator David Norris:** I am glad the Minister has taken the arguments on the previous Committee Stage into account. I support the amendment because I believe the Minister has tightened up this provision. Public importance gives a free range for prurient interest, speculation and poking around unnecessarily in people’s dirty linen with no good real investigative point.

With so many lawyers around the joint, I am sure I will be told if I am wrong but I believe there is a definition in case law of public interest. It is similar to a phrase in the Constitution, alas rarely used, “the public good”. If I am incorrect, there may be a case for attempting a definition of public interest in the Bill. Public interest has been satisfactorily defined by the operation of case law.

**Deputy Brian Lenihan:** Public interest brings greater clarity into the law which is always desirable. Public importance does not have a term of art meaning in the law in the same sense. Apart from established case law in this area, a matter of public interest can be distinguished clearly from a matter of private interest. Public clearly connotes the concept of a zone of private interest and, therefore, increases the burden on a defendant who must demonstrate the matter is of public and not private interest. It is difficult to think of the term “importance” in the same light.

Matters not of public importance — public unimportance, so to speak — does not connote the same degree of public interest. This is an essential feature of the defence of fair comment. One cannot make an honest comment about a matter of private interest. It must be a matter of public interest for one to be entitled to express

such a strong opinion. It is a more valuable safeguard to use the term “public interest”,. I agree with the views expressed by Senators on this matter.

Amendment agreed to.

Government amendment No. 9:

In page 15, lines 20 to 38, to delete subsection (3) and substitute the following:

“(3)(a) The defence of honest opinion shall fail, if the opinion concerned is based on allegations of fact to which subsection (2)(b)(i) applies, unless—

(i) the defendant proves the truth of those allegations, or

(ii) where the defendant does not prove the truth of all of those allegations, the opinion is honestly held having regard to the allegations of fact the truth of which are proved.

(b) The defence of honest opinion shall fail, if the opinion concerned is based on allegations of fact to which subsection (2)(b)(ii) applies, unless—

(i) the defendant proves the truth of those allegations, or

(ii) where the defendant does not prove the truth of those allegations—

(I) the opinion could not reasonably be understood as implying that those allegations were true, and

(II) at the time of the publication of the opinion, the defendant did not know or could not reasonably have been expected to know that those allegations were untrue.”.

Amendment agreed to.

Amendment No. 10 not moved.

Section 18, as amended, agreed to.

## SECTION 19.

Government amendment No. 11:

In page 16, line 4, to delete “shall”.

**Deputy Brian Lenihan:** This is a technical drafting amendment to improve the text of the Bill. The word “shall” appears twice in section 19, in lines 1 and 4. The reference to “shall” in line 4 is superfluous and this amendment proposes to remove it.

**Senator David Norris:** I understand that the Minister is trying to make this section grammatically clear but would it not have been better in

line 3 after the phrase “consisting of opinion,” to include the phrase “and shall include the following”? There is no grammatical proscription on using the word “shall” twice, particularly when it covers slightly different elements. I am not insisting on it but it seems to flow better with “and shall” so that the section would read:

The matters to which the court in a defamation action shall have regard, for the purposes of distinguishing between a statement consisting of allegations of fact and a statement consisting of opinion, and shall include the following:

**Senator Eugene Regan:** Senator Norris is grammatically correct because the clause has two purposes, “shall have regard” and “shall include”. This seems to be more elegant language.

**Deputy Brian Lenihan:** I have some sympathy with the views expressed. I will consider the issue and table an amendment on Report Stage. It certainly reads more elegantly with the insertion of the conjunction.

Amendment, by leave, withdrawn.

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

**Senator David Norris:** Is there any necessity for me to table an amendment on this?

**An Cathaoirleach:** No, because section 19 will be part of the Bill as written, not as amended. The Minister will table an amendment on Report Stage.

**Deputy Brian Lenihan:** I am withdrawing my current amendment because of the Senator’s observations on it and revisiting the issue the Senator raised on Report Stage. There is no point in amending the Bill with the Government amendment now and coming back to it on Report Stage.

Question put and agreed to.

## SECTION 20.

Question proposed: “That section 20 stand part of the Bill.”

**Senator Eugene Regan:** I am concerned about section 20(5)(b) which, referring an offer to make amends means an offer, “to publish that correction and apology in such manner as is reasonable and practicable in the circumstances.”. There is often a major dispute about the form of the apology. In many cases the apology is printed in the corner of page 10 whereas the defamation was published on top fold of the front page. Could the language in this subsection be tightened up, for example, by the inclusion of a phrase such as

“commensurate with the prominence given to the original publication” or otherwise?

**Senator Jim Walsh:** I support Senator Regan’s comment.

**Deputy Brian Lenihan:** I may revisit section 20 on Report Stage, addressing the issue Senator Regan raised. It may arise on this section but not necessarily because this is an offer of amends procedure which has existed since the 1961 Act. The issue, however, will be better discussed in some of the subsequent sections and we should have a more detailed discussion on the issue of the prominence of an apology. If, as a result of that discussion, we decide to move in that direction an incidental change will be required in section 20 as well.

**Senator David Norris:** I have a note in the margin of the Bill that I intend to table an amendment to the effect that the apology shall have at least the same prominence as the original defamatory statement. That is only fair because it is not appropriate for a newspaper to have the defence of an apology if it sticks it on the back page, in Irish.

Question put and agreed to.

## SECTION 21.

**An Cathaoirleach:** Amendments Nos. 12 and 31 are related and will be discussed together by agreement.

Government amendment No. 12:

In page 17, subsection (2), line 35, to delete “making” and substitute “the publication of”.

**Deputy Brian Lenihan:** These are technical amendments designed to improve the text to make it clear that the apology being made requires publication.

Amendment agreed to.

Section 21, as amended, agreed to.

## SECTION 22.

**An Cathaoirleach:** Amendments Nos. 14 and 15 are cognate and are related to amendment No. 13. Therefore, amendments Nos. 13 to 15, inclusive, will be discussed together by agreement.

**Senator Alex White:** I move amendment No.13:

In page 18, between lines 8 and 9, to insert the following subsection:

“(2) The court may regard an apology as effecting a substantial mitigation of damage if,

[Senator Alex White.]

but only if, it is made within 14 days of complaint being made in respect of the utterance to which the apology relates, and if the defendant's proposals for publication of the apology are reasonable.”.

This takes us into the area of apologies. I agree with the Minister's earlier comment that to achieve the balance sought by this legislation it is a priority to ensure that media organisations publish apologies as appropriate and would do so “readily”. This is desirable.

My default position in this debate is to favour the widest possible latitude for freedom of expression, consistent with the protection of the good name of an individual. Where there is a clash it is for us to determine where to strike the balance. An apology when appropriate should be timely and expeditious. There is little point in giving protection to defendants who delay publication of an apology because the impact of a libel is felt most acutely in the hours, days or weeks after publication. The longer the aggrieved person has to wait the less impact the apology will have.

In this amendment we regard mitigation as substantial mitigation. If an apology is not published within the timeframe that we propose, we would not exclude the possibility of mitigation being associated with late apologies but it would not be substantial mitigation. We would be flexible in a discussion of the timeframe. There could be some mitigation for a late apology but not substantial mitigation. This is consistent with the Minister's comment about apologies being published readily.

**Senator Denis O'Donovan:** I am sure the Minister is more capable of responding to this amendment than I but I support the gist of it. Defamation can cause a great deal of damage. I raised in this House the case brought by a Ukrainian interpreter against a number of newspapers after the death of our former colleague, Liam Lawlor. The accident happened at a weekend and that Sunday morning a most appalling story was told which was poorly researched and utterly untrue. The lady involved, of whom I had never heard previously, used Irish legislation to get a substantial settlement, plus costs.

I am not sure how many people in Moscow and the Ukraine read the Irish newspapers that Sunday and Monday. I do not aim to demean her case but Liam Lawlor's widow and children suffered immense hurt. Irrespective of history, it was bad enough that he was killed but nobody deserved what followed. Not a single cent came to Mrs. Lawlor and no apology was tendered by the print media in subsequent publications. We must not lose sight of such incidents in this Defamation Bill because it could affect another colleague or a prominent public figure, such as a

judge. We say that when a person dies that is the end but people who survive deserve respect.

There has been talk of a press ombudsman and a journalists' council, run by the media, covering the area of defamation. This should be examined because we must be wary of giving *carte blanche* to the media in an area about which I feel strongly. As public representatives, whatever our political leanings, we must be vigilant of what is said about a person who has died, especially when it is untrue. I do not mean to detract from the woman involved in the Liam Lawlor case but it does not rest easy with me that she received a substantial sum using libel laws in this country. The pain she experienced in Moscow was probably far less than that suffered by the Lawlor family. If the Bill ignores this then it will not be as strong a piece of legislation as I would like.

**Senator David Norris:** I am not at all sure we should debate who was hurt most as I thought the woman in question had a very reasonable case. She suffered the traumas of the accident and was then told she had been in the car with Mr. Lawlor for the purposes of prostitution. It was indicated that she was a well known teenage prostitute and I think that is a shocking thing to say about a person. I think she is entitled to feel as hurt as anyone else in this case.

I agree with Senator Alex White's argument in favour of the Labour Party's amendment as I think the principle is correct, though I am not sure of the time. People closer to the newspaper trade would be better able to say but 14 days may very well be reasonable; I am not sure of this but I support the principle. I was pleased to hear the Senator speak of the sting of libel as it seems we are returning to the area of feelings, and Senator O'Donovan spoke in a similar way.

I will turn briefly to my own amendments, which sought to insert the word “automatically” in lines 15 and 17 on page 18, section 22. The changes mean the text would read:

In a defamation action, an apology made by or on behalf of a defendant in respect of a statement to which the action relates—

(a) does not automatically constitute an express or implied admission of liability by that defendant, and

(b) is not automatically relevant to the determination of liability in the action.

I suggest these changes because I understand the press interests the Minister is addressing. Editors and proprietors of newspapers are almost unable to print apologies because they constitute an admission of liability. Insurance companies tell those involved in car accidents to never admit liability at the scene of an accident and this is similar. People sometimes admit liability and are probably right to do so if they were in the wrong. However, I think it is unfair on the plaintiff that printing an apology automatically expunges all

other redresses. I suggest there should be balance and the court should be allowed take apologies and admissions of liability into account when making judgments. This would give a greater scope for the operation of judgments. It might not have a great impact on damages awarded but it would leave it open to judges to acknowledge apologies and decide whether they constitute an admission of liability.

Apologies do amount to an admission of liability and we are, in my opinion, simply giving immunity to those who make admissions of liability. I do not think people who apologise should get away with what they said in every case thanks to the words "I am sorry". That is like something out of the film "Love Story" where the tag line was "love means never having to say you're sorry". In this case it seems one can get away with murder if one says "sorry". One can say the Minister is a well known murderer and bank robber only to disclaim liability by saying "I am sorry, I will read that again" afterwards. I do not believe this is necessarily a good idea and feel the insertion of the word "automatically" strengthens the Bill while retaining the protection so ardently sought by newspapers.

**Senator Eugene Regan:** The amendment proposed raises some very important questions. If one relies on this provision to mitigate the level of damages, time should run from the date of the complaint and I feel this level of specificity is necessary. This point is made in the amendment, though whether it should be 14 days is open to debate. It should be clear that time is of the essence when an apology is to be made. The date given may be the day before the action commenced when the aggrieved party has made all efforts to consider the matter. The form of the apology comes into question, which comes back to the point I raised on the previous section. An offer of apology should be reasonable in the sense that it should be as prominent as the insult was in the first instance.

Revision is required in this area, whether using the specific wording proposed by Senator White, because provision must be made for time being of the essence and running from the date of the complaint. The issue of the prominence of the apology must also be dealt with. Without these ingredients this provision should not be open to the publisher.

**Senator Jim Walsh:** I oppose the reference to "substantial mitigation" in Senator White's amendment. If the article was defamatory and poorly researched in the first place those responsible should face the consequences. Senator Norris contended in an earlier debate that it should be a case of print the truth or pay the price. I fully subscribe to that. However, I have some support for the timeframes suggested by Senator Regan. Regardless of whether the time allowed should be 14 or 21 days, the important

issue is that the apology should be offered as quickly as is reasonable. Some consideration should be given to this.

I fully support the comments made by Senator O'Donovan. The case he raised is a fine example of the issue at hand. It is extraordinary that no heads rolled within the offending organs of the media given that the article in question was clearly published with abandon and written without any research. That is astonishing and it tells its own story. The comparison Senator O'Donovan made is a good one. We have previously urged in this House that a provision be included in the Bill to ensure the next of kin of deceased persons have some redress when scurrilous articles are written about the latter. I am aware of the argument that we should be careful not to interfere with the proper conduct of the writing of history. However, it should not be beyond our ingenuity to afford a protection to which most people would subscribe as fair and reasonable.

**Deputy Brian Lenihan:** It is seldom that a Minister in the Seanad considers it a bad idea when several amendments are grouped together. In this case, however, there might have been merit in dealing separately with these amendments because Senators Norris and Alex White are addressing two entirely different issues.

Section 22 deals with the apology that may be offered by a defendant in mitigation of damages. A defendant can always offer such an apology to reduce the amount of damages to which the plaintiff is entitled. The ability of the defendant to point to an apology as a mitigating factor is an existing and appropriate feature of our defamation system. An apology can only be offered in mitigation of damages, however, not in extinction of damages. I agree with Senator Walsh that there is a danger in Senator Alex White's reference in amendment No. 13 to "substantial mitigation of damage". This would mean that the mere production of an apology would entitle the defendant to a substantial reduction in damages. That is not the law. Rather, the law is that the court can assess the quality of the apology in mitigation of damages.

This also addresses the issue of the time limit proposed by Senators Regan and Alex White. There is no need for a time limit if an apology does not effect a substantial reduction in the damages awarded. That is why no timeframe is written into section 22. To provide for such would prejudice the position of a plaintiff who could be told that, because an apology has been given within 14 days, for example, he or she is thus not entitled to damages. That is not the purpose of the first two subsections which deal with mitigation of damages by an apology.

Senator Norris's amendments propose to amend subsections (3)(a) and (3)(b) by the insertion of the word "automatically". If I had to go to the stake on this Bill, subsection (3) is the one

[Deputy Brian Lenihan.]

subsection I would enact unchanged. It is essential we recognise the reality of what happens in court in libel actions. Newspapers are reluctant to issue an apology because they see it as an admission of liability. As a consequence, plaintiffs face the prospect of lengthy, expensive and traumatic proceedings in the High Court where they face the full battery of the legal armoury the defendant can afford to vindicate his or her reputation. There is no incentive for a defendant to apologise under the current system. Rather, the opposite is the case.

It is important that we provide that incentive. This is the purpose of subsection (3), which states:

In a defamation action, an apology made by or on behalf of a defendant in respect of a statement to which the action relates—

(a) does not constitute an express or implied admission of liability by that defendant, and

(b) is not relevant to the determination of liability in the action.

This is an important provision not only for litigants in the current system but for the operation of the press council. The council will not work until this subsection is enacted. The press ombudsman has little moral suasion with an editor of a newspaper or the controller of a broadcasting organisation in terms of procuring an apology. The editor or controller will decline to offer an apology because he or she believes the plaintiff in question will swallow the apology before suing the newspaper or broadcasting organisation and taking it to the cleaners. That is the advice the editor or controller will receive. The purpose of this subsection is to move this branch of the law away from that type of approach. We must recognise that media organisations are powerful and we must create a culture where apologies are much more readily given. I cannot accept Senator Norris's amendments because they would introduce a considerable degree of uncertainty in this regard.

The question of deceased persons can be addressed in our discussion of another section. However, I will speak about it now because Senator O'Donovan spoke in strong terms about his concern that an apology is not given to the relatives or next of kin of a deceased person whose reputation has been grievously traduced in print or broadcast media. The Senator referred to the case of the late Liam Lawlor. The person who was travelling in the vehicle with Mr. Lawlor when he died sued before the Irish courts because of claims made against her at the time of his death. This case is a signal illustration of the importance of jury trial in defamation actions. I am not satisfied this action would have led to the same conclusion were the trial conducted by judge alone. The realisation by the newspapers

involved that they would face a jury induced them to make a settlement of the proceedings.

It is a matter of record that, after my appointment, I consulted various media organisations, lawyers who acted for both plaintiffs and defendants, and academics in regard to this Bill. I indicated to all the media organisations that the issue of gravest concern to me was that newspapers in recent years had breached a fundamental Irish custom of respect for the dead, particularly at funerals and in the immediate aftermath of death. I indicated that this was an issue about which I had grave concerns. I conveyed my wish to the press ombudsman that the press council address this issue as its number one priority. The situation regarding Liam Lawlor is not the only example of this recent practice.

Whether we can deal with this issue in this Bill is a matter for consideration in our debate on another section. I do not want to anticipate the difficulties that are likely to arise but the writing of obituaries, for example, is clearly in the public interest. The freedom to make comment is important and it is a matter upon which action must be taken. I wish the press ombudsman and press council well in their work. There is a black hole in that certain matters can be published in Irish newspapers that cannot be published in British newspapers because of the operation of the press council in the United Kingdom. I am anxious to give the council an opportunity to plug that black hole. It is matter of public record that I was prepared to leave the Privacy Bill 2006 on the Order Paper of this House for a period to allow the council time to demonstrate its capacity. If that capacity is not demonstrated and this Bill cannot address the issue of the defamation of a dead person at the time of his or her funeral, it is an issue to which I will return in the Privacy Bill 2006. I am not prepared to let this black hole continue.

**Senator Alex White:** I agree with most of what the Minister said. In particular, I agree with his comments on subsection (3) and his contention that an apology should not constitute an express or implied admission of liability. I thank Senator Norris for his support of my amendment and I wish I could return the favour on this occasion. Unfortunately I cannot, as it would open up—

**Senator Jim Walsh:** The Senator is ungrateful.

**Senator Alex White:** I am hoping for a chance to support one or other of the amendments Senator Norris has tabled very carefully to this legislation. He has given much attention to it, both on this occasion and the last, as we can see from reading the transcripts.

If we introduced the word "automatically", it would then give rise to a debate as to the circumstances in which an apology should or should not constitute an admission of liability. That would be unfortunate and would undermine the very

laudable intention behind this. It seems to be an incentive for media organisations to furnish an apology and, importantly, it would bring about pressure for them to do so.

This leads to my amendment. I have heard the Senators' concerned comments, especially those of Senator Walsh, regarding the use of the term "substantial mitigation". Perhaps I might reconsider the term before Report Stage. We are in the business with this discussion of incentivising or pressurising media organisations into furnishing apologies in an expeditious manner. There is only a very short moment after the publication of a defamatory statement when it really makes a significant difference to an aggrieved plaintiff that an apology be published in respect of him or her. An impact is made only in that short time.

Putting a timeframe in place, be it 14 days or something marginally longer, will get people thinking. At the risk of personalising the matter too much, as a former journalist who worked in the field for ten years and as a lawyer working in the field, there is nothing that concentrates the minds of journalists and editors more quickly than the prospect of a libel action coming down the tracks that they know they cannot win or to which they have significant exposure.

We are not in the business of solving problems for the media as we have a wider interest here, but if we can pressurise them into seeing that the problem can be fixed quickly, within a period of 14 or 21 days, that would be entirely consistent with the argument made by the Minister. That is to say apologies would be given readily. It concentrates the minds and puts pressure on the editors and everyone else to deal with the problem now rather than delay the matter for six months or two years or whenever the issue goes to court.

**Senator David Norris:** I am not completely convinced either by the Minister or Senator White. They seem to be overly optimistic about the nature of the printed media in this country, particularly as it comes under very sustained pressure from the British market. I already referred to the way in which *The Sun* dealt with its apology under the press council. It made the apology and then repeated the offence. I am very reluctant to give an unqualified "get out of jail free" card, which is precisely what this is. I will wait and see. Perhaps the optimists will be proved right and I will be proved to have been too much of a pessimist.

I am very glad Senators O'Donovan and Walsh raised the question of the offence to the family of the deceased in regard to reputation. I again refer, with a slightly different emphasis, to the story I raised yesterday with regard to the relatives of the deceased. The story was just as bad as the Liam Lawlor case. The story concerned an inoffensive, gentle and decent man who met someone he thought would be a partner in at least some kind of perhaps casual sexual relationship. He was murdered by somebody with a track

record in this area of attacking gay people. The man was killed by one stab wound which severed the carotid artery. The large headline in *The Star* was "Kinky Sex Horror". The first paragraph stated: "Gardaí were last night probing whether a man was murdered or killed accidentally in a kinky sex game." The Garda was not doing so as there was no kinky sex game. The man was killed by one stab wound which made him bleed to death very quickly. There were descriptions of the man being trussed up like a pig and it was suggested that he died in some kind of Michael Hutchence-style operation. The word "orgy" was used but it was a pretty modest orgy if there were only two people involved in it.

The idea was put about that this man had voluntarily engaged in a process whereby partial asphyxiation leads to an increase in sexual pleasure. That is completely untrue. After that the newspapers hounded the family and tried to ascertain funeral details so they could take photographs. The family has contacted the newspaper and nothing has been done. There has been no apology and this may be a case that falls into a gap between the passage of this Bill and the operation of the press council.

I agree with my colleagues on the other side of the House that this type of offence is intolerable and unsustainable. I am very ashamed that it happened in an Irish newspaper, not a British tabloid. The newspaper savaged one of our own who was killed under the most appalling circumstances.

**Senator Eugene Regan:** I return to the net issue of timeliness. In section 22(1)(b), the term used is "as soon as practicable thereafter, in circumstances where the action was commenced". Section 22(1)(a) does not mention timeliness. I wonder if the insertion of the term "in a timely manner before the bringing of the action" would make that link between the mitigation and the fact that an apology was offered in a timely manner. Otherwise there is no real direction to a court to take into account the element of timing and timeliness.

We refer to timeliness in section 22(1)(b) and it seems we could usefully do likewise in the previous paragraph. I will leave that for the Minister to consider.

**Senator Denis O'Donovan:** Tá an t-am nach mór istigh. I do not want to labour the point but I concur with Senator Norris's comments about the other example. I picked the case of the reporting of the late Liam Lawlor's death.

I will clarify my point. I only met Liam Lawlor's widow on one occasion and I would not know the lady very well. Responsible journalism should have reacted at editorial level in the aftermath of that saga. It not only affected the family but also politics in general because it could have been anyone who was involved. A Fine Gael or Independent Senator or Deputy could have been

[Senator Denis O'Donovan.]

abroad and had the same allegations made. It should hurt us all.

What I have in mind does not mean Mrs. Lawlor or her family or grandchildren should get substantial damages. If on the following Sunday, however, the newspapers concerned were like-minded in their editorials and front pages and admitted they got the story wrong, I would have greater respect for the media in general.

For most of my life, Irish journalism in its tradition has been very fair-minded and balanced overall. In the past ten to 15 years, unfortunately, with the input of particular tabloid press, some newspapers are trying to out-do their British counterparts. There is almost a competition on how low they can stoop. If there were greater responsibility within the media, legislators could act accordingly.

I am very pleased about the Minister's comments about the Lawlor saga in particular. A Fianna Fáil Ard-Fheis took place that weekend

and the incident was a body blow.  
2 o'clock The reporting was appalling. It might be five or ten years before such legislation will be revisited. I do not take away in any way from the lady in Ukraine who was an interpreter and was wronged. Thankfully for her she was able to use the Irish system to get substantial damages. I am sure in Ukraine or Russia she would not have got one cent. They would probably have told her to go away and get lost. Out of courtesy and respect the very least those newspapers should have done, including broadsheet newspapers — they were not all tabloids, was apologise the following Sunday at editorial level. That is where the Press Council of Ireland and the press ombudsman will have a leading role to play.

The Minister is right to stand back on the Privacy Bill. I listened to Mr. Horgan the other day. He is a very capable person with an interesting background. I hope the press council will be able to work without the need to interfere, prod or wave the stick if people step out of line. If the media can in some way self-regulate and be responsible, they will do a great justice and obviously will save themselves a great deal of money.

**Deputy Brian Lenihan:** On Senator Alex White's technical amendment, I come back to my core point that the timeframe is supervised by the court. The newspaper or publisher has an incentive to give a quick apology because that will reduce the person's damages. That is the best incentive. Senator Regan said the section refers only to actions and not to the promptness of the apology. It refers to an apology before or after an action has been instituted which may be well after the original offending article or broadcast. I will consider the issue. I signal to the House that on Report Stage I will revisit this section with a view

to inserting some reference to the prominence of the apology in the section.

Following Government approval concerning the decision to restore the Bill to the House, the Government decided that the Defamation Bill should provide for equal prominence to be given by publishers of offers of apologies to make amends to persons defamed as to the original defamatory statement. I am working on the matter and I intend to introduce proposals on Report Stage. While considering that issue I will examine whether there is value in including a reference to the promptness with which an apology was given. On balance my instinct is that it is a matter better left to the courts. However, I will examine it.

On the wider issue raised by Senators Norris and O'Donovan about deceased persons, Senator Norris gave an example and I could give several more. I do not wish to do so, however, out of respect for the feelings of the families involved. They were all published in Irish newspapers. It is a deplorable tendency and is completely at variance with our traditions as a people. I am determined to deal with the matter as I have said to the media organisations. Mr. Horgan should be given an opportunity to address it as Senator O'Donovan indicated. However, if he does not, I do not intend to postpone the issue to some indefinite future date.

**Senator Alex White:** On the basis of what the Minister has said I will withdraw my amendment. However, I may revisit it at a later stage.

Amendment, by leave, withdrawn.

Amendments Nos. 14 and 15 not moved.

Section 22 agreed to.

Progress reported; Committee to sit again.

*Sitting suspended at 2.05 p.m. and resumed at 6 p.m.*

#### Budget Statement 2008: Statements.

**An Cathaoirleach:** I welcome the Minister of State to the House.

**Minister of State at the Department of Finance (Deputy Noel Ahern):** I welcome this opportunity to present to Seanad Éireann key features of today's budget. This is the first unified budget which brings together the resources available and the various demands for expenditure.

Today, the Tánaiste and Minister for Finance announced a budget which is prudent, progressive and inclusive. In the last 12 months the global environment has altered and a number of downside risks have emerged. Continued economic and employment growth will depend on how we respond to these changes and risks. This budget has been structured to strengthen the economy's

capacity and retain its flexibility. This will allow us to respond effectively to this new, more challenging economic environment and to be in a position to take advantage of whatever opportunities may emerge.

The Government's objective is to maintain sustainable growth while continuing to implement a responsible fiscal policy. Government policy is focused on maintaining and improving public services today while also planning and building for the future. The Government's key priorities are therefore, responsible management of the public finances, delivering a challenging public infrastructure investment programme, caring for the less well-off, strengthening education and training and protecting the environment. Today's budget will protect the incomes of the vulnerable, support ordinary working people, promote our environmental goals and help home-buyers and boost the economy.

The global economy has remained strong this year and world GDP is estimated to grow by more than 5%. However, financial turbulence, increasing oil prices, the slowing US and UK economies and currency fluctuations, particularly the weakening dollar, all present strong downside risks for 2008. The Irish economy has also performed strongly in 2007 and GDP growth is expected to be around 4.8%. While housing investment has moderated this year, other investment activity, including NDP spending, continues to perform well. Taking account of external and domestic risks, GDP is therefore forecast to grow by 3% in 2008.

Employment growth has been a major success story for Ireland and the Government estimates that 72,000 net new jobs will be created in 2007. Non-Irish nationals now account for nearly 12% of the labour force. The unemployment rate averaged 4.5% in the first three quarters of the year and this compares well with other countries in the eurozone. The current position should be compared with ten years ago when the unemployment rate was over 10%.

Our future success depends on our willingness and ability to enhance the competitiveness of the Irish economy in all sectors. We are no longer a low cost economy. Therefore competitiveness must be strengthened through increased productivity, particularly in the services sector and through innovation and quality improvements.

It is in the context of this economic environment that budget 2008 has been framed. Although circumstances have changed since the pre-budget outlook was published in October, the Tánaiste has increased provision in a number of key areas. However, to achieve this, he has planned for a general Government deficit of 0.9% of GDP for 2008.

In January this year, the Tánaiste launched the National Development Plan 2007-2013. The plan sets out the Government's investment strategy for our economic and social infrastructure over the medium term. Despite the tightening budget-

ary pressures, the Government has prioritised capital infrastructure. The new multi-annual capital envelope for each Vote group was published today and shows that capital expenditure is to be maintained at an average of 6% of GNP over the next five years. The capital investment programme for 2008 will therefore be over €8.6 billion and will focus on transport, education, housing and environmental services.

A total of €3.8 billion gross expenditure has been provided today for transport. Of this, €1.7 billion will be invested to improve our national roads network which is essential for long-term economic and social prosperity. Almost €1 billion will be invested in our public transport system. The remainder will be allocated to improve our non-national roads, regional airports and ports. Road safety is also a high priority area. The high number of fatalities and serious injuries on our roads is a matter of ongoing concern for all of us. A total of €44 million has been allocated to the Road Safety Authority in 2008 to help bring down these numbers.

There has been a major financial investment to improve our water services infrastructure in the previous and current national development plans. In 2008, €471 million will be allocated. This investment will finance schemes throughout the country, including major schemes for supply to Dublin, Limerick, Donegal, Kildare Portlaoise, Waterford and Castlebar.

In the past three years, the Government has provided over €2 billion in education infrastructure. This has provided 28 new schools and major refurbishment and extensions in existing schools. In 2008, capital investment will be €828 million. Over €594 million will be used to provide accommodation for 13,000 extra children next year while €184 million will provide for infrastructural investment at third level.

I am also pleased to see that an area for which I had responsibility for some five years, namely, housing policy, has been provided with a record Exchequer provision in 2008 of more than €1.7 billion. Taken together with non-Exchequer financing, the overall housing package totals approximately €2.5 billion.

This increased funding is in line with the housing commitments contained in Towards 2016 and demonstrates the Government's determination to honour these obligations in full. It will allow for the commencement of a significant number of new social housing units. Work will progress under the regeneration programmes, including the ongoing redevelopment of Ballymun, as well as bringing to completion a large number of units under both the local authority and voluntary housing programmes. In total, it is expected that programme output will amount to some 9,000 homes in 2008. The funding will also support the delivery of 5,500 new affordable homes. In addition, funding will also be maintained for the provision of Traveller and homeless accommodation.

[Deputy Noel Ahern.]

Ireland must respond to the challenge of climate change and take steps to meet our Kyoto commitments. In the Budget Statement, the Tánaiste provided a carbon report in line with the undertaking in the programme for Government. He reported that currently, Ireland's greenhouse gas emissions amounted to some 70 million tonnes annually based on the latest available data.

In the past two budgets, tax and expenditure measures were introduced in this area. Today, the Tánaiste and Minister for Finance introduced major changes to vehicle registration tax and motor tax. The vehicle registration tax rate available to cars registered on or after 1 July will be based on the CO<sub>2</sub> emission rating of the car and not the engine size. There will be seven VRT rates, ranging from 14% to 36%, with the higher-emitting cars paying more. Existing incentives for certain hybrid electric and flexible fuel cars will be extended to 30 June 2008 and after this date, there will be a further top-up relief to €2,500 on the VRT payable on these cars. Electric cars and electric mopeds will be exempt from VRT from 1 January 2008.

On motor tax, the Minister for the Environment, Heritage and Local Government has proposed an increase in motor tax rates of 9.5% for cars below 2.5 litres and 22% for larger cars from 1 February 2008. In addition, it is intended that the Minister for the Environment, Heritage and Local Government will bring forward a proposal to link motor tax to CO<sub>2</sub> emissions instead of engine size for new cars from 1 July 2008. The Tánaiste has also provided for the National Treasury Management Agency to purchase carbon credits through the carbon fund.

The State energy companies will invest €1.7 billion in 2008. This will be mainly in electricity and gas transmission and in distribution networks in new and modernised power generation and wind energy projects. The Exchequer will provide €86 million for energy in 2008, which is almost double the 2005 investment, and this demonstrates the Government's commitment in this area. In addition to the €150 million planned in the national development plan for energy research, the Tánaiste has allocated a further €13.2 million for this purpose. A specific focus of the research will be to develop alternatives for renewable energy from ocean sources. A total of €13 million has also been provided for energy conservation.

Farming plays a number of important roles. These include contributing to economic growth, sustaining rural communities and conserving our environment. A number of measures have been introduced to support agriculture and help farmers meet the standards in the EU nitrates directives. Due to the successful take-up of the farm waste management scheme, an increase of €35 million was announced to bring the provision to €150 million for 2008. In addition, €370 million

has been allocated to REPS 4, which will benefit nearly 60,000 farmers.

Farm taxation changes announced today include a new relief from capital gains tax on the dissolution of farm partnerships and the relief will run for a period of five years. In addition, the Tánaiste made arrangements to allow farmers who receive diversification aid under the sugar beet compensation package to spread the payments for income tax purposes over six years. The farmers flat rate addition for VAT is being retained at 5.2% for 2008.

Fishing plays a critically important role in our coastal communities. However, to ensure a sustainable fishing industry there is a need for restructuring and a reduction of the number of fishing boats. A total of €21 million is being allocated in 2008 for a decommissioning scheme for fishing vessels and the tax code will be amended to help maximise the take-up of the decommissioning payments.

The Government is committed to ensuring significant improvements in the quality and delivery of health services. The provision for health next year has been increased by 7.6% to almost €16.2 billion. This includes new funding of €276 million for a range of health developments, including services for the elderly, for people with disabilities and for children. An additional €110 million has been provided for the introduction in 2008 of the nursing home support scheme, A Fair Deal, which will bring the total public expenditure for nursing home care for the elderly to €920 million. An additional €50 million is being provided for the disability sector. This is in line with the budget 2005 multiannual investment programme towards the implementation of the Disability Act 2005. A total of €29 million in additional funding will be provided for the expansion of cancer care services, while additional funding of approximately €87 million will fund immunisation programmes and other health care improvements.

The abuse of drugs is of major concern to our society and today the Tánaiste provided an extra €12.5 million, in addition to the provision in the pre-budget outlook, to facilitate the implementation of the national drugs strategy rehabilitation report. This will ensure the expansion and strengthening of the local drugs task forces and for the roll-out of services to new commuter belt towns, mainly in Leinster. From midnight tonight, the excise duty on cigarettes will increase by 30 cent per pack of 20, inclusive of VAT, with *pro rata* increases on other tobacco products. This measure has been introduced to promote improved public health and should be welcomed.

Ireland's ability to respond quickly and effectively to technology advances in recent years has provided a significant boost to economic and employment growth. Positioning ourselves at the frontier of new advances will be important if we are to achieve and maintain competitive advantage in specific areas. Major ongoing investment

in science and technology will be required to ensure we can exploit emerging advances. To this end, the budget provides for an increase of €36.5 million, bringing the total investment in this area to almost €300 million in 2008. This will fund continued investment in basic research in centres for science, technology and engineering and in strategic research clusters. The budget also provides for €133 million for current science, technology and innovation expenditure for higher education research.

The announced enhancement of the research and development tax credit scheme is a complementary measure to the Government spending on science, technology and innovation. The base year which is used to calculate expenditure on research and development is being fixed at 2003 for a further four years to 2013. This will provide greater certainty to industry in respect of the scheme.

A total of €84 million in additional funding has been provided for overseas development assistance, ODA. This will bring our total ODA contribution to €914 million, or 0.54% of GNP, in 2008. Ireland's target ODA contribution ratio is 0.7% of GNP in 2012.

The Government is committed to ensuring that the less well-off also benefit from today's budget. The total cost of the social welfare improvements announced today will be €957 million in 2008 and €980 million in a full year. Maximum weekly personal rates for contributory, transition and related social insurance State pensions will increase by €14 per week, while the maximum personal weekly rate for the non-contributory State pension will increase by €12 per week. This brings the State contributory pension to €223.30 per week and the State non-contributory pension to €212 per week. In addition, the social insurance qualified adult allowance for claimants of pension age has been increased by €27, to bring it to €200 per week.

In recognition of the importance and the contribution of carers, the carer's allowance and carer's benefit will increase by €14 per week and the respite care grant also has been increased by €200 to €1,700. All other personal social welfare rates will increase by €12 per week and this will bring the lowest full adult social welfare rate to €197.80 per week. There will be proportionate increases for people on reduced rates. In general, rates will increase from the first week of January 2008.

Services for older people are an immediate priority for the Government. The Government's commitment to older people is set out in the latest partnership agreement, Towards 2016, and reinforced by the commitment of €9.7 billion in the national development plan. Over the last two years, the Government has added €400 million to services for older people, which is targeted primarily at community supports for the elderly. These include the provision of home care packages, home helps and day and respite care. This

support is continued in the 2008 budget with a further allocation of €25 million for elder care, including the provision of home care packages and other community support services. The duration of payment of the national fuel scheme will increase by one week, to 30 weeks, commencing from April 2008.

The Tánaiste has provided for an increase of €14 per week, to €221.80, in the minimum rate of maternity benefit and adoptive benefit from January 2008. Child benefit rates will increase by €6 per month for each of the first and second qualifying children, to €166 per month, and by €8 per month for each subsequent qualifying child, to €203 per month, effective from April 2008.

The upper income threshold for entitlement to the one-parent family payment will increase by €25 per week to €425 from May 2008. Family income supplement income thresholds will increase by €10 per week in respect of each child.

The back-to-school clothing and footwear allowance will increase by €20 to €200 in respect of each child aged two to 11 and by €20 to €305 in respect of each child aged 12 and over. The widowed parent grant is being increased by €2,000 to €6,000, effective from today. The Family Support Agency will be provided with additional funding for marriage, child and bereavement counselling, research projects and other services. The money advice and budgeting service, MABS, will be provided with additional funding for training and additional support to MABS companies.

A key feature of recent budgets has been to reward work through a fairer and more progressive tax policy. One element of this was to keep the lower income groups outside the tax net. This approach has been maintained in this budget and the measures announced today will keep 32,600 income earners outside the tax net. The personal tax credit for a single person has been increased by €70 and €140 for a married couple. The employee tax credit will also increase by €70 per annum. The entry point for a single person on PAYE has increased from €17,600 to €18,300 and the PRSI and health levy entry points have also increased accordingly.

The 20% standard income tax band is being widened by €1,400 per annum to €35,400 for a single earner and €44,400 for a married couple with one earner. For married couples with two earners the band will be €70,800. As the 2008 projected average industrial wage is €34,000, this should keep the liability of those on average earnings at the standard rate.

Other increases in personal tax credits include the following. Tax credit for an incapacitated child will increase by €660 to €3,660 per annum, the home carer tax credit is being increased to €900 per annum and age credit will increase by €50 to €325 for a single person and by €100 for a married couple. The age exemption has also been increased to €20,000 and €40,000 respectively and the allowance for trade union subscrip-

[Deputy Noel Ahern.]

tions will be increased from €300 to €350 per annum.

As a result of today's budget, the number of earners who will be outside the tax net in 2008 will be more than 878,000. The total cost of the income tax, PRSI and health levy measures will be €432 million in 2008 and €585 million in a full year.

The small company tax liability threshold for the payment of preliminary tax on the simpler prior-year basis is to be increased from €150,000 to €200,000. The tax liability threshold at which preliminary tax is not payable has been increased from €150,000 to €200,000 for new start-ups. Small business VAT registration thresholds have been increased to €37,500 per annum for services and €75,000 for goods from 1 May 2008. This will take 2,700 businesses out of the VAT system.

The stamp duty charge on financial cards will be reduced. For credit cards it will be reduced by 25% to €30; for combined cards, by 50% to €10 and for ATM and debit cards, by 50% to €5. However, there will be an increased duty on cheques from 15 cent to 30 cent per cheque. This supports the shift from paper to electronic transactions.

Gross expenditure for the justice area will total almost €2.7 billion in 2008. This major investment will fund a range of developments. These include continued expansion of the Garda Síochána to a total of more than 14,200 fully-attested Garda by end-2008, delivery of a modern communications system and other measures to support the fight against crime. Additional funding of €5 million is being provided for social inclusion initiatives. In addition, €14 million is being allocated to the Prison Service for its building programme and for the roll-out of a new communications system.

The housing market has slowed in recent months. Contributory factors include higher interest rates, tighter credit control and changing consumer sentiment. Acknowledging the importance of the construction sector to our economy, today's budget includes a range of measures designed to support rather than unsettle the market. Mortgage interest relief has been increased for first-time buyers by €2,000, to €10,000 for a single person and by €4,000 to €20,000 for a married couple.

The most significant improvement today is the major reform of stamp duty. Property valued at less than €1 million will be charged stamp duty on the basis that the first €125,000 will be exempt from tax and the balance will be charged at 7%. Purchasers of houses valued at more than €1 million will be charged at 9% on the portion of the price in excess of €1 million. The effective rate on most homes will be well below the headline rate and the maximum effective rate up to €1 million valuation is 6.5%. The current exemptions for first-time buyers and buyers of new homes will be retained.

Currently there is a five-year rule to avoid clawback of exemption where the owner moves out and lets the property. This has now been reduced to two years. These measures were designed to simplify the system, to improve the efficiency of the housing market, to support employment and to boost confidence and economic activity. Under this heading, the income tax relief on rent payments will be increased by 11%. Finally, the threshold for the rent-a-room scheme will be increased from €7,620 to €10,000.

This budget was framed in the context of change both in the global and domestic economy. The Tánaiste and Minister for Finance has introduced a budget which is broad in its reach and generous, particularly in the areas of social welfare and home purchase. The approach taken has been clear and decisive, which can only benefit our economy in the uncertain times ahead.

**Senator Liam Twomey:** The budget shows how misguided or misleading the Government was at the previous election, because our expectations are not being fulfilled. We were told the good times, which date back a decade, would continue as long as Fianna Fáil was back into power. Fianna Fáil was voted back into Government, but we have gone from a surplus of €3 billion in the previous budget to an expected deficit of €2 billion at the end of next year. That is a serious dent to anybody's credibility in terms of prudent financial management of the economy. It is evident the Government has utterly failed in what it was supposed to do in terms of balancing the budget and getting its figures right.

The economy appears to be okay in the sense that income tax receipts are up, which could mean we are taxing people too much. As everybody knows, the tax receipts showed more people paid the higher rate of tax than the standard rate. Taking the European Union as a whole, it is unusual that the majority of people are paying income tax at the higher rate. Corporate tax receipts are also down which does not bode well for the future if something happens to the economy. One can well ask whether the Government knows what is going on.

The big story of the economy is the collapse in stamp duty receipts which has resulted from the slowdown of construction industry activity. The relatively small adjustment in our economy has resulted in Government finances being completely thrown off predictions in the space of six to nine months. This is an indication that Fianna Fáil's mismanagement of the economy is slowly strangling the Celtic tiger. In some respects it appears that Fianna Fáil and its Government partners did not manage the economy well in recent years and that this was covered up due to the large receipts from income tax, VAT and corporate tax. As a result of Government mismanagement, the underlying problems were not addressed. That does not bode well for the coming years. Now that the Government's poor finan-

cial management of the economy has been exposed, we are in for a harsh few years.

The economic downturn cannot all be blamed on the global situation. The biggest story, however, is the Government's mismanagement of the economy and the fact that fundamentals were not dealt with in the past years. We expected more of that from this budget. It is easy to talk about the way money will be spent, especially when the Minister is borrowing money again to spend, but very little has been said about accountability, reform and the way taxpayers' money should be spent, priorities expressed on this side of the House for a number of years. The Government refused to do anything about that in recent years and we are now paying the price.

Regarding the major emphasis on the national development plan, the Government should clearly state what it intends to do in the national development plan. It should not say it intends to spend €1 billion here or €900 million there or that it will allocate €13 million for the development of wave power. Those are the only areas we can identify, the small money, so to speak. We want to know where the big money is being spent and the Minister of State should ask the Minister what is going on in that regard.

**Senator Fidelma Healy Eames:** Hear, hear.

**Senator Liam Twomey:** Another factor is that, as Minister for Finance, Deputy Brian Cowen has increased current public spending from 25% to 31% of GNP. The Minister is taking us back to the late 1970s and early 1980s. In the late 1980s it was decided by the leadership of both Fianna Fáil and Fine Gael that such spending was unsustainable yet the Government is letting public spending run riot. There is no reform or sustainability in the economy and we will run into major problems in future years unless something happens in that regard.

There is a certain mockery in terms of the budget delivered today in the way the Minister relates to the other citizens in the country. We are all supposed to clap for the extra €12 on the non-contributory pension and the extra €14 on the contributory pension. The value of a mother or father who stays at home to care for their children in the eyes of the State is €18 per week. The value of a pregnant mother is €14 per week. The lowest full adult social welfare rate is now €197.80 but that must be viewed in the context that only a few weeks ago the Minister awarded himself a €700 pay increase, in addition to his €5,500 a week.

The car tax changes indicate the same sort of disconnect Ministers have with the general public. When one is driven around in a car and one does not have to pay for the driver, the petrol, the diesel or the motor tax, it is easy to slap another tax on to the general public——

**Senator Fidelma Healy Eames:** Hear, hear.

**Senator Liam Twomey:** —without feeling any shame. Will the Green Party members of Government push for changes to the type of cars Ministers drive? The Green Party Ministers are embarrassed to be driven around in cars that are not environmentally friendly but why do they not put the same pressure on their Government colleagues? They should lead from the top rather than expect everybody else to do it. The Government talks about the great changes to VRT and protecting the environment but it will be interesting to see if there are fewer Mercs at the back of Merrion Square this time next year.

On pensions, in the past few weeks, even since we had a debate on the issue in the House, there has been a collapse in the value of pensions of people in the private sector, yet in this budget the Government will have to borrow some of the €1.7 billion it put aside for public sector pensions, including their own, next year. A concession can be made regarding the hardship everyone will experience in the next few years if Ministers reject the pay award they gave themselves some weeks ago. What is happening in the country is insulting to people.

The big story of this budget is that the Government has left it too late. Stamp duty reform has come too late. There already has been a massive lack of confidence in the housing market.

**Senator Eugene Regan:** Hear, hear.

**Senator Liam Twomey:** The soft landing that was talked about for many months is not happening. We must face up to reality now. The housing market is in a serious mess. The Minister should stop talking like an auctioneer and tell the truth to the people of Ireland. There are problems in the housing market. We must deal with them but the Government is too late in respect of stamp duty reform.

**Senator Eugene Regan:** Hear, hear.

**Senator Liam Twomey:** In regard to carbon tax and VRT, again the Minister has left it too late. We must reduce our emissions to 63 million tonnes of carbon to meet our Kyoto commitments. When did the Minister find out about that? Was it yesterday? Currently we are at 70 million, yet it is only now the Minister talks about climate change and changing VRT. It is as if the Government woke up yesterday morning only to be told we are supposed to reduce our emissions to 63 million tonnes in the next four or five years.

The €13 million for investment in wave power research and development will not make a huge difference. If we are serious about the issue we must be proactive in terms of what we are to do about it. The Government will be borrowing money next year to buy carbon credits because we failed to deal with our commitments to reducing our carbon footprint. Unless the Green Party comes up with some means of dealing with cattle

[Senator Liam Twomey.]

expressing methane in the fields of Ireland, this country will face a serious crisis.

I wish I had more time to deal with the serious concerns about the health service, the educational services and all the other promises made. Whether it is medical cards, new hospitals or new schools we will see a serious reduction in the next few years unless the Government faces up to one responsibility. It must start the reform that has been talked about for so long. It must make everybody accountable in that regard and we might just save enough money to invest properly in our public services because the same amount of money will not be available in the coming years.

**Senator Marc MacSharry:** Now that the applause is over, I am delighted to have the opportunity to make some comments on the budget delivered earlier. I welcome the Minister of State to the House. I am delighted to see a queue of speakers on the opposite side of the House, no doubt to welcome what is probably the best budget since 1987-89.

**Senator Fidelma Healy Eames:** Come on, Marc.

**An Cathaoirleach:** Senator MacSharry, without interruption.

**Senator Marc MacSharry:** I will start my contribution by stating a few facts.

**Senator Jerry Buttiner:** Send in the clowns.

**Senator Marc MacSharry:** I did not interrupt anybody on the other side of the House.

**An Cathaoirleach:** I would appreciate it if Members listened to the speaker.

**Senator Fidelma Healy Eames:** That type of statement invites interruptions.

**Senator Marc MacSharry:** Despite the standard annual rhetoric we have heard from the Opposition——

**Senator Jerry Buttiner:** Where did the surplus go?

**Senator Marc MacSharry:** —nobody has contributed more, across all of the headings Senator Twomey mentioned, than Fianna Fáil in Government since the foundation of the State. That is a fact. It may be a painful one when one is sitting on the Opposition benches but it is a fact nevertheless. It pains me to hear Deputy Twomey pour water on the significant increases, in what are difficult international and national circumstances, in social welfare payments. It must be remembered that the only innovation on the part of this Opposition in Government, when the chips were down

in the past, was to introduce VAT on children's shoes for fear that women might have small feet.

**Senator Joe O'Reilly:** The Senator has a short memory.

**Senator Marc MacSharry:** Those are the facts. Thank God for the late great Jim Kemmy and Fianna Fáil——

**Senator Jerry Buttiner:** Where did the surplus go?

**Senator Marc MacSharry:** —who took down that Government, which is what it deserved. The Opposition should not tell us what should or could have been done because when faced with the opportunity — not Senator Twomey because he was an Independent at that time——

**Senator Fidelma Healy Eames:** Fianna Fáil has squandered our opportunity.

**An Cathaoirleach:** Senators.

**Senator Marc MacSharry:** Nevertheless, nobody has achieved more in terms of delivering to the people of this country than Fianna Fáil in Government.

**Senator Jerry Buttiner:** The Government squandered it.

**Senator Marc MacSharry:** Those are the facts. I wholeheartedly support, on behalf of my Fianna Fáil colleagues — Senator Boyle of the Green Party will join us later — and the Progressive Democrats, the Minister, Deputy Cowen, in respect of a budget that has introduced a number of significant packages at the right time. We have faced a challenging international environment in recent times. When somebody sits down and sets out projections or a manifesto for an election, for example, they do it based on the best data available at that time. When circumstances change however, on this side of the House we change our minds. What does the Opposition do when circumstances change?

**Senator Liam Twomey:** Is that a U-turn?

**Senator Marc MacSharry:** No, it is not a U-turn.

**An Cathaoirleach:** Senator MacSharry without interruption.

**Senator Marc MacSharry:** This budget contains increases across all the relevant headings at a time when growth is below what has been the trend of recent times. The Minister successfully managed to do that. He has got the balance right in terms of watching current expenditure while also ensuring, not through taxation but through moderate borrowing, that there will be continued

progress in the capital programme. This will help to maintain momentum and employment and, above all, maintain and increase our attractiveness to foreign direct investment and ensure the growth of the regions and economic growth generally.

Having examined the package of reforms, I greatly welcome the measures for the most vulnerable and least well off in our society. They amount to €980 million. That is a difficult figure for a group of parties whose best innovation when the chips were down was VAT on shoes. It may have been a long time ago——

**Senator Fidelma Healy Eames:** The Senator is stuck.

**Senator Marc MacSharry:** —but I remember it well. Thank God for democracy. Thank God the people have seen sense on a consistent basis and realise there is no substitute for experience and delivery, as has been evident from 1987 to now. Certainly, economic circumstances have changed nationally and internationally. Whether it is the result of genius or his experience in so many Departments——

**Senator Liam Twomey:** I cannot cope with this.

**Senator Marc MacSharry:** —we have seen the Minister deliver a budget that looks after the most vulnerable in society while establishing an economic environment that will allow the economy to grow at sustainable levels. I welcome that.

There are very significant increases in the non-contributory pension.

**Senator Jerry Buttiner:** Paltry.

**Senator Marc MacSharry:** What was the increase from the Senator's party in 1982?

**Senator Fidelma Healy Eames:** That was a totally different environment.

**Senator Marc MacSharry:** What was it in 1993?

**Senator Fidelma Healy Eames:** The Senator should stick with today.

**Senator Marc MacSharry:** We must deal with the facts. This is an extraordinary level of interruption, a Chathaoirligh. I was respectful and quiet as I listened to the Opposition spokesperson——

**Senator Fidelma Healy Eames:** The Senator is not making sense.

**Senator Marc MacSharry:** —and I intend to be until the end of the debate.

**An Cathaoirleach:** When a Member is speaking I ask the other Members to listen.

**Senator Marc MacSharry:** This is a budget of investment in our future. It is about promoting and protecting the environment. It introduces measures which do not penalise people for supporting the environment but incentivises them to realise their responsibilities for the future. This planet is not just for us and the Fianna Fáil, Fine Gael and other parties of today but for our children and their children. In that context I welcome the package of reforms in VRT and the innovations in the BES scheme. These not only establish incentives in terms of carbons and vehicle taxation but also incentivise the business community by encouraging entrepreneurs to come up with measures and innovations that will help us to protect the environment from the many threats it faces.

The level of expenditure and investment in the capital programme is still unprecedented in historical terms. As a Member from the west, I welcome the fact that the first stage of the western rail corridor will be completed and I look forward to when, as is Government policy——

**Senator Fidelma Healy Eames:** It will eventually get to Sligo.

**Senator Marc MacSharry:** —it reaches Sligo. Senator Healy Eames is aware of my commitment to that. With regard to taxation, we have again tried to ensure that people on the lowest incomes are either kept out of the tax net or pay the minimum amount of tax. This is most important and must be welcomed.

Approximately 80% of budget expenditure is in the areas of health, education and social welfare. To be able to do that in a far more challenging environment than has existed for the past ten years is a credit to the Minister, his officials and the Government. It would be ridiculous of the Opposition not to admit that, at least. As a practising auctioneer I welcome the changes in stamp duty. They have been carried out in an innovative and clever way to ensure the benefits reach those who most require attention, including first-time buyers and people at the lower end of the market. The average house price is €370,000; it is less in the regions. There is something in the changes for everybody. It was necessary to inject an element of confidence in the market. It is a statement that the indicators of this economy are still impressive in an international context, notwithstanding the international pressures. I welcome those changes and I hope they and the changes in tax relief for mortgages will help the housing market.

Given the nature of the debate, I do not have time to go through all the areas on which I wish to comment. This is a budget which, as a member of Fianna Fáil and a representative of the Government side of the House, I am proud to state has given priority to the most vulnerable in our society. That is welcome and is in the Fianna Fáil tradition. I am proud of that. In difficult circumstances it has ensured, through the capital

[Senator Marc MacSharry.]

programme and with moderate borrowing, that we can maintain momentum and create employment and economic growth. Above all, it has made a significant start in confronting the great challenges we face in protecting the environment. It combines a number of measures, which we must all buy into through our choices and the incentives offered in the budget, to contribute to the preservation of our environment.

**Senator Feargal Quinn:** With the permission of the House I will share time with Senator Norris.

I look forward to this debate each year. When I was at school I always wanted to be a school inspector or examiner, and I look forward to acting as the budget examiner and giving marks for it. Last year, I gave the budget a pass and used the term "could do better". What is the mark this year? This year's budget was dull and boring, with no surprises and little innovation. Thank God for that, because that is what was needed. We do not need dramatic changes.

This year there was a new challenge for the Government and Senator MacSharry has mentioned it. There is a new environment internationally and nationally. There was a danger of the Government slamming on the brakes and being afraid to borrow. On this occasion the Government chose sensible borrowing, and I will give it an acceptable mark for that. Competitiveness is the area that must be watched for the future. I am pleased that no steps were taken to damage that. I am particularly pleased with the investment in science, technology and research and development.

However, I am disappointed that no steps were taken to cut public expenditure, an area where we face a real challenge as Senator Twomey mentioned, particularly expenditure on pensions and salaries. I am concerned about that because it will damage our competitiveness in the future. What was done with regard to stamp duty and the construction industry was sensible. It is not dramatic but will encourage the housing and construction sectors. On that basis, it is at an acceptable level. What about business and investment? The steps taken, in small ways, for small and medium sized enterprises are acceptable and I would encourage them.

I was particularly pleased that there was no tinkering with foreign investment. We have had the confidence of foreign investors in Ireland for the past 20 years because we have been able to say, "This is what you get if you come here. We do not change direction mid way because of some other challenges outside." I am pleased this was the case today. From that point of view, I can give the budget reasonably high marks.

I applaud the Minister's commitment to deliver in full the national development plan because this should be a priority in our preparations for the future. Roads are important, as they always have been, and so are other types of transport.

However, these are no longer the most important priority in getting Ireland ready for the future. As I have said here before, our number one priority should now be education. Education does get a look-in in the national development plan and it also features in the spending plans announced today, but not to anything like the required extent. If we are to prepare properly for the medium and long-term future we must invest a lot more in education. Investment in education is mentioned in the budget and it was talked about today, but not to the extent I would like.

When it came down to what sort of marks I would give this year, I decided to give honours. However, I am not going to give top marks because of insufficient investment in education and the unacceptable reduction in overall public expenditure. Had the Tánaiste attended to these areas he would have got top marks, but he has certainly received higher marks than in previous years. The Government cannot relax. The Minister is receiving honours, but only just.

**Senator David Norris:** I thank my colleague and friend, Senator Feargal Quinn, for allowing me time. I greatly enjoyed his schoolmasterly performance. I am sure the Tánaiste and Minister for Finance, Deputy Brian Cowen, will be greatly heartened to know he has received a better report than in previous years. I also agree with Senator Quinn that the atmosphere in the Dáil was a little dull. The Budget Statement did not seem to provoke anything like the outrage seen in previous years. There was a certain lack of atmosphere. With regard to the general content, despite the fact that it is dull, the balance has been got right. It seems the Government is now waking up to the fact that there has been considerable squandering of public money and a notable lack of accountability, particularly in capital projects such as roads. A lot of money has been wasted. However, I will not waste time, which is another precious resource, by listing the areas in which there was a lack of prudent management, good governance and oversight. We will revisit this area in the new year, as we traditionally do.

I have a sheaf of submissions made to all Senators from the Society of St. Vincent de Paul, the Disability Federation of Ireland and so on. I am glad there was some degree of concern shown in this area. Yesterday I was speaking at the graduation ceremony of Enable Ireland at the Microsoft plant, in which sophisticated machinery is produced which allows people who are disabled to re-enter the workplace, where they can play a significant economic role. This is a useful investment, because it costs many tens of thousands of euros, for example, to retire somebody owing to disability. For 80% of people with disabilities, theirs is an acquired disability such as spinal injury. That is very interesting. Almost 70% of those with disabilities remain unemployed. That is a huge figure compared with the equivalent in continental countries. Anything that allows

people with disabilities to be productive members of society is to be welcomed.

I was sitting in the Gallery for the Budget Statement. I noted that there was general allocation of €2.7 billion for rail and bus services. There was no mention whatever of the metro, however, although the Luas was mentioned. I hope this is not a sinister prelude to a dilution of the metro programme. It is probably the most vital element of transport for this capital city and it affects everybody in the country because such a disproportionate number of people live here. I hope there will be a continued and firm commitment to this sensible development.

The environmental tax and VRT provisions are fine. However, the raising of motor tax for larger capacity vehicles is just grubbing around for a few extra pence. It has nothing whatever to do with the environment. The Minister may nod his head all he likes, but he will still be wrong. He is nodding again, but I will remove the nod. The only way to implement the polluter pays principle is to put a tax on petrol. I have a large car. It is a beautiful car which I bought for €5,000. I keep it in the garage and walk here almost every day. I used to cycle until it became too dangerous. How much pollution am I creating? A person in a Mini creates a lot more if he or she uses it all the time. A tax on petrol would affect the environment, but tax on large cars will not. This will affect poorer people.

The doubling of duty on cheques is a stingy measure. The Minister said he wants to use this to drive people to use automated systems and credit cards. However, elderly people and people who are a little bit thick, like me, use cheques. They do not want to use automated systems because they do not understand them.

**Senators:** Hear, hear.

**Senator David Norris:** It is a mean thing to raise the duty on cheques. It will not raise much money but will cause serious inconvenience. It will also hit small businesses. I do not see any virtue in it and it should be reconsidered.

**An Cathaoirleach:** The Senator is in his last minute.

**Senator David Norris:** I hope not of this life. What a frightful warning.

**An Cathaoirleach:** I meant the Senator was in the last minute of his speech.

**Senator David Norris:** I feel weak as a result of it. There is a section of the budget dealing with health. It is fine that all this money is being spent, but there should be an audit. What I am interested in is not how much money is being spent but whether it is being spent wisely.

Let me give an example to the Minister of State. I spoke to a person the other day who came

to see me about an aspect of the health services. As a result of lobbying, a particular service was made available to the public. The first thing to happen was that four managers were appointed. There were to be three staff to deliver the service, but they were stuck because of the recruitment embargo. The delivery of this service has been sanctioned, the managers have been installed, but there is to be no service. The health system must be strenuously audited to prevent events such as this.

There was also mention of housing. I welcome that there will be a reduction in stamp duty in the lower end of the housing market. I also heard the Minister mention affordable housing. In his conclusion he mentioned a “challenging backdrop” and had a little checklist of features of the budget. These are all pretty good, and I agree with Senator Quinn that the budget meets the challenge. The checklist states that the budget “supports the incomes of the vulnerable”. The Minister seems to have done something there. It also states: “It keeps taxes low for working people.” As somebody with a reasonable amount of money, I cannot disagree that the less well-off should be more favoured. I will initial the report issued by the headmaster, Dr. Feargal Quinn, but I will say again that I want more horse sense in the small areas I have outlined.

Debate adjourned.

#### Visit of Former Member.

**An Cathaoirleach:** I welcome into the Distinguished Visitors Gallery former Deputy and Senator Charlie McDonald, a past Cathaoirleach of the Seanad. He is very welcome.

**Senators:** Hear, hear.

#### Budget Statement 2008: Statements (Resumed).

**Senator Dan Boyle:** For the past five years I have had the privilege of being an Opposition spokesperson responding to the speech of the Minister for Finance on budget day. It was a role I greatly enjoyed and I hope I performed it with the appropriate level of responsibility. I noted in several of those speeches the trend of recent budgets — the seven that had been produced by the previous Minister for Finance, former Deputy Charlie McCreevy, and the three produced up to today by the current Minister, Deputy Cowen. Analysis carried out by the Combat Poverty Agency showed that the first six of those budgets unashamedly favoured the better-off in our society, that the seventh was neutral, and that the three produced by Deputy Cowen showed a trend, which has continued into this year’s budget, of favouring the less well-off at the expense of the better-off. The first principle in drawing up any budget is to achieve this. The Minister must be congratulated.

[Senator Dan Boyle.]

One of the reasons for our participation in Government is the idea of index-linking the tax system so that those on minimum wages are not caught within the tax net and those on average industrial wages are not in the higher tax band. I would like to see this achieved through legislation and being done automatically every year, but I am glad to see it has been done in this first budget of the new Administration.

The Minister needed to tick many boxes, the first being social equity, which he addressed well. The second box was that of getting the balance

of future economic development  
7 o'clock right to ensure increases in public

expenditure were controlled, the cost of living was met by all Departments' allocations as far as possible and surpassed where necessary, and capital expenditure on infrastructure addressed the gaps in our economy as soon as possible. The overall increase in spending is 8.6%, comprising 8.2% in current expenditure and 12% in capital expenditure. The Minister described the ability to rely on improved and increased research and development as an engine for future economic prosperity, a sub-theme of the budget that will have a benefit in future.

My party is most concerned about environmental policy, in which we would like to see the most achieved. My party is a junior member of the Government and by no stretch of the imagination is this a green budget, but it is the greenest budget ever and has been influenced by the Green Party significantly. While people might look at the headline changes in tackling the growth in carbon emissions, those changes being in respect of VRT and motor tax, there are other aspects of the budget that show what the green imprint has achieved. The increases in expenditure in the Departments of the Environment, Heritage and Local Government and Communications, Energy and Natural Resources are above the average — 13% and 25%, respectively. Some of their subheads display how the Ministers are getting the funding for the policy areas in which they need to meet the programme for Government's core commitment of reducing carbon emissions by 3% per year. The budgets of the Environmental Protection Agency and the national parks and wildlife service have increased by 43% and 30%, respectively. By any criteria, this budget has a green influence.

A plethora of smaller items litter today's budget, such as the exemption of bio-fuels from excise duties, the matter of changes to VRT instead of the tax system in respect of hybrid vehicles — a 50:50 split between electrical and fuel-based — and a complete VRT exemption for electrical vehicles. These measures are designed to give a choice.

Those who want to question the Green Party's commitment will discuss how motor taxation changes will hit motorists. The temporary changes in the current system of motor taxation

will have effect from 1 February 2007 to 1 July 2008 and are the last throes of an old system. However, that system is one of local government's main sources of funding. If people want local government to be resourced properly, they must recognise it must be funded in this way.

The proposed increases — 11.5% for cars of more than 2.5 litres and 9.5% for cars under that size, which are good measurement criteria in terms of social justice — are not excessive when one takes into account that the rate of inflation since these taxes were last raised in 2004 has accumulated to 15%. People are paying proportionally less for motor tax than at the time of the previous increase.

An effort has been made not to endorse any of the scaremongering in the media in recent weeks. The proposal for a short-term change in motor taxation is sensible, sane and fair. The real changes with the greatest environmental and social effects will come into effect on 1 July 2008 when the VRT and motor taxation systems will merge into a carbon-based system. This will encourage people buying new vehicles to shop around for the most effective. A car labelling system will apply to every car, including imported second-hand cars. On this basis, consumers will be given every assistance in ensuring not only will their money be spent to the best effect with the State's assistance, they will be given the best choice in terms of helping the environment.

My colleague will address the Green Party's influence on the budget's important social aspects later in the debate. Several references by the Minister are the direct fulfilment of pledges in the programme for Government. The commission on taxation was negotiated by the Green Party and we welcome its establishment next year. We are delighted with the debate on how to achieve fair taxation. These comprise an important start.

The Minister referred to commitments to be honoured from next year onwards, including the doubling of the income threshold for health cards for children under six years of age and the trebling of the income threshold for people with an intellectual disability and who are under 18 years of age. These important social commitments were included in the programme for Government by the Green Party and we welcome that they are well on their way towards implementation.

Given prior constraints due to changes in the international economy, this is a good and fair budget that shows the direction in which the Government will go for the next four years. I am happy to endorse the budget and congratulate the Minister on the balance he has achieved. I look forward to the provisions being added to by future budgets.

**Senator Alan Kelly:** I welcome the Minister of State and his officials to the House. I will try to go through the budget's provisions in a fair-minded way, the best way to do so. I will give praise and criticism where they are due.

I will not address the international and domestic factors in the budget's environment, but we all know that a major domestic factor is that of tax receipts, especially in respect of stamp duty and the consequential roll-on. The figures and graphs are going down, which we must address within the environment in which the budget was framed. This year's growth rate is 4.25% whereas next year's is projected to be 3%, which is of serious concern.

Inflation at its current level is an issue, particularly as the prices of basic food items are always increasing. Inflation is running at twice the level described to workers when they signed up to Towards 2016, which provided for a 10% increase in 27 months. In many cases, employees are concerned by any increases in a budget, real or not. We must worry about the projected increase in unemployment levels to 5.5%. The concern is not just unemployment, but the displacement of higher income jobs versus lower income jobs.

Without going into too much detail, we knew that Fianna Fáil's pre-election promises on top and lower rates of tax, pensions and PRSI would not be met.

**Senator Dan Boyle:** That was a single party's policy.

**Senator Alan Kelly:** I listen intently to every debate in the House, but Senator MacSharry's statement could have been on any budget. There was no detail. That he read the budget beggars belief. Complimenting the Senator's namesake——

**Senator Marc MacSharry:** I read the whole of the budget.

**Senator Alan Kelly:** I believed the Senator did not interrupt people. Complimenting his namesake of 20 years ago does not show any degree of modesty.

Senator Boyle went into detail, as he did unscripted on RTE, but he will find that this is not a green budget. It is more of a parsley budget.

I acknowledge and welcome the changes to the budget's procedure. It is a much better way of doing our business to set out the spending of various Departments at this point. We need to acknowledge where spending is going, however, and in some cases that is hard to work out from the figures presented.

The changes to income tax are aimed to keep wages in line with inflation. While they will have some effect, I am concerned some people will not enter the top level of tax, primarily because they do not have the level of income required. This is largely owing to the various types of jobs and the way employers use part-time employment to minimise workers' hours and pay. I am concerned that in the current economic climate these changes will not keep wages in line with inflation.

Non-residency tax loopholes allow millionaires fictionally to live abroad and to get away without paying substantial taxes. In an internal survey it was noted that 48 of the highest earners in the country paid less than 5% tax on their incomes. None of these issues has been addressed by the budget, a matter the Green Party may wish to consider.

The budget did not roll back on several stealth taxes introduced in previous budgets. Raising the duty on cheques is mean as it hits mainly the elderly who may not be as financially sophisticated when it comes to payments with electronic cards.

The mortgage interest relief measures are to be welcomed but have not gone far enough. PRSI, flagged by the Government on previous occasions, has not been dealt with. Why is it still in place, and the health levy for that matter? Many low income workers pay as much in PRSI and health levies as they do in income tax.

I agree with Senator Twomey that while the changes to the stamp duty regime are welcome, they are too late. The current discourse on the housing market will take much to change. I cannot see the new measures doing that. The principal beneficiaries will not be those who buy average-priced houses but those buying at the upper end. The mismanagement of the housing market is written all over this Budget Statement. The increased borrowing and limited tax and social welfare packages reflect the hit the Exchequer has taken from the property slump.

I am concerned that specific loopholes and discrepancies in the tax code have not been addressed. The sale of the Irish Glass site at Ringsend exposed a stamp duty loophole which has not been closed.

I am concerned the vehicle registration tax measures are revenue neutral. Some officials in the Department of Finance also have concerns over it. The measures will not do much for hybrid vehicles, considering the numbers of them. Motor tax is simply a tax. It has no link to the environment and will not change behaviour. It is better if that is said straight.

There has been no movement for one-income families or on the PAYE tax credit, thus penalising them on the double. This should be changed and I had hoped the budget would recognise this. It seems, however, that individualisation will remain a policy of this Government.

I lament the PAYE tax credit not being amalgamated with the individual credit for those who are self-employed. Many, self-employed workers, especially in the construction industry, cannot avail of it. It is touch and go to call them self-employed because in many cases they work under contract for someone else.

I do not believe some of the social welfare increases will keep up with inflation. I welcome the increase in the incapacitated child benefit. However, there has been no move on fuel allowance.

**Senator Dan Boyle:** Yes, there has been.

**Senator Alan Kelly:** Not one worth talking about. It only covers 29 weeks of the year.

**Senator Dan Boyle:** It has been increased to cover 30 weeks.

**Senator Alan Kelly:** It has been increased by one week — gee whiz. The increases in social welfare benefits are €12 per week instead of the recommended €20 per week. Child benefit only goes up by €6 which will be below inflation. If pensions are to rise to €300, they needed an increase of €14 per week. There has been no change in medical card status as well as in the dependant spouse pension and mobility allowance.

Vision was necessary for the preschool education area. The child-minding cap of €15,000 remains, which is unacceptable. There has been no movement on stock relief or installation aid for farmers. The recruitment of extra teachers seems to be behind schedule. The spending on health care raises serious concerns, particularly from the point of view of cancer services.

I agree with the capital investment programme at many levels but I am concerned at funding for training programmes. I welcome the small and medium enterprises incentives. There has been no reform to public and Civil Service pension areas which would allow for decentralisation. I presume decentralisation has not been mentioned in the budget because its progress levels are minimal.

I am concerned the new proposals for research and development incentives will be more complex. This was also a time to examine risk investments in IT areas. I am concerned there is no investment for new generation networks for broadband. Tourism did not receive any mention. There is no package for the mid-west despite the Government's representative claiming €55 million will be earmarked for the region. Whether it is open skies or the Aer Lingus pull-out, there has been no movement on Shannon Airport. There was no exemption from VAT charges for schools and hospitals when purchasing certain goods such as computers.

This budget has been framed as a green budget with €15 million going on environmental measures. With the Green Party in Government, that is an hilarious figure.

**Senator John Hanafin:** The budget was a question of priorities and it matches our expectations. We wanted the Minister for Finance to look after the less well-off. It is a time of economic change in the world in which we have little say. It is a time of uncertainties in the finance and equity markets. The Minister for Finance took the right course. It was a prudent budget but one which looked after the most vulnerable.

Last year, Senator Quinn gave the budget a pass at a time with a high Exchequer surplus which led to high expectations. This year there was no surplus but prudent borrowing of 0.9% of gross national product for which the Minister got honours. It proves that what is done with the available moneys is how people will assess a budget.

It is an excellent budget because it has dealt with smaller items in a positive way. It has cleared the way for corporate tax to be paid at different times to suit businesses. It has reduced the duty on bank and credit cards and made positive contributions to the green challenge, including vehicle registration tax, VRT, on which the Minister is to be commended.

People worried that house prices were far higher than people realistically could be prepared to pay and the collapse of sub-prime lending in the American market raised further questions about the stability of the housing market. The Minister has taken the opportunity to deal with this on two levels, by significantly increasing mortgage interest relief, which is welcome, and by making allowance for first-time purchasers to avoid the clawback on stamp duty relief after the first two years of purchase rather than the first five. This reflects the mobile nature of society as people move to work in different parts of the country and is a small but significant item for those whom it affects. In addition to the timely changes in stamp duty, it will give the added impetus necessary to the market.. There was a significant and continuing bounce in the world equity markets at 3.30 p.m. today which indicates that confidence is returning. By this time next year the situation will be very different, with possibly a significant increase in the moneys going to the Revenue Commissioners from the housing sector, as often happens.

The Government has increased spending on public services by €8.6 million to €62 million which is entirely appropriate at a time of uncertainty. While the market has slowed down in this country, the infrastructure is being rolled out with expenditure in many areas, including transport, education and health. We were in the unique situation that certain areas needed extra funding quite quickly as the population grew. Uniquely in Europe, by the time a new school had been built in the western and northern suburbs of Dublin, another was needed. It is difficult for anyone to anticipate growth of that level. None of our European neighbours had but we are meeting that challenge directly.

**Senator Fidelma Healy Eames:** That would not be so if tracking were in place.

**Senator John Hanafin:** I am pleased with the increase in the social welfare payments. Dependents, who were in an anomalous situation, have received a significant and welcome increase of €27 which, when combined with the increase of

€14 in the contributory pension, makes an increase of €41 a week or more than €2,000 a year. Respite grants have increased. Supporting older people is one hallmark of the Government of which I am particularly proud.

In respect of family support, there is an increase of €6 each for the first and second children per month and an increase of €8 for the third child, making €20 for a family of three. There is an additional €2 million in funding for school meals, representing another significant increase for those in disadvantaged areas. I like to see this because looking after those who are less well off is the sign of a good budget.

Taxation has decreased significantly through the years. This is a vast improvement by any yardstick and using any inflationary figure. It is a great credit to all budgets heretofore. A married person with two children on the full rate of PRSI and earning €15,000 paid 11% of that in income in tax in 1997 but he or she pays nothing now. A person earning €25,000 in 1997 paid 20% and pays nothing now. A person on €120,000 paid 43% and still pays 27%, a significant amount, as it should be. It is, however, attractive for people to come to this country. Foreign direct investors look not only at the economic climate and taxation — we welcome the retention of the allowances for the business expansion scheme and film investment — but also at the provision for education and health services. We have a high standard of both and I was delighted to see a significant sum, in addition to ordinary resources, being expended on cancer care because this is present in all our minds. This is a commendable budget because within its constraints it concentrated on the less well-off.

Debate adjourned.

#### **Visit of Former Member.**

**An Leas-Chathaoirleach:** I welcome Mr. Tom Hussey to the Visitors Gallery. Mr. Hussey is a former Member of the House and a former Minister of State.

#### **Budget Statement 2008: Statements (*Resumed*).**

**Senator Joe O'Reilly:** I welcome the Minister of State at the Department of Finance, Deputy Noel Ahern, to the House. The tragic backdrop to today's budget is the waste of the boom years. There is no improvement in services, traffic is in gridlock, class sizes are enormous in suburban schools and the health service is paralysed. We have created neither a fair society with the money earned in the boom nor a monetary war chest. We have failed in accountancy and social justice terms.

The Government has not achieved value for money. The budget failed to put in place a system to audit the delivery of services, monitor expenditure and evaluate results. There is still an opportunity to do this.

There should not be so many consultants, committees or the burgeoning industry around Government of advisers working in parallel to the Civil Service. It is bizarre to have parallel systems. When Members were at school, the cream of the country entered the Civil Service and went on to be junior executive officers, administrative officers and first secretaries. Why must a plethora of outside consultants sideline them? Not doing so would save a significant sum of money.

It is a crime that the Government has increased the number of its external agencies to 630. This is a bizarre, Byzantine and monstrous bureaucracy that needs dismantling. More reprehensible is the fact that the Government created the illusion of a boom for the general election. Now we are in deficit. The illusion was kept alive until the general election was over. We are now borrowing for current expenditure which is what we did in the bad old days.

**Senators:** For capital expenditure.

**Senator Joe O'Reilly:** For capital expenditure too. The budget is not progressive. In the year 2000 the Government published a climate change strategy that proposed a carbon tax by 2002, more investment in buses, the cessation of coal use at Moneypoint power station by 2008, rebalancing vehicle registration tax and integrated traffic management. None of this happened and consequently we are over our emissions limit. Since the publication of the report 500,000 houses have been built and 600,000 cars put on the road which blithely ignores the need for sustainable patterns of energy use. Over these years the movement of drivers to cars with larger engines wiped out the improvement in emissions performance achieved by car manufacturers and the average emissions per car increased by 11%.

The only provision in the national development plan on climate change is to pay €270 million in penalties for the failure of the Government strategy set out in 2000. The Green Party deserves some credit for dragging Fianna Fáil to face this important global challenge but it must also realise that enough is not being done. Today's balancing of VRT is welcome but it is a belated move that may not be enough. I also welcome the pilot programme on home insulation and believe it should be grant aided nationally because it will yield results.

There should have been a provision in today's budget to grant aid domestic turbines.

**Senator Paddy Burke:** Hear, hear.

**Senator Joe O'Reilly:** There should also have been a provision to grant aid the marshalling of water from old corn and flax mills to provide power to alternators to create electricity locally. I should acknowledge that my colleague, Senator

[Senator Joe O'Reilly.]

Burke, has raised the question of domestic wind turbines on a number of occasions in this House.

The increases in social welfare are just about adequate but do not take enough account of the fact that one in five old age pensioners lives in poverty. In recent times the prices of essential foodstuffs such as bread, milk, butter, eggs and so on have increased by 15% and in this context the increases in social welfare are paltry. It is a horrendous shame that the living alone allowance was not increased today because there are obvious extra costs facing those in this area.

I have always argued in every chamber available to me, including local radio, that we should remove the means test for the carer's allowance and Senator Wilson will corroborate this. The carer's allowance is the most effective way of keeping people at home, where they are happiest, and more should be done regarding investment in home care assistance. This is all missing from today's budget, which is strong on platitudes but low on detail.

The budget has failed to deliver on the election promise on the top rate of tax, which is 41%, and it is worth noting that since 2002 the burden of taxation per person has increased by €9,500. The move on stamp duty is probably too little, too late to cope with the slump in housing prices and represents the Government's acceptance of an identical proposal made by Fine Gael during the election campaign. The budget provides no relief for those who decide to take a year or two of leave from their jobs to look after a child at home but such an initiative needs support.

This budget should have seen the Government reducing wasteful expenditure, eliminating the notion of big government and reducing the use of the traditional Civil Service. The budget should also have taken a more realistic approach to environmental issues and made more provision for social welfare. More could have been achieved in this budget, which represents the Government's poor attempt to back track on its election promises.

**Senator Fiona O'Malley:** I suggest that Senator O'Reilly read the budget because there is no plan to borrow for current expenditure.

**Senator Joe O'Reilly:** More than €1.5 billion is to be borrowed and there is no statement that we will arrive at current expenditure.

**Senator Fiona O'Malley:** The Senator has made an error and it is important that we do not scaremonger people into thinking we are returning to the days when we borrowed heavily for current expenditure. Any borrowing planned in this budget is wise, prudent and for capital expenditure. If one bought a computer the day it came on the market and did not buy a new one as technology advanced one would be left behind. We must update all kinds of infrastructure in the

country through investment; for example, we should not have the same type of roads now as 15 or 20 years ago.

**Senator Joe O'Reilly:** On a point of information, would it be in order to ask——

**Senator Fiona O'Malley:** My time is limited and I will not give way. The hallmark of this budget is that it is fair and nobody in the country will lose out as a result of it, which is quite an achievement in more constrained economic circumstances than recent years. It is easy to be generous when money is widely available but it is harder to make choices when money is limited and that is why this year's budget is so commendable. It is difficult to find a group that will not benefit from this budget and none of the non-governmental organisations responding to it seemed to seriously criticise it.

People have said it is a pity certain areas did not receive more but, as the Minister for Defence, Deputy Willie O'Dea, said, we would all like to give everyone more but that is not the way of the world and that is not the purpose of a budget. There was a limited amount of money available in the budget, choices had to be made and the Minister has made his choices wisely.

Before Senator O'Reilly departs I want to raise the issue of the top rate of income tax.

**Acting Chairman (Senator Dan Boyle):** The Senator may make her remarks through the Chair.

**Senator Fiona O'Malley:** This is the first budget of a five year programme and if everything was delivered in the first budget there would be little to do in the following years.

**Senator Joe O'Toole:** The Senator should see if the Government is still sitting in five years.

**Senator Fiona O'Malley:** It is madness to think that everything could be delivered today because this process is more a marathon than a sprint. We should take the time to recognise that a programme for Government is to be delivered over five years and items in the programme will be delivered in that timeframe. This Government and the previous Administration has form and has delivered on previous commitments, which is one of the reasons I am pleased to see an increase in old age pensions today. We are well on the way to reaching the figure of €300 that is indicated in the programme for Government and this is to be welcomed. One might have expected the first budget of a new administration to be parsimonious with contributions to social welfare because it will be some time before it faces the electorate again but the Minister has honoured commitments in the programme for Government. He is furnishing the appropriate increases to arrive at

the levels sought by the time the administration ends.

I am particularly pleased with the Minister's comments on research and development, especially in the energy field. I have always contended that there are major opportunities for the State in terms of advancing our knowledge economy. The Minister has given a commitment that where investments show scope to go further, he is willing to assist them in doing so. I applaud him for this tremendous initiative. This is the correct way to approach the challenge posed by climate change and the energy supply crisis. I am pleased to see the Minister investing heavily and appropriately at this level.

The Minister is wise to reform the stamp duty system so fundamentally. The attractiveness of his initiative in this area is its simplicity. The Progressive Democrats Party has indicated its preference for streamlining the bands to make fairer what has been an extremely unfair tax. The Minister wisely kept close counsel about this. Having observed what happened in the housing market in the past year, his response is appropriate. It is not a minute response but a fundamental reform of the system. Stamp duty was the most unfair of taxes; in no other area of taxation did one pay tax at the higher rate on the full amount once one exceeded the defined thresholds.

The Minister deserves to be commended on his initiatives in many other areas, including motor taxation. One of the fundamental features of this budget is that it upholds the principle that those earning the minimum wage should remain out of the taxation system. This is important in terms of encouraging people on modest wages to continue working. Ensuring that four out of five taxpayers pay tax at the standard rate is a good principle to maintain. Economic stability is prudently safeguarded in the budget. I commend the Minister greatly on his achievement.

**Senator Joe O'Toole:** I propose to share time with Senator Doherty.

**Acting Chairman:** Is that agreed? Agreed.

**Senator Joe O'Toole:** This budget is about broken promises. I do not have time to go into detail but I will focus on education, an issue in which I am closely involved. Reference was made on the Order of Business to the Estimate for education. The increase in the allocation for the Department of Education and Science is appallingly small.

**Senator Pearse Doherty:** Hear, hear.

**Senator Joe O'Toole:** The reality is one of broken promises. At the Fianna Fáil Ard-Fheis, we were promised that the Government would double the capitation grant for primary schools. We were assured on numerous occasions that the pupil-teacher ratio would be reduced. Neither of

these objectives has been achieved and their implementation will not be possible given the resources allocated.

I listened to the enthusiasm of the speakers on the Government side. The energised contribution of Senator MacSharry certainly made an impact. Senator O'Malley, meanwhile, put forward the point of view of the Progressive Democrats Party. Some of the provisions in the budget are undoubtedly welcome. I always point out the positives as well as the negatives in any Government initiative. For example, I support the exclusion of those on the minimum wage from the tax net. I welcome that some movement has been made in the area of housing, although I wonder whether the motivation for this was to satisfy builders and developers rather than buyers. I will let that rest for now.

In education provision, however, one does the sums and discovers there is an overall increase of less than 2%. This is an appalling increase. I emphasise to Senator MacSharry in particular that all the available funding will be used to build schools in the Pale.

**Senator Fidelma Healy Eames:** Hear, hear.

**Senator Joe O'Toole:** It will not be used to provide funding for the school I visited in Sligo last week. It will not address the difficulties experienced by the school in Ballina that I brought to the Minister's attention last week. The money is simply not there. I am not saying this is a poor budget. My point is that many issues have not been addressed. For instance, schools will continue to have to raise funds. This is unacceptable given that the people involved in these schools were allowed by the Government to entertain certain expectations. Perhaps the way to deal with this is to admit that it cannot be done now but will be done next month or next year, but I have not heard that either.

The commitments given have not been delivered upon. The commitment to reduce class sizes cannot be fulfilled because adequate provision has not been made for the increased population of school-going children. Neither can the increase in the capitation grant be made. Thus, there will be no significant improvement in primary education. This reality puts some perspective on the welcome initiatives in the budget.

**Senator Pearse Doherty:** This the 11th budget presided over by Fianna Fáil in government. During that time, we have had unprecedented economic growth. Now, however, the Government is warning us to tighten our belts. Fianna Fáil's pre-election promises were an illusion but also a masterstroke in terms of electoral strategy. It promised the earth, moon and stars but as soon as the votes were cast, it embarked upon a campaign to dampen down expectations by telling voters that many of its promises were no longer realisable. The commitments made by Fianna Fáil in its

[Senator Pearse Doherty.]

manifesto included the provision of 2,000 additional gardaí, 4,000 extra teachers, 1,500 new hospital beds and 2,000 additional health consultants, as well as tax cuts, PRSI cuts, affordable housing and so on. It was clear that all of these could not be delivered on if the Government was not willing to address new areas of revenue and reconsider those commitments, including tax cuts, that would reduce revenue intake.

This budget represents a missed opportunity. It was a more difficult budget to deliver given the economic circumstances that pertain, but it offered an opportunity to increase the net tax take. One way to do this was to harness the natural resources off our coasts that we have been handing over to multinationals. The €51 billion in gas that is expected to be discovered off the west coast could have funded this budget. European states such as Norway and other countries throughout the world use their natural resources to generate wealth that is invested in education, health and social infrastructure for the benefit of the people. It is a shame the Government did not replicate this stance.

The Government also failed to deal with the tax loopholes that allow individuals to write off tax under various schemes. These reliefs are being exploited by some wealthy individuals who reduce their tax bills to such an extent that they end up paying less than ordinary workers. The Minister has again missed an opportunity to deal with this.

This budget must be judged on facts rather than Government spin. The criterion for judgment is whether it will lift people out of poverty, ensure an equal distribution of wealth and deliver improvements in public services. It will achieve none of these. There are positive initiatives in the budget but no major increases in resource allocations. An increased allocation of €95 million for education will provide only for the extra 13,000 pupils who have come to this country and require a school place next year. We will not be able to provide for schools in bands one, two and three, which are operating out of dilapidated buildings throughout the State. No progress has been made on medical cards and child care. I spoke to a low-income worker yesterday, the sole earner in a family of five children who are cared for either in crèches or in after-school projects. This Government's position on child care means he will pay more than €500 per week.

The Government has spoken about the €12 increase for pensioners and those on social welfare and indicated this is a caring budget. I would compare this with what happened to three Ministers and their proposed wage increases.

**Acting Chairman:** Will the Senator do so in less than one minute?

**Senator Pearse Doherty:** I will do it in one sentence. The increase that has been given to three

Ministers is equal to the same increase we gave to 120 pensioners. That demonstrates where the Government's commitment is in this budget. It was not for the most vulnerable or the weakest in society. We could have done much more and it is a missed opportunity.

**Acting Chairman:** I call Senator de Búrca and remind her there are five minutes left in the debate before the Minister of State makes his concluding remarks.

**Senator Déirdre de Búrca:** I was going to suggest I share my time with Senator Healy Eames.

**Acting Chairman:** Is it agreed to share time, with Senator de Búrca having three minutes and Senator Healy Eames having two? Agreed.

**Senator Déirdre de Búrca:** There is no such thing as a perfect budget but I suggest the budget announced by the Minister for Finance today was well balanced in the context of the straightened financial circumstances in which the country finds itself. The Minister's actions, in co-operation with the parties in Government, have meant the circumstances in which we find ourselves were turned into economic opportunities, particularly where the environment and sustainable development is concerned.

I emphasise the green imprint on the budget, which other Senators have mentioned. There are very positive initiatives which will allow, for example, companies to write off 100% of their expenditure on energy efficiency initiatives. There is also much greater access to the business expansion scheme for companies involved in recycling.

This, in a way, is the Government demonstrating that it is possible to turn a scenario where economic and environmental sustainability are an imperative into economic opportunity. Jobs will be created and very positive economic opportunities can be realised through the budget.

I commend the budget because of the emphasis on sustainable development. As the Green Party has repeatedly indicated, sustainable development is about finding balance between economic growth, social justice and environmental protection. The budget goes a good way towards achieving that kind of balance.

There is a strong emphasis on social justice within the budget, even within the compromised economic conditions we find ourselves. Those who have least in society have been the focus of the social welfare and taxation proposals framed within the budget. Health care is an issue of significant concern which has been the subject of many debates in the Seanad. The increase in the health budget is less than previous years but it has been targeted at areas where there is particular public concern. I specifically mention cancer care services, as the €29 million put aside

towards screening and remediation is very welcome.

**Acting Chairman:** The Senator has exceeded her time.

**Senator Déirdre de Búrca:** I welcome the €12.5 million being given to fund the implementation of the recommendations of the national drugs strategy rehabilitation board. This will allow for the development and strengthening of the local drugs task forces and roll services out to the new commuter belt towns. We can see cases in the media where many young people are facing extremely adverse health conditions because of dabbling in recreational drugs, so the role of our drugs task forces is increasingly important. I am pleased to see this prioritised in today's budget.

**Senator Fidelma Healy Eames:** I thank the Senator for sharing her time. I would like to be fair but at best this is a maintenance budget. It is too little, too late because our great wealth has been squandered. The budget is lacking in vision and strategies, bearing in mind the needs of the knowledge economy which we must seriously address to sustain economic growth at a very uncertain time.

With regard to education, the quality of learning in the classroom depends on the quality of teaching. There has been no mention of targeted reductions in class size. In 2002 we heard there would be 20 pupils to one teacher in classes of under-nines. That promise was not kept. There is no commitment to preschool education and no thought has been given to universal preschool education, even if it was only in disadvantaged areas. There would be payback on such initiative in building hope and fighting crime by bringing people into the culture of education at an early age.

I spoke in the House on lifelong learning a number of weeks ago and indicated to the Minister the importance of making a commitment to ESOL, or English for speakers of other languages.

**Acting Chairman:** The Senator has 30 seconds.

**Senator Fidelma Healy Eames:** Some 250,000 people have no English in this country and they are a significant drain on public services, such as health and education. We needed €10 million in that area but I see only a commitment of €3 million for adult literacy, which may have an ESOL component. That is very disappointing. The advice to separate literacy from English for speakers of other languages was not heeded.

I have no idea how much an increase in capitation has been given to primary and secondary schools. We know how many of our schools must fundraise to meet heat, lighting and insurance bills. It is impossible for me to comment on the capital programme because I do not see——

**Acting Chairman:** The Senator must conclude as she is encroaching on the time set aside for the Minister of State.

**Senator Fidelma Healy Eames:** I do not see a commitment per county. There are new areas in Galway, such as Doughiska with 8,000 people and no school. When I see these nitty-gritty details, I will say it is a good budget.

I have a number of other points which I know I cannot air. Is the extra funding for cancer services being committed to cancer care centres? Has a costing per centre been achieved yet? I am not sure it is a good budget for families.

**Acting Chairman:** I ask the Senator to conclude. Her concluding question has taken her to a further point.

**Senator Fidelma Healy Eames:** I welcome the attempt to address mortgage relief but it was all taken back by the harsh increases in car tax. The Government gave on one hand and took with the other.

This is at best a maintenance budget desperately lacking in imagination when the Government could have grasped the opportunity before it. Although we are facing tougher economic times, this does not mean the budget can be totally lacking in imagination.

**Minister of State at the Department of Finance (Deputy Noel Ahern):** I thank Members for their comments. To be fair the Minister for Finance and Tánaiste speaks for 45 minutes or so and does not cover every aspect of every cent spent. The Ministers will tomorrow make statements about the nitty gritty and much has already been discussed. At the various Estimates meetings, Ministers must outline what they will achieve for the year and they will be answerable at the end of the year for this.

Things have changed and everything is not covered in the Budget Statement. We should put what is said in the Budget Statement with the various Estimates meetings to see what has happened.

To be fair, the general comment over the past few weeks have described the problems the Minister for Finance was facing and how he could deal with various issues. In the media there was a reasonable understanding of the challenges ahead of us this year. Some of the speakers, particularly from the Fine Gael side, do not seem to understand this and prefer to state that it is all down to Government waste and other nonsense. They do not appear to have ever heard of financial turbulence in the markets, the sub-prime crisis, the rising price of oil and problems in the US and UK economies and the dollar.

The budget must take account of local issues.

**Senator Fidelma Healy Eames:** The Minister of State should stick to our own revenues.

**Deputy Noel Ahern:** We are a small country and unfortunately we are not in a position to dictate to the world yet.

I will deal with a few of the issues mentioned by a number of people. Senator Kelly stated the stamp duty provision would benefit people buying expensive houses. If a tax is changed, whether it is income tax or stamp duty, those who pay more benefit to a slightly greater extent. I was a Minister of State with responsibility for housing for five years and I take the view that the general attitude that the measure has come too late is nonsense. We had to wait until house prices stabilised before anything significant could be done on the stamp duty issue.

If we tried to implement the measure a year ago, people in the market would not have noticed any difference. Any saving would have been added to the price and people would carry on as if there was no difference.

8 o'clock  
We had to watch and wait for an opportunity to deal with the matter. Fine Gael may argue that the measure is the same as what it proposed but it is not. The Fine Gael proposal was to change the stamp duty regime over a three-year period, reducing it by degrees by 2010. This would have resulted in the market stagnating because people would not want to buy in the knowledge that stamp duty would be lower the following year. The change to stamp duty is prudent as are so many other items in the budget. It is necessary to take account of the context. Gross domestic product is expected to grow by 3%, which is less than in other years and we need to take note of that.

A number of people spoke about the lack of atmosphere in the Chamber and that people were not jumping up and down. Some elements of the media try to pretend it is about the performance. If people want a performance they should go to the Abbey or somewhere like that. The budget is a statement taking prudent action on the running of the economy for the next year. The Minister needs to take account of the current situation and not necessarily put on a show.

I believe there is considerable good in the budget. The extra social welfare funding for the needy includes a €14 per week increase for pensioners and a €27 one for those on the qualified adult allowance, which is part of a three-year programme. Older people, usually women over 65 who are qualified adults on their husband's pensions, were very pleased last year and will be very pleased this year that their many years of working in the home is being recognised. They are quickly catching up with the non-contributory rate. Even up to last year I believe the rate for qualified adults was €149. In two years it has increased by €50.

**Senator Fidelma Healy Eames:** They certainly do not like being called qualified adults.

**An Cathaoirleach:** Allow the Minister of State to complete his contribution.

**Deputy Noel Ahern:** That is how they have been designated for years.

**Senator Fidelma Healy Eames:** However, we should change the language.

**Deputy Noel Ahern:** When the three-year programme has concluded they no longer will be because they will be at the same level as the non-contributory pensioner.

There was a lot of good today. It was an appropriate budget, relevant to the challenges facing us for the year ahead. There is no point in one batch of Senators speaking of all the extra things on which the money should be spent and another batch speaking of cutbacks, cutting the public service, value for money etc. It is very difficult to see a consistent view. The one person who must try to match the different challenges and demands together is the Tánaiste and Minister for Finance and he has done a damn good job.

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

**Senator Marc MacSharry:** Tomorrow morning at 10.30.

### Adjournment Matters.

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### Care of the Elderly.

**An Cathaoirleach:** I welcome the Minister of State, Deputy Hoctor, to the House. It may well be her first time here on the Adjournment of the House. I wish her well in the future as a Minister of State.

**Senator Cecilia Keaveney:** I thank you, a Chathaoirligh, for allowing me to raise this important issue not just for the elderly people of Inishowen but also for the many other elderly people and their families. The elderly were once young. They worked and produced families and at the end of their lives, they deserve comfort and security in their health and physical circumstances. I welcome that the budget increased the State pensions by €12 and €14 a week and gave an extra week's fuel allowance.

Some years ago medical cards were introduced for all people over 70 and there are ongoing voluntary and community grants for safety in houses, insulation etc. Considerable investment has been made in voluntary housing to allow elderly people to avail of secure and often sheltered accommodation that affords them their own independence while also having the feeling of community. The home care packages developed over recent budgets are very important also because pensioners want to be at home.

I may be selfish in raising this matter because I aspire to be one of the elderly in the future and there are a number of us around. As the Minister of State knows, many elderly people are lonely and some can feel very isolated. While they might live in a town, they may not have people visiting. Life has changed and people seem to have more difficult lives and to live them at a faster pace. The concept of the family may not be as cohesive with people no longer living on top of each other as much as they did in former days.

There is an initiative in Inishowen, which began in Buncrana, called "Good Morning Inishowen". Volunteers offer their time to call a number of people who have agreed to the phone call. They receive it at a certain time on a certain day so they expect it. If they do not feel well they can inform the person at the other end of the phone. While he or she may not be a medical person, it allows the elderly person to relieve his or her mind of how good or bad the day was with someone at the other end of the phone to listen to their woes or concerns or even just to have a bit of fun, which I discovered is as much part of the job as anything else. Having spoken to recipients of calls and to volunteers, both have gained form the initiative. Many people are lonely despite the many packages allowing them to stay in their homes. If they are lonely in their houses it is a considerable drawback which may push them over the edge and force them to enter a nursing home. If they do not, they may remain isolated, lonely and fearful.

The Minister of State has a great opportunity to bring together many aspects. While I have spoken about the loneliness aspect, the safety aspect is also an important part of the difficulties experienced by elderly people. There has been investment in panic bells, spy holes, special doors and lights that come on automatically. In the context of the safety aspect the Minister of State should work with the Garda, which I am sure she is doing. If the feeling of insecurity among elderly people arises as a result of youths going slightly astray, the Garda should consider using the Children Act to deal with it. If it arises as a result of criminal acts they need to be addressed promptly. If elderly people are being attacked it should be a priority for the Garda to respond properly.

I would like to see development of rural transport to allow these people to continue to go to church, hospital, shops etc. The "Good Morning Inishowen" service has been operational on a pilot basis and I commend those involved. It has been supported by the Health Service Executive and I believe John Hayes has been central in this regard. The project needs to be put on a statutory basis so that those involved do not wonder from year to year or month to month whether they will have the funding to enable them to continue. I would like to think it is a model that could be expanded countrywide. Any initiative that improves the quality of life for elderly people is important.

I am not one to commend any old initiative or pilot project. This one is in my area, I know it very well and I know the value it is to the community. I know also the Minister of State met a group from the organisation when she recently visited Donegal. The people she met at the conference there spoke very highly of her. The cares and needs of the elderly are in a safe pair of hands. I hope the Minister of State will work with her colleagues in other Departments to ensure these good projects can be rolled out and that when we need these facilities in a few years' time, they will be in place for us.

**Minister of State at the Department of Social and Family Affairs (Deputy Máire Hoctor):** I thank Senator Keaveney for raising this matter which I know is very dear to her heart. On my recent visit to County Donegal I became acquainted with the successful telephone service project, "Good Morning Inishowen". I met Deputy Blaney that day and both the Minister of State, Deputy Pat the Cope Gallagher, and the Minister for Agriculture, Fisheries and Food, Deputy Coughlan, have also contacted me on this matter.

I reaffirm the Government's commitment to services for older people. The development of services for older people is a high priority. This is reflected in the funding committed to services for older people in the budgets for 2006 and 2007. In 2006 the Government funded the largest ever expansion in services for older people with a full year cost of €150 million. In the 2007 budget, a full year package of €255 million was allocated for services for older people. In the budget today for 2008, the Minister for Finance announced details of further funding allocated to the health services which includes even more investment in services for older people. The budget provides an additional €396 million for the health Vote group which includes €135 million for older people. A total of €25 million of this is targeted at community supports. In total, over the past three budgets, €535 million has been added to services for older people.

Government policy relating to older people is to support people to live in dignity and independence in their homes and communities for as long as possible and, where this is not possible, to support access to quality long-term residential care. This policy approach is renewed and developed in the latest partnership agreement, Towards 2016.

"Good Morning Inishowen" is a telephone link line service for older people which has been operational in Inishowen since August 2006. The service is due to commence in the Cloghaneely area on 10 December 2007 and in the south Donegal area in early 2008. The service is fully staffed by volunteer telephone operators who commit to approximately three hours each week. Approximately 120 older people are in receipt of a call approximately three days each week, but this will increase to five days early next year. Vol-

[Deputy Máire Hoctor.]

unteers check that the older person is safe and well and also update them on any other services they might avail of in the area. They also assist with any queries. This service complements the work of the public health nurses and home support workers in helping older people who choose to stay in their own home.

The present situation in Donegal is as follows. The two-year INTERREG III A funding ceased on 30 November 2007, the Health Service Executive has agreed to pay the co-ordinator's salary for the period from December 2007 to December 2008, CAWT has sourced €15,000 which will sustain the service until 31 March 2008, the service requires €108,000 to operate for one year in Inishowen, Cloghaneely and south Donegal, and the management committee is looking at all other funding options, including corporate and community agencies in the three service areas.

As the Senator is aware, the Health Act 2004 provided the Health Service Executive with responsibility for the management and delivery of health and personal social services. As a corporate body the provision of these services, including the delivery of services by agreement with voluntary and community organisations, is a matter for the HSE. Funding for health services has been provided as part of the HSE's overall Vote for health and personal social services in 2007. The allocation of resources into 2008 is a matter for the HSE in accordance with the overall priorities for particular services as set out in its service plan for the coming year.

I undertake to contact Mr. John Hayes, the local area health manager, to ensure the additional funding which will be approved by the Government later tonight will be channelled into the north west area and specifically to the "Good Morning Inishowen" project. I will make a firm request for that funding in support of this excellent service.

**Senator Cecilia Keaveney:** I thank the Minister of State because she has answered the question I would have asked as a supplementary.

### Job Creation.

**Senator Alan Kelly:** I had hoped the Minister of State, Deputy Hoctor, would reply to this matter as she is a fellow countywoman and constituency colleague of mine. This matter is as pertinent to her as it is to me. None the less, I welcome the Minister of State, Deputy Michael Ahern, to the House.

This matter refers to the continuing job losses in the town of Thurles which effectively has become a blackspot in the middle of Ireland. What action will the Government and the State agencies take to secure replacement jobs for the town? Ever since the loss of the sugar factory in Thurles, it has been a case of repeated job losses. Jobs were lost in Barlow, BSN Medical, GMX

and Erin Foods, and nearby localities have also suffered job losses. I refer to those in Proctor and Gamble in Nenagh. This is becoming a significant issue in the area and it is very demoralising for the people of Thurles in particular.

The people of the town are disheartened. They cannot commute to work because the town is not in a commuter zone, unlike other towns in the area. Thurles needs jobs that are based in the town or centred on the locality, but such jobs are on the decline. All the major industries have left and the replacement jobs which followed the closure of the sugar factory are gone. Erin Foods was the last employer to leave.

I have met the Erin Foods workers, many of whom worked for the company for decades. I am thinking of John O'Halloran, Josie O'Driscoll and Martin Ryan. I have met their representatives as well. I have deep sympathy for their plight and the situation in which they find themselves.

It must be acknowledged that part of the reason for their situation is an interpretation taken by the Competition Authority about the lines and brands being produced. This interpretation was viewed by many as draconian. The management, on the basis of this interpretation, decided to close the main lines produced by the factory and the factory was closed ultimately.

I have also met the chamber of commerce representatives. They said that despite the booming economy, Thurles has been losing jobs over the past ten years. It is of concern that the chamber of commerce does not see an end to this trend. It notes a lack of investment in job creation and is of the view that the incubation services on offer to small and medium enterprise development have been unsuccessful.

As for the work of State agencies in the mid-west, north Tipperary in particular, Shannon Development has done good work over many years. The role of the agency has changed, however, and we have been left in a vacuum owing to the changeover to Enterprise Ireland. Shannon Development is now a tourism agency and should be called Fáilte Ireland Shannon or Fáilte Ireland mid-west. This has created a vacuum in the development of the mid-west, north Tipperary in particular. Thurles is at the edge of north Tipperary which is at the very edge of the mid-west region, with the result that Shannon Development's zone has been omitted.

Two types of people exist in Thurles. One is the employees in the 40 to 50 years age bracket who have lost jobs but do not have the information and communications technology skills required to take up other positions. Jobs must be delivered for these workers. The other group is the younger people who have graduated from the Tipperary Institute and other local colleges and who are looking for jobs, especially in the technology area. The Government has failed to attract investment by the use of tax breaks for

ICT and technology companies and this is having a detrimental impact on the area.

Furthermore, the lack of investment in broadband has had an impact because a number of small to medium sized enterprises have been unable or unwilling to locate in the town due to the lack of broadband infrastructure throughout the region. Effectively, Thurles is now a black spot for job creation. This is accepted by most people, including my colleagues in other parties.

What will be done about this issue? What real actions can take place? What are the real timelines and when will there be real jobs? I make this point with genuine sympathy for those who are affected. I do not wish to hear rhetoric and would rather hear a response on the record with which all could work together. I will publish the Minister of State's response and will bring it back to the workers in order that they can see what the Government intends to do for them.

**Minister of State at the Department of Enterprise, Trade and Employment (Deputy Michael Ahern):** I thank Senator Kelly for raising this matter on the Adjournment. I am highly aware of the situation in Thurles. The Senator referred to the Irish Sugar Company and to Erin Foods. The constituency that I represent includes Mallow, in which the Irish Sugar Company was located—

**Senator Alan Kelly:** I am aware of that.

**Deputy Michael Ahern:** —and Midleton, from which I come and in which Erin Foods was located. I worked there myself for a couple of summers and both factories also have closed. I assure Senator Kelly that I understand and am concerned about the consequences of job losses and their effects on the workers concerned, their families and the community. The role of FÁS, the State training agency, is particularly important in the first instance by offering assistance to workers who lose their jobs. The agency's full range of services are available if the workers wish to avail of them. I assure those concerned that the State development agencies are providing all possible assistance. The priority is to increase employment opportunities for Thurles and the surrounding area.

As recently as last month, my colleague, the Minister for Enterprise, Trade and Employment, Deputy Micheál Martin, gave an undertaking in the Dáil to develop a co-ordinated and cohesive response to the current situation in Thurles. In this regard, I understand that the Minister has already met the chief executives of the industrial development agencies to discuss marketing, promotion, investment and job creation for Thurles and the surrounding area. I understand the Minister also had a meeting on this issue with Senator Kelly's constituency colleagues, the Minister of State, Deputy Hoctor, and Deputy Lowry earlier

this week. Perhaps they will be able to help the Senator.

**Senator Alan Kelly:** Only those two representatives were present. Unfortunately the other public representatives were not invited.

**Deputy Michael Ahern:** Perhaps Senator Kelly should have a chat with them to see how they got on at that meeting.

**Senator Alan Kelly:** Is that appropriate?

**Deputy Michael Ahern:** Yes, it is appropriate to talk to them.

**Senator Alan Kelly:** No, is it appropriate that the other representatives were not invited?

**An Cathaoirleach:** The Minister of State, without interruption.

**Deputy Michael Ahern:** The strategies and policies pursued by the development agencies, in partnership with other key interests, are intended to ensure new employment opportunities in Thurles and the surrounding area. The objective is to replace the companies that have closed with the companies of the future. There has been a significant churn in the economy, which has been reflected in Thurles and the north Tipperary area. I am conscious of the need for the agencies to work together in tackling this situation.

The IDA Ireland strategy for Thurles and north Tipperary involves developing the knowledge economy by winning new foreign direct investment in innovation-driven, high-skills sectors. The agency is also working with its existing company base to expand their presence in Ireland by the addition of new functions of scale and by deepening their strategic functions. Another of the agency's strategies is to influence the provision of property solutions and the supporting infrastructure to meet the requirements of inward investors.

The IDA recognises the need to achieve high value employment in north Tipperary and is committed to marketing the area as part of its national goal of achieving balanced regional development. It has five supported companies in north Tipperary, employing some 680 people, one of which, a pharmaceutical distributor, is located in Thurles. In addition, investments by two companies in Roscrea and Templemore will result in significant additional employment for the entire area, including the surrounding towns.

The IDA also works closely with Shannon Development in the development, promotion and marketing of tailored property solutions to potential investors throughout the mid-west, including the development of Tipperary Technology Park in Thurles. Shannon Development has completed the first stage development of Tipperary Technology Park, which includes 25,000 sq. ft. state-of-the-art accommodation, to facilitate the attrac-

[Deputy Michael Ahern.]

tion and development of knowledge-based enterprises. The park is a component of IDA Ireland's international marketing programme.

Enterprise Ireland activity in Thurles and north Tipperary is focused on the creation of new jobs through supporting entrepreneurs setting up new high potential start-up companies and the retention and creation of jobs in existing companies. Enterprise Ireland also works with its clients to enhance the innovation capability of Irish companies at both national and regional levels. A significant number of Enterprise Ireland client companies in the county are actively developing their businesses. A number of enterprise start programmes have been completed in recent years in conjunction with the Tipperary North County Enterprise Board and the Tipperary Institute, based in Thurles. There are further plans to run a number of enterprise start programmes of short duration in 2008 in Thurles and Nenagh to drive the potential of developing new businesses in the area. In 2006, the agency supported the North Tipperary Food Enterprise Centre in Rearcross, near Thurles, under the community enterprise centre scheme. This premises is currently under construction.

During 2006, the North Tipperary County Enterprise Board approved in excess of €295,000 to 16 projects and paid out more than €238,000

in grant assistance to 18 projects, which resulted in the creation of 21 net jobs in county enterprise board-assisted companies throughout north Tipperary. The North Tipperary County Enterprise Board also organised 56 different types of training interventions during 2006, based on meeting the wide and varied needs of the small business owners and managers of north Tipperary. Furthermore, 629 participants attended training programmes run by the North Tipperary County Enterprise Board during 2006. In October 2006, there were 934 people on the live register in Thurles and the most recent data available, which is for October 2007, show that the figure has risen by 29 to 963. However, this figure has decreased by 37 from the September 2007 figure of 1,000 people.

I believe that the strategies and policies that are being pursued by the State development agencies in partnership with other key players to drive their marketing and promotion efforts, together with the Government's ongoing commitment to regional development, will bear fruit in terms of investment opportunities and job creation for both Thurles and the north Tipperary area generally. Furthermore, I am confident that the co-ordinated and cohesive response to which I referred earlier will bring additional industrial activity to the region.

The Seanad adjourned at 8.25 p.m. until 10.30 a.m. on Thursday, 6 December 2007.