

Vol. 188
No. 23



**Wednesday,
12 March 2008**

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Wednesday, 12 March 2008.

[illegible]

SEANAD ÉIREANN

*Dé Céadaoin, 12 Márta 2008.
Wednesday, 12 March 2008.*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Paidir.
Prayer.*

Business of Seanad.

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

The need for the Minister for Transport to make a statement on the recent RTE investigative analysis into the 2002 report, and in particular the deficiencies identified therein, as regards the Aer Lingus Viscount air crash at Tuskar Rock in 1968.

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

The need for the Minister for the Environment, Heritage and Local Government to review with the Department of Health and Children the possibility of having a medical support or medical dimension incorporated in the voluntary housing scheme, given the age profile of the occupants.

I regard the matters raised 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, Finance Bill 2008 — Second Stage; No. 2 Passports Bill 2007 — Committee Stage; and No. 3, Private Members' Bill, Protection of Employees (Agency Workers)(No. 2) Bill 2008 — Second Stage. It is proposed that No. 1 be taken at the conclusion of the Order of Business and adjourned not later than 3.30 p.m., if not previously concluded, spokespersons may speak for ten minutes and all other Senators for eight minutes, and Senators may share time with the agreement of the house; No. 2 to be taken not earlier than 3.30 p.m. and to adjourn at 5.00 p.m., if not previously concluded, spokespersons to speak for 12 minutes and all other Senators for eight minutes, and Senators may share time with the agreement of the House; No. 3 to be taken at the conclusion of No. 2 and to conclude not later than 7.00 p.m. — No. 1 to resume if not previously

concluded. The business of the House to be interrupted between 1.30 p.m. and 2.00 p.m.

Senator Frances Fitzgerald: Many people will have heard RTE's report this morning on the figures obtained under the Freedom of Information Act, showing that €560,000 was spent last year on the trips by Ministers for St. Patrick's Day. Quoting figures spent abroad does not always do service to the work that can be done. Nonetheless, anyone listening to this morning's report would recognise the excess. If the same attention to detail and standards was paid by Ministers to our public services, they would serve the public well. As regards the trips abroad, I want to mention the Taoiseach's visit to the United States this year, where he plans to attend a dinner with a sexist all-male organisation the Friendly Sons of St. Patrick, based in Lackawanna, Pennsylvania——

Senator Jerry Buttimer: There will be a dig-out there as well.

An Cathaoirleach: Senator Fitzgerald without interruption, please.

Senator Frances Fitzgerald: There will be a lack of women at the dinner. I notice that recently a judge in that area boycotted the organisation. The only point I make is that I would have hoped, in an era when we have brought in equality legislation in recent years, the Taoiseach would have made a different choice when choosing to represent us in the United States than an organisation with an all-male membership policy, despite the charitable work which I am aware it does. It is a poor choice and I hope it will not be repeated.

I want to raise another issue that is of concern to all of us, namely, the cost of child care. This matter has been discussed here on a number of occasions. Many Members will be aware that child care facilities have been hit with very high rates demands in recent weeks. An example in my area is Fonthill Lodge crèche in Lucan, which paid €10,145 in rates in 2007, but has seen an increase of 85% to €17,845. This is causing major concern because of the impact it will have on running child care facilities. The possibility exists to exempt child care units of this type because they are educational facilities. The National Children's Nurseries Association, NCNA, is meeting the Minister later this week to express its concern and I ask the Leader, and the deputy Leader, to raise the matter with the Minister for the Environment, Heritage and Local Government in order that the issue might be looked at and consideration given to excluding child care facilities and crèches from these high rates demands on the grounds that they are educational facilities. This would make sense, certainly for parents who pay so much for child care facilities.

Senator Joe O'Toole: In terms of the cost of travel, there were two items on "RTE News" this morning. One was the cost of sending Ministers abroad and the exorbitant cost of hiring a full aeroplane and canvassing all over Europe to send a few asylum seekers back to Africa. The latter cost double the price of sending the Ministers abroad. RTE should get its act together on the relative importance of issues, if it believes the second item on the news should be about Ministers going abroad for St. Patrick's Day. I am a disinterested party in this. I would not want to waste my St. Patrick's Day by watching a parade in a distant city and drinking green beer afterwards with the Friendly Sons of St. Patrick, or whatever. I am grateful to those Ministers who give their time to doing that. It is crucially important work that goes with the ministerial portfolio. It is important culturally and in terms of diplomacy, business, the national profile, tourism development and connecting to our diaspora, including emigrant groups, around the world. This work should and must be done by Ministers and I offer them my full support. RTE should consider this and ask whether the money is well spent — I certainly believe it is.

I take Senator Fitzgerald's point that the groups the Ministers meet bear some re-examination, but that is a slightly different issue. On the weekend of St. Patrick's Day abroad, people feel more Irish. I was railroaded into duty in this regard once when I happened to be in a foreign country that a Minister was not able to visit. The embassy officials and the Irish-connected Vice President of that country, who knew I was present, urged me to review the parade, which I did to my extraordinary embarrassment. I admire the Ministers who give up their St. Patrick's weekend for this kind of stuff.

The Director of Corporate Enforcement, Paul Appleby, has raised again the difficulty he is having in implementing our legislation requiring that we deal with directors who, for various reasons, have acted recklessly. I refer to people who, for some reason, have been found by the courts not to be fit persons for the office of director. Mr. Appleby feels he has not the authority to implement the legislation. I have a vested interest in this matter because, some years ago, I chaired the audit review group that produced recommendations on this matter. Mr. Paul Appleby was the secretary in the secretariat at the time and I worked very closely with him. The easiest way to deal with this matter is to ask the Minister of State at the Department of Enterprise, Trade and Employment, Deputy John McGuinness, who deals with this area and who has recently discussed regulation in the House, to indicate the needs in this area and explain how the legislation works, if it is workable, such that we can be sure that those acting as directors are fit to do so. He should state whether the legislation needs to be changed.

Senator Dominic Hannigan: I was surprised and shocked to learn of the amount of effort it took to deport the Africans yesterday. One was deported from Ireland, four from France and one from Italy, amounting to a total of six, yet they were accompanied on the jet by 25 police officers, or one for each limb, at a purported cost of more than €100,000. This clearly does not represent value for money and I therefore ask the Leader to have the Minister state whether he will review the procedures for deportations.

Like Senator Fitzgerald, I want to raise the issue of the cost of St. Patrick's Day visits. I agree completely that they represent a fantastic opportunity to promote Ireland. I was on a trip to London two years ago for the St. Patrick's Day parade and was lucky enough to be on the viewing stand in Trafalgar Square. The cost of my visit was less than €100 and I am therefore perplexed regarding why we need to send a Minister to Italy at a cost of €1,600 per night. Many of us have been to Italy and will realise that one can obtain fantastic rooms for a fifth of that price. Another Minister spent €19,000 on car hire on a trip to California. One can buy a car for that price. This again does not represent value for money. At such rates, it would be cheaper to get the Garda to deport the Ministers.

Senator Terry Leyden: On the annual chestnut of the visits abroad by Ministers on St. Patrick's Day, one must realise such visits result in a very good return for the investment made. I was a guest of the Friendly Sons of St. Patrick in 1989 or 1990 and the group raised \$20,000 for the County Roscommon Association for the Mentally Handicapped.

Senator Frances Fitzgerald: That does not justify it. The group excludes women.

Senator Terry Leyden: The group built Cherry House and there was no discrimination between boys and girls in the school.

The Leader and I were in Canada in the year in question and, as far as I can recall, the Leader led the parade. This contributed greatly to tourism from overseas.

Senator Frances Fitzgerald: I am not against that but it does not justify the trip.

Senator Jerry Buttimer: Another junket.

Senator Terry Leyden: There is a certain envy in this regard: we are in, they are out, and we are there.

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

Senator Jerry Buttimer: Senator Leyden likes junkets. Did he ever pay for a taxi?

Senator Terry Leyden: When does the Leader expect the 28th amendment to the Constitution to be debated in the House? Does he know the date of the referendum on the Lisbon reform treaty? I feel it will be held at some time towards the end of May, probably on 29 May, or 6 June. It is better to deal with it as quickly as possible and have a full debate thereon.

In the legislation on the Lisbon treaty, our stance on neutrality is clear. This old chestnut has been brought up again by those who are opposed to the treaty. Neutrality and corporation tax are excluded and the treaty will not affect them. It is vitally important to note that there will be no change to our position on the legalisation of abortion in Ireland. At a meeting of the Council of Europe in Paris yesterday, which I attended on behalf of the Oireachtas, there was a debate on a report by Austrian rapporteur Gisela Wurm of the Socialist Group. I proposed that the report, entitled "Access to Safe and Legal Abortion in Europe", not be debated. A vote was taken and the result was 21 votes to three in favour. One member abstained. The report will now be debated at the plenary session in Strasbourg on 14 April. Regardless of whether it is accepted by the Council of Europe, which has 47 member states, it has no jurisdiction whatsoever, good, bad or indifferent, as far as the Republic of Ireland is concerned. Our constitutional amendment of 1983 and amendments thereafter state clearly that this State will not allow abortion within its shores. I want to make this clear in case anyone is trying to be mischievous——

An Cathaoirleach: The Senator has made his point well. Other speakers want to contribute

Senator Terry Leyden: I just want to ensure that no mischievous individual lends credence to the report because it has been prepared by the Council of Europe. It has no jurisdiction in the Republic of Ireland. If it is adopted, I and all eight delegates from Ireland will fight strongly against it at the plenary session in Strasbourg. It should not and will not have any effect whatsoever on the Lisbon reform treaty. I put this on the record because there are those who will make every possible effort to prevent us from passing and endorsing the treaty, which is the best interest of the citizens of this State.

Senator Paul Coghlan: Last week, the Minister for Enterprise, Trade and Employment, Deputy Micheál Martin, accepted that the abolition of the groceries order has not resulted in a reduction in the price of groceries. Members will be aware that the abolition was effected following promises from the Competition Authority and the likes of Eddie Hobbs and a few others that consumers would each save up to €1,000 per annum. Such claims have now proven to be bogus and without foundation. The Minister did not associate himself with such promises but, unfortunately, he

acted as a ringmaster in a circus charade to get rid of the important legislation.

The legislation helped to regulate the relationship between large retailers and suppliers. Sadly, I have heard accounts from suppliers that "hello money" has been reintroduced. The practice of demanding "hello money" was banned and there is now talk that it is featuring again. Suppliers are being forced to pay rental for shelf space in shops, which is wrong. I would like to hear the views of the Minister on this because the train has gone off the rails. The only effect of the abolition of the groceries order is the reduction in the price of alcohol. As we know, alcohol is being used as a loss leader and is being sold below cost, thereby leading to a lack of competition. This is having disastrous effects and I would like to hear from the Leader in this regard.

I also strongly support the call by Senator O'Toole to strengthen the powers of Mr. Paul Appleby, the Director of Corporate Enforcement, who I understand spoke again yesterday about the disqualification of directors in certain instances where they had proved to have acted with price-sensitive information, in other words, to have participated actively in insider trading. There is something wrong if there were findings of the courts and there are still persons against whom a sanction cannot be imposed where it should be. In so far as we can, I support that call to strengthen the powers, if necessary, of the Director of Corporate Enforcement. I join in the request to have the Minister of State at the Department of Enterprise, Trade and Employment, Deputy McGuinness, come into the House and have a debate on the matter.

Senator Dan Boyle: I was going to bring up a point Senator Coghlan has just raised and call for a debate on the Competition Authority. The report of the authority was issued in recent weeks and there is an ongoing review of the Competition Act 2002. It would be a good service to the House if we were to have such a debate. There are questions about the remit of the Competition Authority, the fact it has grown from its original functions and has a budget much larger than it used have, and yet its productivity seems to have decreased in terms of the number of warrants it has issued and the number of witnesses it summons yearly. The issue Senator Coghlan brought up raises questions about the effectiveness of the Competition Authority and we could have a debate on how it might be better structured. It also fits in with requests made at Order of Business by other Senators on the number of regulators, the degree of regulation and the effect on competitiveness.

I also call for a debate on marine research. I do so in the context of the unfortunate fire last night at Haulbowline naval base where there was a research centre run by University College Cork doing excellent work. The importance of marine research and its future value to the economy

[Senator Dan Boyle.]

needs to overcome setbacks such as this and a debate in this House will help the direction of that in the future. If such time could be made available, it would be a good use of the time of this House.

Senator Phil Prendergast: I ask that the Minister for Health and Children, Deputy Harney, attend this House to discuss the issue of maternity services. A review was to be completed last year in the Dublin area. In that area last year there were 8,504 deliveries for 15 delivery beds in the Coombe Hospital, there were 8,540 deliveries for ten delivery beds in Holles Street, there were 8,256 deliveries for nine beds in the Rotunda and there were 1,556 deliveries for five beds in Mount Carmel. That is a total of 26,856 babies born through 39 delivery beds in the whole of Dublin which is quite an achievement for all the women concerned. A review was to be completed in December and that has not happened yet. There was to be also a countrywide review of the maternity services. I would be interested in the Minister coming to the House to discuss this issue.

While the Minister is at that, a review of the ambulance services was to be completed last year as well and we have not received any notice of that being done. I am especially interested in the provision of ambulance services for rural towns such as Carrick-on-Suir, which does not have one, and like-sized towns too. That is important to people in my part of the country.

I also want a debate in the House at some stage on motor insurance for young people. While all road deaths are terribly regrettable, on the matter of insurance a mere 2% of deaths involve young people who are provisional licence holders and under 25. A debate on the insurance issue is overdue. I would be delighted if the Leader could accommodate that.

Senator Eoghan Harris: I strongly support Senator O'Toole's remarks about the question of politicians' trips. Normally, I find myself in agreement with Senator Fitzgerald on almost everything. I understand that in the pursuit of prudent expenditure of public money she would want to look out for that, and quite rightly so. I want to deal with the more general point. I have noticed in recent times, perhaps because of a touch of recession, that we have got to the stage where a kind of taxi-driver culture is prevailing in Ireland about politics whereby one must almost apologise for being in politics. That is a very bad habit that I am old enough to remember dates back to the foundation of the State. I can remember the old garrison mentality where people asked what would one want with that Parliament, why are they cocking themselves up there in Dublin and who do they think they are.

It is bad for us as a group to indulge that kind of populism. We are what we are, we are worth

our money and we do our work. A cost-benefit analysis of attending the St. Patrick's Day parade would show that in terms of public relations, tourism and international exposure, they are the best value for money trips ever made. I speak as one who does not go on them. I would rather cut my foot off with a chainsaw than visit the Friendly Sons of St. Patrick.

Senator Paul Coghlan: A bit extreme though.

Senator Eoghan Harris: Not everyone likes to travel. People speak of travel nowadays as if it were a luxury to get on a plane. Everyone travels nowadays. Such trips are quite hard work for the people concerned and are tiring. Nobody who is past the age of 24 wants to be flying around the world to meet the Friendly Sons of St. Patrick. It is necessary work for the Irish people.

It is bad for politicians to indulge the kind of populism and pettiness to which I referred because it becomes a habit. RTE now follows the BBC in everything. Since the BBC is searching through people employing their relatives, then straightaway it must be done in Ireland. One would think they would come up with something original in the way of pursuing the expenditure of public money than repeating everything that is done in the BBC.

I remember years ago when I first joined RTE that with my first pay cheque I bought an old Mercedes from the great Labour Party TD, Sean Dunne. I always wanted to have a Mercedes; it cost £50. I felt obliged to ask him why he, as a Labour Party TD, was driving a Mercedes. He replied that when he drove down to Meath to meet the big farmers, he wanted them to know there was someone serious in a car coming to meet them. He made no apologies.

A few years later another Labour Party politician was targeted in *Phoenix* for having what it called a "yacht". It was a small 12 ft. dinghy with a centreboard, but he was so intimidated that he seriously thought of selling it. Stop this kind of colonial populism and fear of being politicians. Stand up and be proud.

Senator Ann Ormonde: Hear, hear.

Senator David Norris: I cannot possibly match Senator Eoghan Harris.

Senator Paul Coghlan: Go on. Try.

Senator David Norris: That was the most splendid piece of rhetoric but I agree with the thrust of what he said. Ireland Inc. needs to be represented. The publicity that is gained, the highlighting of our success, our industry and everything of which we can be proud is an important function of Government and we should not be cheese-paring about it.

People need to arrive in good condition. I am a member of the Joint Committee on Foreign

Affairs. I have not been on one of its visits or trips — what the newspapers call junkets — for quite a number of years, but we discussed the question of transport. All members, including the Fine Gael members, agreed that whereas it was reasonable for short trips to look at taking a more modest place in the aeroplane, for very long trips when one is expected to arrive and go immediately into a press conference, it is important to have as much comfort as possible to be efficient, not to be luxurious.

I also laughed when Senator Harris referred to the garrison mentality and the idea of who do they think they are. I must admit I came across a certain amount of that in my family. On the day I was elected to this august House, my elderly aunt had to be informed. I telephoned her and she said wearily that she could not understand why I wanted to mix with those people. She had not thought of what they thought about of having to mix with me and I was in those days a very controversial figure in Irish public life.

A Senator: Some things never change.

An Cathaoirleach: Please ask a question to the Leader on the Order of Business.

Senator David Norris: I support strongly Senator Coghlan on the matter of the groceries order. A number of us stood up against its abolition stating nothing would change or prices would increase and that commercial life, especially for small business people, would be seriously damaged. I believe that has happened. Even worse, it has facilitated alcoholic drink offers if not below-cost selling of alcohol. We need to look at this again. Those of us who raised questions about it at that time have been extraordinarily justified by the statement by the Minister for Enterprise, Trade and Employment, Deputy Martin. In fact, Senator Coghlan anticipated something I was going to say.

Owing to other matters, I did not get an opportunity yesterday, which was the first sitting day after the appalling event, to raise the slaughter of students in Yeshiva in Jerusalem. I am critical of the Israeli state. I am critical of the settlers — Yeshiva has connections with the settlers — but that is absolutely no justification to go into what is effectively a school and slaughter innocent young people. I unreservedly condemn it. I put this in a press statement I issued, but it has never been taken up. I do not believe I can be pilloried, as I sometimes am, as being unfair and not even-minded with regard to this situation when routinely this kind of material is not taken up by the press. It was also a tragic day for Palestinians because they have an unanswerable moral case about the conditions in Gaza and the disproportionate use of military intervention against them. The action of that lone gunman in Jerusalem has made the position of persons like myself who wish to fight for

their human rights immensely more difficult. I extend my sympathies to the families of those young people whose lives were so wilfully taken from them.

Senator Ivor Callely: I wish to express my concern about the deteriorating humanitarian, political and economic situation in Zimbabwe. I draw the attention of the House to recent releases from the aid agencies indicating widespread shortages of food and medical supplies. Public services have collapsed. Hospital services and medical supports are non-existent. There is hyper-inflation, widespread poverty and high mortality rates. There is no doubt that Zimbabwe is in crisis.

I draw Members' attention to No. 31 on the Order Paper. An amendment has been tabled to that motion, but I do not know if the proposers of the amendment intend to press it. I ask if the House would agree to adopt the motion without debate if the amendment is not pushed. Mr. Mugabe was disputedly re-elected in 2002. In light of the fact that presidential elections are due to be held on 29 March, surely there should be monitoring by European and other international leaders. I ask the Leader if we can approve the motion without debate and press the Minister for Foreign Affairs, Deputy Dermot Ahern, and other leaders to monitor closely what is happening in Zimbabwe.

I concur with Senator Phil Prendergast regarding maternity services. The enhancement and development of services has been on the agenda for a considerable time. I refer particularly to services in Dublin, where no development has been proposed. I would welcome the opportunity to discuss this matter with the Minister.

Senator Jerry Buttimer: I join Senator Fitzgerald in raising the issue of foreign travel by Ministers. I do not have any difficulty with Ministers going abroad, but the general populace would be appalled at the cost of VIP lounges and taxi fares. When RTE asked what benefit accrued from this, there was no answer from the Departments. Let us have accountability regarding foreign trips. By all means, let us use them to promote Ireland and the Irish diaspora who like to see Ministers, but how many members of the diaspora would know the junior Ministers who visit them?

Yesterday I raised the issue of neurology services and I ask the Leader to invite the Minister for Health and Children to the House to discuss this matter. The HSE who commissioned the report on the strategic review of neurology and clinical neurological services has not yet published the report. That is a crying shame. I ask the Leader to intercede with the Minister to ensure the report, currently with the HSE, is published.

I also ask the Leader to raise with the Minister for Justice, Equality and Law Reform the appalling cost of the deportation which Senator

11 o'clock

[Senator Jerry Buttimer.]

Hannigan raised yesterday. The cost of €100,000 is absolutely immoral. Perhaps the Comptroller and Auditor General will carry out a review of deportation costs. That €100,000 would pay for a neuro surgeon. It is an appalling indictment of the way the Government has dragged its feet.

Senator Déirdre de Búrca: I wish to express my concern that Dublin Port Tunnel was closed again yesterday for several hours owing to problems which arose, causing major traffic congestion in the city centre. This is not the first time it has happened. There have been a number of incidents in the past couple of months which have caused the closure of the tunnel. Yesterday the tyre of a heavy goods vehicle travelling through the tunnel went on fire. This caused the tunnel to be closed for several hours. The procedures undertaken seem to have taken far longer than should have been required. Dublin has only one tunnel, while other capital cities have many, yet we seem to have ongoing problems with the management of emergencies that arise. The Minister for Transport might address this issue when he next visits the House and reassure Members that these kinds of problems will not arise in the future. There are serious knock-on effects and gridlock which affects that part of the city and traffic coming from the airport.

The attendance of the Minister for Health and Children in this House has been requested by other Senators. Perhaps we could have clarification on cancer screening services. The chief executive responsible for cancer screening services stated yesterday at the Joint Committee on Health and Children that the service does not come under the employment and financial caps that have been placed on the HSE and that the cervical cancer screening programme will be rolled out over the coming months. This summer is the target date. Many Senators are very concerned that we have had a number of false dawns in relation to the delivery of the cancer screening services. The Minister might clarify if it is the case that cancer screening services come under the budget of the HSE and whether there are limits placed on that budget. I also seek confirmation that we will see the roll-out of screening services this summer.

Senator Paschal Donohoe: I wish to request a number of debates. My first query relates to the status of the Civil Law (Miscellaneous Provisions) Bill which is on our programme for later in the month. I refer to a clause in that Bill which is causing a number of tenants leasing commercial properties to be forced out of those properties because the landlords are claiming the powers of the tenants under the proposed legislation will be great. A business in my constituency which provides a very valuable service to a small local community is gradually being strangled because this legislation has not yet become law. I

would be grateful if the Leader could give me an update on that matter and do all he can to bring the Bill before the House.

I had the privilege earlier in the week of touring the Dublin docklands area, most of which is within my constituency. The development and innovation there is extraordinary. I support earlier calls for a debate on financial regulation. Most of the innovative businesses providing employment in that part of our city are not covered by domestic financial regulation. We have seen recently in other countries the gaps in the governance of this area and the huge economic impact, particularly in America. We would be well placed to debate that issue, discuss what gaps there are in that legislation and see if there is anything we can do about it.

There is a need for a debate on the groceries order. Prior to my entry into the Oireachtas, I spent ten years working in the grocery business and am very familiar with the debate on the abolition of the groceries order and the impact it will have on our economy and society. Two points merit reinforcement. It always has been illegal for a manufacturer to be asked to pay for shelf space or listing.

Senator Paul Coghlan: Hear, hear.

Senator Paschal Donohoe: The groceries order reinforced that. If any supplier in this country, particularly a small domestic one, is asked by a large multinational retailer to pay for its product to be placed on the retailer's shelf, it is an utter indictment of what we have done with the groceries order. It is a very serious issue that will impact on domestic employment across a period when we will depend on it more than ever.

Senator Terry Leyden: Name and shame.

Senator Paschal Donohoe: I want to reinforce the call that has been made for a debate on the implementation of that new legislation.

I will conclude by making the point, which was previously made by the Leader, that domestic competitiveness will be probably the key point on which we must act in the future. As such, the groceries order deserved to be abolished. However, what is in its place is not working and we need a proper debate on it in this House.

Senator Paul Coghlan: Hear, hear. Well said.

Senator Cecilia Keaveney: I commend the launch of the journal from the Centre for Cross-Border Studies. It is another excellent production by Andy Pollak and the rest of the group in Armagh that is concerned with ongoing work between the North and South. I know that Senator Leyden raised the issue of the Lisbon treaty. We all know that Europe has been extremely good to us in respect of moneys for various things. One aspect of that was the peace and reconciliation moneys,

which were allied to the International Fund for Ireland moneys, the American Ireland Fund moneys and other sources of funding. These have created structures on the ground for community development. I ask the Leader whether we could have an immediate discussion in the House about how these structures will continue following the withdrawal of outside funding. It was said this morning that we are not in the peace process anymore but are in the next phase. Therefore, it is the national Government's responsibility to ensure that, in respect of structures that were set up to support the development of communities in areas where communities needed support and structure, it will row in and supply the funding to ensure these communities can continue. I know there are up to 130 such community development groups in Donegal.

I agree with Senator Harris about talking down the role of politicians. I include Senators, Deputies, Ministers and junior Ministers. In respect of travel, I was chairman of an Oireachtas committee for the past five years which produced 13 reports. Three of those reports cost the State nothing, other than the cost of travel to some areas to get more expertise. Instead of giving money to consultants, our expertise was able to create very good reports. For us to talk down the value of our travelling abroad and what we might learn or what other people abroad might learn from us demeans us and our jobs, is wrong and should not be stood over. I ask the Leader to find out how many minutes of advertisement we would get on prime time RTE television or radio or in the national print media for €500,000.

Senator Nicky McFadden: I ask the Leader to invite the Minister for Agriculture, Fisheries and Food to the House to discuss the serious matter of the way in which the EU Commissioner for External Trade, Peter Mandelson, is talking about Irish agriculture, particularly beef producers.

Senator Paul Coghlan: Hear, hear.

Senator Nicky McFadden: If he is allowed to continue, the repercussions for Irish farming are very grave. The lifting of the ban on the importation of Brazilian beef into Europe is very serious. I attended a meeting last night with members of the IFA. It will affect the changing face of Irish culture if we are not careful. We need to be serious about this issue and perhaps the Leader would treat it with the seriousness it deserves.

Senator Jim Walsh: I will not labour the point but I support the points made by Senators O'Toole, Norris and Harris about Ministers who represent this country abroad. In this House, we need, as Senator Harris said, to stand up for ourselves and not always adopt the *béal bocht*. These are the Houses of Parliament. There are enough

people out there, many of whom have never made a contribution to Irish life in any shape or form, who will snipe sneeringly at us.

I am impressed by Senator Norris, a man who will defend those who are poor. It is particularly laudable given his class background, about which he spoke, and the fact that *VIP* magazine voted him "man of style".

Senator Terry Leyden: Hear, hear.

Senator David Norris: Dustin for Eurovision, Norris for fashion. We still have a sense of humour.

An Cathaoirleach: We are dealing with the Order of Business. We can have style some other time.

Senator Jim Walsh: I very much welcome the hint of republicanism I occasionally detect in a man of Trinity College, which impresses me.

Senator David Norris: Only in France, not here.

Senator Jim Walsh: I also support the call made by Senator Boyle for a debate on the Competition Authority, its effectiveness and the restructuring that might be required. The authority is slow to deal with certain issues and to target certain areas. Equally, there is an onus on Government when it focuses on important areas like the legal profession to take effective action. I am more than slightly disappointed that the new proposals coming forward are not for a completely independent and overarching body to oversee barristers and solicitors. Many serious issues have arisen in recent times in this regard.

In respect of the comments made about the Director of Corporate Enforcement, it would be timely to have a debate on this. Without doubt, there should be good ethical standards in corporate governance in the private sector as well as in the public sector. There have been reports recently that the director has been using the office to encourage examiners and liquidators to take action against directors, possibly against the wishes of those people. That responsibility rests with the director and should not be delegated to others who have a duty to perform in respect of examinership and liquidations. Given the economic climate, there will be a need for those people to operate effectively with the brief and remit they have.

Senator Rónán Mullen: I also welcome the comments of Senators O'Toole, Harris and Keaveney in respect of the valuable role played by our Ministers on their visits abroad. I speak as somebody who has not, to my knowledge, travelled abroad at the expense of the State. I happen to be involved in a charity in Argentina which benefited greatly in terms of its work and status within the community. The charity has two

[Senator Rónán Mullen.]

Cheshire Homes for people who suffer from extreme physical and mental disability. It benefited greatly from the visit of an Irish Minister. It significantly enhanced the profile of that charity here when it came to fund raising. The Ministers deserve our thanks for that function.

Senator Jerry Buttimer: There are Cheshire Homes in Cork.

Senator Rónán Mullen: I welcome that.

An Cathaoirleach: Senator Mullen, without interruption.

Senator Rónán Mullen: I also welcome Senator Harris's general point about the rather negative and carping attitude that exists towards politicians. It even infects those of great goodwill. When I announced to my mother that I was running for the Seanad, she said, "I thought I told you to wait until I was dead before you got involved in politics", which would have meant I would be a very old man because there is quite a degree of longevity on her side of the family. One would nearly have to shoot some of them in the end.

Senator Joe O'Toole: I am sorry to hear that.

(Interruptions).

An Cathaoirleach: Senator Mullen on the Order of Business, please.

Senator Rónán Mullen: I should have broken the bad news to Senator O'Toole in private. I note Senator Leyden's comments on the Lisbon treaty. Whatever about the implications for abortion, it probably will emerge in the course of our debate that the Government has not done enough to secure the primacy of Articles 40 to 44 of Bunreacht na hÉireann on a range of social matters. There is a problem with competence creep at European level, the latest example of which is Commissioner Vladimír Špidla's calling into question of Ireland's right to have exemptions in our employment equality legislation to allow institutions to protect their ethos. It is not fear of foreigners that causes people to be worried about the European project, but fear of diktat from Europe which should be properly matters of national competence. That matter will need to be debated as we approach the referendum on the Lisbon treaty.

Senator Pearse Doherty: I point out to Senator Walsh that many fine republicans who were scholars of Trinity contributed to the creation of this State.

Senator David Norris: Hear, hear.

Senator Pearse Doherty: Next Monday millions of people will celebrate their Irishness not only in Ireland but throughout the world. There has been a debate about Ministers attending various countries. While it is right they should attend, we should not have a *carte blanche* approach to sending Ministers, Deputies and Senators to every corner of the world. We should weigh up any decision to ensure State money is spent in the best interest of the State. On a number of occasions I have asked that all the Seanad party leaders and the leader of the Independents should agree a joint motion on the need to deal with 40,000 undocumented Irish emigrants in America who find themselves in a very difficult situation.

Senator Mary M. White: Hear, hear.

Senator Pearse Doherty: Some people have been deported in recent years and others are at risk of being deported as we speak. Those emigrants have the courage to come out and attend meetings of the ILIR lobby group. They have had the courage to come out and march in Washington in the knowledge that they could be deported in the next minute. This House should have the same courage and pass a motion in support of that campaign. It should happen prior to St. Patrick's Day when the leaders of the Government will be in America so that they can say that both Houses of the Oireachtas support the calls to have the undocumented Irish legalised. That motion should be passed without debate. I do not believe any party would have any problem with such a motion which can be placed on Thursday's agenda to be taken without debate. I ask the Leader to facilitate that with the other groups and show those 40,000 that we also have their interests at heart.

Since the Minister last came to the Chamber to debate the pharmacies issue, developments have taken place. There has been a meeting of the Irish Pharmaceutical Union with 1,100 pharmacists informing the meeting that they will be withdrawing from the medical card and drugs repayment schemes on 1 May. I have made clear how I feel on the issue. I have asked the IPU and individual pharmacists not to withdraw their services. However, they have indicated they will. Thousands of concerned patients do not know where they will get their drugs from 1 May. I ask the Leader to facilitate a debate with the Minister returning to the House to let us know what is happening regarding the dispute and what procedure she is putting in place to ensure the patients of this State who require medication under those schemes will be able to get it from 1 May.

Senator John Hanafin: I agree with the previous Senators who spoke about the necessary travel undertaken at this time of year by Ministers. I am conscious that at the foundation of the

State when the annual budget would have been no more than £20 million, special efforts were made by the new Government to ensure people went around the world to let the Irish diaspora know about the new State. Bonds were raised in America for the new State. It led to the recognition by a State that could ill afford it of the fruitful contacts that can be made. Eventually Eamon de Valera became President of the League of Nations. That continued to the extent that at one stage we were attracting 29% of all foreign direct investment from the United States into Europe despite having less than 1% of the population.

People do not do business with statistics. People do business with people face-to-face. That is why the travel is so necessary. Part of the reason we have more than 6 million people visiting our shores is that people go out. Part of the reason for having 30,000 visas for students in China is that people have gone there and done business. We have a very high reputation because of the people who have gone out there including Ministers from all sides who have gone to make their case. It is the reason Ireland has such a high standing. It is not just business, but there have been cultural links with Members of this House going to China. It is a wonderful event, which is important for our national prestige and economy. It is something we have done since the foundation of the State when we could ill afford it.

Senator Feargal Quinn: The Leader has agreed to have a debate on Northern Ireland and I urge him to do so as soon as possible. This morning along with Senator Keaveney I attended the launch by the Minister for Education and Science of the book, *Journal of Cross Border Studies in Ireland*, published by the Centre for Cross Border Studies. The Minister spoke encouragingly about the amount of cross-Border work going on and the amount of success that has been achieved. In the past when we have had a debate on Northern Ireland it has only been a debate about those with a link with Northern Ireland in some form or other. The Minister drew our attention to the amount of work already taking place in various ways, including in education, tourism, sustainability and trade unionism. Regarding all those areas, it is worthwhile having this debate. One of the other speakers at that function was the president of DCU, Ferdinand von Prondzynski, who told of how he grew up in Germany and was there when the Berlin Wall was built. His family came to live in Ireland a few years later. His father, having crossed from Northern Ireland into the Twenty-Six Counties, said that the Border here, even though it was not visible like the border in Germany, was much more ingrained because of the attitudes of people on both sides of the Border. He pointed to how that is changing dramatically. It is worth our while doing so.

In our company some years ago we decided to place a shamrock opposite each product on our shelves in the supermarket. I could not believe

the number of people who asked me whether we put it on products coming from Northern Ireland. These were Nationalists who still did not believe Northern Ireland was part of us. The question would not even have cropped up in the minds of those of us with links to Northern Ireland. I urge the Leader to have the debate on Northern Ireland soon.

For many years I have argued that we should join central European time to get the benefits of the extra hour in the evening the whole year around. One of the reasons we failed to succeed was that people claimed it would be very dark when children were going to school in mid-winter. The United States changed their hour last weekend meaning that there is now only a four-hour gap between New York and here. If we are not going to join central European time at least we should make the effort to align with the United States and start summertime at least three weeks earlier than we normally do.

Senator Paul Coghlan: Hear, hear.

Senator Feargal Quinn: I urge the Leader to encourage the Minister responsible — I am not sure who it is — to take the first steps to having that changed in Europe.

Senator Donie Cassidy: Senators Fitzgerald, O'Toole, Leyden, Harris, Buttimer, Keaveney, Walsh, Mullen, Doherty and Hanafin all expressed views regarding Ministers and Ministers of State going abroad for St. Patrick's Day. This is the ideal time. We are a very small nation among the hundreds of nations of the world. To get a time on the calendar to market our country is difficult. Every year IDA Ireland and Enterprise Ireland pick the ten days before St. Patrick's Day to market Ireland plc, as has been said this morning. What a success we have had. Senator Keaveney asked me how many minutes we would get on RTE television at prime time. I understand we would get 40 minutes of advertising time for what it costs to send abroad all our Ministers, Ministers of State and everyone else who is marketing Ireland. As Senator McFadden knows, I consider it a great honour and privilege to have participated in such events when I was chairman of Westmeath County Council.

It is important to consider how seriously we are viewed abroad during that ten-day period. Senator Hanafin referred to our culture and very few nations can claim their music is a brand name, but Ireland can. Let us work on the positive aspects.

I congratulate Senator Fitzgerald on raising this matter on the Order of Business, but all Taoisigh and Ministers must go abroad for such purposes. Failure to do so would mean that we were not fulfilling the opportunities worked for by Enterprise Ireland's representatives and our diplomatic staff abroad. Our embassies and consuls-general strive for months in advance to try to

[Senator Donie Cassidy.]

make this ten-day window of opportunity work, especially on television. As we all know, television accounts for 70% of media penetration, while radio accounts for 20% and the remaining 10% is fragmented among the print media.

Those are the opportunities that arise when Ministers travel abroad, so it is dishonest to say they are being given *carte blanche* in this respect. Travel undertaken by Members of the Oireachtas is always subject to a detailed itinerary. On St. Patrick's Day it is not unusual for a Minister to work for 20 hours. I certainly know the Taoiseach does this always when he is in Ireland. That is the sort of heavy workload undertaken by our public representatives whose diaries are mind-boggling. They carry out a punishing schedule on behalf of the Irish people. I am speaking from experience. I hope newer Members of the House will not reveal their inexperience in such matters in future.

Senator Fitzgerald referred to the high cost of child care, which is a major challenge for society. She correctly said that those concerned will be meeting the Minister in the coming days. I will have no difficulty in arranging for such a debate in the near future.

Senators O'Toole, Coghlan, Boyle and Walsh all called for a debate on corporate enforcement to be attended by the Minister of State, Deputy McGuinness. This is a worthwhile request and I agree with some of the sentiments that have been expressed. I will endeavour to provide time for such a debate after the Easter recess.

Senator Hannigan and others expressed concern about the cost of deportation. I will pass on their views to the Minister. If Senators feel they need a debate on this matter we can discuss it with the party leaders at one of our weekly meetings before the first sitting day after the Easter recess.

Senator Leyden mentioned the Twenty-eighth Amendment of the Constitution Bill, which will come to the House after Easter. As the Taoiseach informed the Dáil yesterday, voting will take place in the second week of June. The Taoiseach also said he is consulting Opposition leaders with a view to reaching a consensus on the date for the referendum.

Senators Coghlan, Norris, Donohoe, Boyle and Walsh called for the Minister for Enterprise, Trade and Employment to review the abolition of the groceries order. The former Joint Committee on Enterprise and Small Business — of which I was Chairman and Senator Coghlan was also a member — was unified in its opposition to the abolition of the groceries order.

Senator Paul Coghlan: That is correct.

Senator Donie Cassidy: Everyone knows where that committee stood at the time. Members of the House, including Senator Leyden, who is a former Minister of State with responsibility for

this area, should review progress on this matter. None of us ever foresaw that the current reduction in drink prices would occur.

Senator Paul Coghlan: Absolutely not.

Senator Donie Cassidy: I know we have the full support of the House on this point. I certainly will arrange for the Minister to attend the House for that debate following the Easter recess.

Senator Boyle sought an urgent debate on marine research whose economic value is very important. I will endeavour to have that debate during the first or second week after the Easter recess.

Senators Prendergast and Callely called for a debate on maternity services. Senator Prendergast pointed out that there were almost 27,000 births in the eastern region last year. She expressed concern about the ambulance services in rural areas. I have no difficulty in arranging a debate on these matters, with the Minister present.

Senator Norris expressed shock and horror at the recent slaughter of students in Jerusalem by a lone gunman. I join the Senator in conveying our condolences to the bereaved families. Such attacks do not enhance any cause and I support the Senator's call in this regard.

Senator Callely called for a debate on No. 18, motion 31, which is in his name and that of Senator Norris. I will consult the Chief Whip on this matter following the Order of Business to ascertain the Government's position and to see how we can progress it.

Senator Buttimer called for a debate on health, especially the report on neurological services. I will endeavour to get word from the Department on this matter.

Senator de Búrca expressed strong views on the Dublin Port tunnel and the unfortunate delays there yesterday. As we all know, however, health and safety requirements must be maintained, particularly concerning the emergency services which were summoned there yesterday to deal with an unforeseen incident. This delayed traffic for quite a long time. I will request the Minister to attend the House after the Easter recess to address his transport proposals.

Senator de Búrca also called for the Minister for Health and Children to attend the House for a debate on cancer screening and cancer services generally. I have already given a commitment for a lengthy debate on all health issues, with the Minister in attendance.

Senator Donohoe sought an update on the proposed legislation concerning landlords and tenants. I have no difficulty in arranging such a debate. The Senator also referred to the transformation of the Dublin docklands area. It is unbelievable to see the millions of euro that have been invested in that district, which includes Sir John Rogerson's Quay. It certainly reflects 21st century Ireland and is very uplifting. I will

arrange for the Minister to attend the House to provide a progress report on all these activities in the docklands area.

Senators Keaveney and Quinn sought a debate on Northern Ireland, including the progress being made in cross-Border activities. As I have said, the Taoiseach will be in this House on or near the anniversary of the Good Friday Agreement. On that occasion we will be able to highlight our views and debate all the great cross-Border activity that is happening. I, with Senator Keaveney, have the honour of being a member of the Good Friday Agreement implementation body as well as being a member of the British-Irish Interparliamentary Body. I am impressed by the goodwill and can-do attitude of all members of the cross-Border bodies, from the North and the South, in making such progress possible.

I agree with Senator McFadden's call for a debate on agriculture and I have assured the House we will have an all-day debate on this topic after the Easter recess. I have already spoken to the Minister about it and she is anxious to attend the House. It is only a matter of fixing a date in her diary for such a debate.

Senator Doherty referred to the undocumented Irish in America. A delegation of Deputies and Senators visited Washington last week to represent the very views expressed by Senator Doherty. I am not aware of any visit to America by the Taoiseach or Minister for Foreign Affairs during the past few years when this issue was not put centre stage.

Senator Pearse Doherty: I called for a joint party motion on the matter.

Senator Donie Cassidy: I do not believe we need an all-party motion in this regard given the commitment by Government, the Minister for Foreign Affairs and, in particular, the Taoiseach to ensure this issue is put centre stage at every opportunity.

Senator Pearse Doherty: We should be doing everything in our power to help them.

Senator Donie Cassidy: I support Senator Doherty's view. However, there is no need for a joint party motion as the matter is being prioritised by Government.

On the pharmacy issue, I will endeavour to obtain an update on this matter, if possible, next week. Members must bear in mind that Ministers will be out of the country next week and as such will be unable to attend the House.

Senator Quinn, an innovative man, has made an immense contribution to Ireland during his lifetime in terms of leading by example and the creation of hundreds of thousands of jobs. I will pass on his views in respect of the time gap between Ireland and America to the Minister. The introduction, three weeks earlier, of new time would give people an extra hour to enjoy

the St. Patrick's Day festivities. This is important for rural areas which must hold their parades at 5 o'clock or 5.30 p.m. when the parades in bigger areas have finished. The extra hour would be crucial to the celebration of St. Patrick's Day in villages such as Granard and Castlepollard.

Order of Business agreed to.

Finance Bill 2008: Second Stage.

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

Minister for Defence (Deputy Willie O'Dea): The Finance Bill 2008 contains the legislative proposals required to implement the tax changes announced by the Tánaiste in the budget last December. It also contains a range of other tax measures which will contribute significantly to underpinning growth in key sectors of the economy.

The principal aims of this Bill are to support enterprise, innovation and employment, to advance sustainable development and to ensure a fairer tax system. In so far as supporting enterprise, innovation and employment is concerned, the Bill seeks to build on measures to assist small business introduced in budget 2008, including a number of business-friendly measures such as revised preliminary tax payment arrangements for corporation tax aimed at small and start-up companies; an increase in VAT registration thresholds for small business to €37,500 in respect of services and €75,000 in respect of goods; and the extension of film relief for another four years to end of 2012 with an increase in the cap on eligible expenditure from €35 million to €50 million per project.

The Bill further enhances the existing research and development tax credit scheme by extending the current base year of 2003 for a further four years to 2013, an increase on the current six years. The change will provide an additional incentive for increased expenditure on research and development in future years and help to achieve the targets set out in the Strategy for Science, Technology and Innovation 2006-2013.

In so far as advancing sustainable development is concerned, practical measures to help protect our environment are necessary and a number of new measures are being introduced in this area. The new tax initiative for energy efficient equipment will allow companies to claim the full cost, in the year of purchase, of specified energy efficient equipment against their taxable income. The purpose is to assist in improving cost competitiveness while helping to reduce overall energy demand and carbon emissions. The incentive is a pump-priming exercise for a period of three years. Companies should embrace the economic benefits of investing in energy-saving equipment.

[Deputy Willie O'Dea.]

The Finance Bill provides for the most fundamental reform of the Vehicle Registration System, VRT, since its inception in 1993. It will provide people with the opportunity to make choices to help the environment and with financial incentives to do so. The VRT system is being revised to take greater account of CO₂ emissions with VRT exemption for electric cars and up to €2,500 VRT relief for certain hybrid and flexible fuel cars.

Our income tax system is now fairer, friendlier and more progressive. The protection of more vulnerable groups must remain a priority when reviewing the income tax code and the Bill includes various improvements for such groups. It provides for increasing the personal credits and bands to ensure low income earners remain outside the standard rate band and average earners remain outside the higher rate band. It also provides for a further increase in the ceilings up to which first-time buyers can claim mortgage interest relief and for increases in rent relief.

Tax credits relating to those in special circumstances, namely, lone parents, widowed persons and widowed parents, the elderly and those caring for persons with a disability have increased very significantly in recent budgets. This Finance Bill makes further improvements in this regard. Age exemption limits have increased by 85% in the past seven years compared with inflation over the same period of 27%.

It is estimated that approximately 1% of top income earners, those with income over €200,000, will account for approximately 25% of the income tax take in 2008 compared with less than 15% in 1997. The most recent data from the OECD for 2006 indicates that for a single worker on average earnings Ireland continues to have the lowest tax wedge in the EU and one of the lowest in the entire OECD. These are the hallmarks of a fair tax system.

The Bill contains 144 sections and eight Schedules and is structured by taxheads. I will outline some of its main provisions, listen carefully to Senators' contributions and try to respond to the points made when I come to reply to the debate.

The various income tax measures and reliefs announced in the budget are dealt with in sections 2 to 4. These measures widen the tax bands and increase various credits including, the basic personal credit, employee tax credit and the home carer credit. Significant increases in the value of other personal credits and the age exemption limits, which are targeted at more vulnerable groups, underline the Government's commitment to meet the needs and welfare of those most deserving in our society. When this Bill has been enacted, the increases in the value of the credits and bands will ensure that approximately four out of five income earners continue to pay tax at no more than the standard rate and almost two out of every five income earners will remain outside the tax net entirely.

Section 6 provides for an 11% increase in rent relief in an effort to address the cost pressures on those renting homes. Section 7 confirms the budget increases in the ceilings on mortgage interest relief for first time buyers. The ceiling is increased from €8,000 to €10,000 for a single person and from €16,000 to €20,000 for a married couple or widowed person. This means that mortgage holders may receive extra relief of up to about €33 per month, if single, or about €66 per month, if married or widowed. This increase fulfils the commitment in this area as set out in the Government programme.

Section 11 deals with increases in the income tax exemption limit which applies to rent received under the rent-a-room scheme from €7,620 to €10,000. This increase takes account of the fact that the limit has not been increased since the scheme was introduced in 2001. The social partners have made a number of requests in respect of employee financial participation. In response to these requests, section 13 increases the aggregate maximum amount of monthly contributions that an employee can make under a certified contractual savings-related share option scheme from €320 to €500. The existing limit dates from the time the scheme was introduced in 1999. In addition, section 14 amends the rules relating to employee share ownership trusts. The change relates to instances where an ESOT takes out a loan over a period of ten years or more and lodges at least 50% of its shares as security for such loan for a minimum period of five years. In such circumstances, employees can gain access to triple the annual tax relief limit in the year the loan is paid off, in recognition of the fact that a large number of shares are not available for distribution to employees during the loan period and, thus, the employees would be unable to avail of the yearly tax free limit of €12,700 worth of shares on an annual basis. This amendment will permit the Revenue Commissioners to allow a loan period of less than ten years, on a case by case basis, where an ESOT has sufficient income, from dividends, for example, to pay off such loans earlier than expected. Section 15 is an amendment that ensures that farmers availing of tax averaging arrangements will not suffer a claw-back of tax when they enter a milk production partnership.

As with all Finance Bills there are a number of measures to address tax avoidance. Section 16 is one such provision relating to convertible securities. The provision will ensure that the full value of the securities received by an employee or director will be subject to income tax. Section 18 extends the same basis of assessment to certain UK source income, as applies to income from other EU and EEA states. Section 20 is concerned with the spreading over six years of tax arising from the receipt of moneys under the scheme of aid for the restructuring of the sugar beet industry.

An income tax exemption of up to €5,000 for each eligible employee, where an employer bears the cost of retraining workers as part of a redundancy package, is provided for in section 22. Section 23 introduces provisions that restrict the use of reliefs by high income individuals which took effect from 2007. It clarifies the correct sequence of the calculations to be made in applying the measure when certain other provisions in the tax Acts are involved. The section will ensure that restriction will work as intended in such cases.

The European Commission gave state aid approval to the business expansion scheme and seed capital scheme changes in the 2007 budget. As a result, section 24 brings into primary law the amendments made to the schemes by regulations on a temporary basis last year following approval of the schemes by the European Commission. The section will also make it easier for some recycling companies to participate in the schemes.

Section 25 is a preventative measure which broadens the meaning of a contribution to an employee benefit trust to ensure that as intended by existing legislation, the employer will get a deduction for the contribution at the same time as the employees receive the benefits and no earlier.

A scheme of capital allowances for capital expenditure incurred on the construction or refurbishment of qualifying specialist palliative care units is introduced in section 26. This incentive will operate in a similar way to the existing schemes, for example, nursing homes and provision of capital allowances will be subject to a number of requirements including pre-approval from the Health Service Executive and the consent of the Minister for Health and Children. Section 27 updates legislative references in the mid-Shannon corridor tourism infrastructure investment scheme to reflect the EU state aid requirements that must be met in relation to projects and the exclusions which apply in relation to persons who may claim capital allowances under the scheme.

In order to assist capital expenditure on buildings and structures used in caravan parks and camping sites, section 28 introduces a tourism initiative to allow caravan parks and camping sites registered with Fáilte Ireland avail of capital allowances at the rate of 4% per annum for 25 years. Section 30 deals with an income tax matter relating to payments for decommissioning fishing vessels. Where a balancing charge arises as a result of claiming excess capital allowances, the charge will be spread over five years instead of the normal one year.

As a counterpart to the proposed changes to vehicle registration tax that relate it more closely to CO₂ emissions, section 31 sets out the changes to the capital allowances and leasing expenses regime for business cars announced in the budget by linking the availability of capital allowances and leasing expenses to the carbon emission levels of cars. The new provisions will come into

effect in respect of cars purchased or leased on or after 1 July 2008. On foot of a recently completed independent review of the film relief, section 32 extends film relief for another four years until the end of 2012 with an increase in the cap on eligible expenditure from €35 million to €50 million per project.

To support the international financial services industry in Ireland section 36 to 39, inclusive, along with sections 119 and 120 introduce a package of measures designed to provide a competitive boost to the securitisation, funds and insurance sectors by removing impediments to the development of these businesses here. Section 40 amends the provisions granting tax relief for certain expenditure on “know-how” that is bought by a person for use in a trade carried on by the person. This relief is not available where the “know-how” is bought as part of a trade that is being acquired, or where the buyer and the seller are connected. Section 41 is a response to the OECD recommendation to prohibit a deduction for tax purposes of illegal payments made to a foreign official.

Section 42 closes a tax avoidance loophole, under which tax deferral is available when assets are moved from a company subject to corporation tax into an investment company subject to tax under the gross-roll-up taxation regime. It was never intended that provisions designed to support commercially driven business decisions would be used as a tax avoidance measure. This section ensures that capital gains tax deferral rules can apply no longer in these cases.

The tax treatment of foreign dividends will be put on the same footing from the point of view of corporation tax as the taxation of income out of which Irish-sourced dividends are paid by section 43. Up to now, foreign sourced dividends have been subject to tax at the 25% rate. This change means, in broad terms, that the 12.5% rate will apply to foreign dividends received by Irish resident companies and which are paid out of trading income and the 25% rate will apply to foreign dividends paid out of non-trading income, where the foreign dividends arise from companies in EU member states or from countries with which Ireland has a double taxation treaty.

Section 44 amends the close company surcharge rules by also providing for parity of treatment for Irish holding companies that are closed companies in respect of dividends received from their foreign and domestic subsidiaries. A new profit resource rent tax is introduced in section 45 which may apply to profits arising from a new petroleum lease which follows an exploration licence granted by the Minister for Communications, Energy and Natural Resources after 1 January 2007. Additional taxes of between 5% and 15% will apply depending on the profitability of petroleum fields. These taxes will be in addition to the 25% corporation tax rate which currently applies to profits from such activities.

[Deputy Willie O'Dea.]

To increase the incentive for companies to purchase certain energy efficient equipment, section 46 allows companies to claim the full cost, in the year of purchase, of new energy efficient equipment against their taxable income. The equipment must be included on a specified list to be drawn up by the Department of Communications, Energy and Natural Resources in consultation with the Department of Finance. The incentive is subject to clearance by the European Commission from a state aid perspective.

Section 47 confirms, among other things, the budget day announcement that the preliminary corporation tax liability threshold for treatment as a small company is being increased from €150,000 to €200,000. New or start-up companies with a corporation tax liability of €200,000 or less for their first accounting period will not be required to pay preliminary tax in respect of that first accounting period.

Section 48 amends the provisions associated with taxation issues relating to the acquisition by a company of its own shares, that is, share buy-backs. This amendment provides that costs incurred by a company in buying back its own shares are not allowed as a deduction for tax purposes.

In order to provide an additional incentive for increased expenditure on research and development in future years and more certainty to industry in relation to the tax credit scheme, section 50 enhances the existing research and development tax credit scheme with an extension of the use of the base year 2003 for a further four years to 2013. The period over which any rolled-forward base year will apply on a "look back" basis is also being extended to ten years. For example, the relevant year for 2014 will be 2004.

Section 51 provides that where an abnormal dividend is paid to a company in connection with the disposal of shares in that company, the amount of the dividend is to be treated for capital gains tax purposes as proceeds for the disposal of the shares rather than a dividend. That will mean they will be subject to capital gains tax. This is an anti-avoidance provision.

Section 53 makes technical changes to section 448 of the Taxes Consolidation Act 1997, which deals with the calculation of manufacturing relief by reducing the tax charged at the standard rate of corporation tax, which is 12.5%, on income from manufacturing by a fraction that results in an effective 10% rate of tax.

In regard to capital gains tax, section 54 makes a number of changes to the capital gains tax retirement relief provisions. It introduces a preferential scheme where an individual receives a decommissioning payment in respect of a fishing vessel. Under the existing retirement provisions, an individual must be aged at least 55 and have been in business for at least ten years. These requirements are being amended and individuals aged 45 or more who have been in business for

at least six years will be able to avail of the retirement relief in respect of the decommissioning payments that will be paid under a new scheme.

A further change provides a relief to farming partnerships on the dissolution of such partnerships prior to 31 December 2013. The relief provides that a gain will not be treated as accruing in respect of a relevant partnership asset and that the asset will be treated as having been acquired at the same time and for the same consideration as when it was originally acquired by the partner subsequently disposing of the asset.

Section 55 increases the capital gains tax exemption threshold that applies on a gain arising on the disposal of a site by a parent to a child to build a house. The new threshold is €500,000. The section also clarifies that the threshold applies where both parents make a simultaneous disposal of a site to their child.

As required under the EU energy tax directive, sections 57 to 68, inclusive, provide for an excise duty on electricity. The tax will be charged to the operator who supplies the electricity to the consumer and will apply to supplies of electricity made on or after 1 October 2008. The rates of tax are set at the minimum rates specified in the directive while electricity used by households will be exempt from the new charge, as will electricity produced from renewables and combined heat and power generation. The overall cost and impact on electricity prices for business will be marginal.

Sections 69 to 81, inclusive, set out a range of changes in regard to excise duties, including a confirmation of the budget day increases in excise on tobacco and duty payable in respect of an off-licence for the sale of alcohol. The necessary legislative changes are being made to revise the vehicle registration tax, VRT, system to take greater account of carbon dioxide emissions, exempt series production electrical cars from VRT, extend the existing relief for series production hybrid and flexible fuel cars until 30 June 2008 and replace it with a VRT relief of up to €2,500 for such cars from 1 July 2008.

Arising from European Commission decisions, section 72 includes the legislative changes to withdraw the excise reliefs in respect of fuel used for public passenger transport vehicles, private pleasure flying and private pleasure navigation, and for recycled waste oil. The reliefs will be withdrawn with effect from 1 November 2008. In the case of public passenger transport vehicles, alternative mechanisms to direct Exchequer resources towards such services, subject to state aid rules, continue to be explored by the Department of Transport in conjunction with the Department of Finance.

Sections 82 to 109, inclusive, deal with VAT. Following a review and extensive consultations, sections 85, 86, 88, 91, 97, 98 and 100 contain new rules regarding the application of VAT on property transactions. The purpose of the new system

is to rationalise and simplify the VAT treatment of property which has become very complicated. There is also a strong anti-avoidance dimension to the new rules to deal with increasingly aggressive avoidance schemes in regard to VAT on property. The supply of new residential property, building land and undeveloped land will remain unchanged. The new system comes into effect on 1 July 2008.

The main changes include ceasing to charge VAT on the capitalised value of leases in excess of ten years, removing old properties from the VAT net by confining the period during which VAT will apply to the supply of new properties to a maximum of five years, and making some changes to the treatment of leases. In addition, a capital goods scheme is being introduced for property transactions. This will ensure the amount of VAT deductible will be proportionate to the business use of a property over a 20-year period. The legislation also includes necessary transitional measures.

To ease the administrative burden on small businesses, sections 92, 94 and 101 confirm budget day announcements increasing the VAT registration thresholds for small businesses to €37,500 in the case of services and to €75,000 in the case of goods. These increases will take effect from 1 May 2008. A reverse charge measure is also introduced in respect of VAT on supplies made by a subcontractor to a principal contractor in the construction sector with effect from 1 September 2008. This is a simplification measure.

Section 107 provides for a reduction in the VAT rate for inputs used for the agricultural production of bio-fuels from 21% to 13.5% with effect from 1 March 2008. This section also provides for a rate reduction for non-oral contraceptive products from 21% to 13.5%.

The Revenue Commissioners intend to introduce a computer-based facility in the second quarter of 2009 which will allow a full self-service on-line process where the user can file, pay stamp duty and receive an instant stamp without Revenue requiring to see the deed in up to 90% of cases. Section 111 introduces enabling legislation to allow for the e-stamping of instruments for stamp duty purposes.

Section 115 is an anti-avoidance measure to ensure transfers of shares to a connected company, which would benefit from a stamp duty exemption, will not be exempt from stamp duty where the company buying the shares claimed intermediary relief on the transaction.

Section 117 increases the stamp duty exemption threshold that applies on the transfer of a site by a parent to a child to build a house. The new threshold is €500,000. The provisions relating to the exemption from stamp duty in respect of the transfer of loan stock are amended by section 118. The existing provision that the loan stock is redeemable within 30 years is abolished and the requirement that it is not linked to stock exchange or inflation indices is amended so that

relief will not apply if it is linked in any way to an equity index.

Section 122 amends the stamp duty regime for owner-occupiers who benefit from preferential stamp duty rates so that they are liable to a claw-back of relief if they let the house in the five years after purchase. This is being reduced to two years. In addition, in respect of first-time buyers, an anti-avoidance provision is being introduced to address certain abuses that have come to light.

To support increased use of electronically based financial transactions, section 123 reduces the charges on financial cards, as announced in the budget. In addition, financial institutions will be required to make a preliminary payment of 80% of the duty payable for that year by 15 December. However, the dates on which the institutions recover the stamp duty from their customers will not change.

Section 125 amends the first Schedule to the Stamp Duties Consolidation Act, provides for the stamp duty on cheques to increase from 15 cent to 30 cent and increases to €30,000 the rent threshold below which the annual rent on a house is not chargeable to duty. This section also gives effect to the substantial reform of stamp duty announced in the budget regarding residential property. The first €125,000 of the purchase price is charged at 0%, with the balance on properties up to €1 million charged at 7%. For properties valued at more than €1 million, the excess is liable to duty at 9%. However, to ensure no one loses out on this reform, stamp duty will not be charged on houses costing no more than €127,000. This will result in a much fairer system for house buyers.

Section 131 will facilitate the donation of collections of heritage manuscripts and archival material to bodies such as the National Library, while section 132 is intended to enable the Irish Heritage Trust to complete its acquisition this year of an outstanding collection of paintings and furniture for display at Fota House. The trust already has acquired some one third of the collection in question.

It is important our tax administration be modern and efficient and that the Revenue Commissioners have the power to enforce the law. Sections 134 to 140, inclusive, introduce several measures in this area. These include allowing Revenue officers to question suspects in Garda custody for indictable revenue offences; enabling any Revenue officer to determine residency of an individual for tax purposes; obliging agents in the State in receipt of rental income on behalf of another person to report rental income from foreign properties; and increasing in the maximum fines on summary conviction for certain tax offences to €5,000. This section also includes an amendment aimed at increasing the incentive for taxpayers to use the protective notification regime by increasing the existing surcharge of 10% to 20% and reducing to two years the time in which Revenue must form an opinion

[Deputy Willie O'Dea.]

that a transaction is a tax avoidance transaction where a protective notification is made.

This Bill is grounded on the financial and economic policies which continue to deliver prosperity for our people and have been responsible for the overall sound position of our economy. I hope this outline of its provisions will facilitate an informed and constructive debate.

I commend the Bill to the Seanad and I look forward to the debate.

Senator Liam Twomey: It is interesting that the Bill is now going through the Seanad when the Taoiseach seems to have accepted that it is no longer unpatriotic to talk down the economy because he has acknowledged there are serious difficulties in the economy this year and into 2009. When we vote on this Bill tomorrow, we will be voting to bring an end to the period in Irish life known as the Celtic tiger era. We need to bear that in mind as we discuss the future of the economy.

When we consider legislation of this nature at a macro level, we are reminded it is regrettable that the Government has failed to make major changes to our economic structures over the last decade. The downturn in the economy is exposing the gross mismanagement of sectors of the economy which are under the control of the Government. The real changes which are needed to make a difference, such as the reform of the health services, have not been achieved. I do not accept that the eight centres of excellence for which Professor Tom Keane is responsible will bring about genuine reform. Such changes have been happening for some time, but they do not constitute the real reform that was promised to make the health service work for every patient. The reforms set out in many Government reports over recent years, relating to the benchmarking process and the health strategy, for example, have simply not happened. That such failures are having an effect on the economy is evident from the significant amount of money we are spending on a health service that is not as efficient as it is supposed to be. The structure of the HSE is not to blame in this instance — it is a question of how the health service is being managed by the Government.

After a decade of unprecedented economic growth, it is regrettable that we do not have a completed motorway between any two of our major cities. When a major infrastructural programme was undertaken in the United Kingdom in the 1960s, the whole of that country was quickly crisscrossed by motorways connecting all the major cities. We have failed to connect two cities despite enjoying a decade of substantial growth.

When the Minister, Deputy O'Dea, is summing up this debate, perhaps he will summarise the changes being made to Government expenditure on social welfare. What is happening in that sector? There seems to be a strong clampdown on

paying temporary and long-term disability benefit to the customers of the social welfare service. As a general practitioner, I am often asked to sign forms on behalf of people. I have noticed that many people are now being refused disability payments and are having to appeal. Has there been a serious change in this respect?

One of the most farcical aspects of this Finance Bill is the suggestion that it forms part of the greening of our economy. Section 31, which sets out the new tax relief regime for cars used by businesses, amounts to no more than window-dressing as it will only apply to cars which have certain CO₂ emissions. The Minister for Finance, and the Government as a whole, could demonstrate the seriousness of their intent by applying the section 31 limits to ministerial cars. If Ministers insist on driving cars which emit certain CO₂ levels, they should have to pay the additional charges themselves, rather than having them paid by the State. That might encourage the rest of the country to choose cars with reduced CO₂ emissions. When I hear Ministers lecturing the rest of us, I am reminded of a Minister in England who lectured the people of that country about the greening of the economy before sitting into a 4.2 litre Jaguar. The people of this country, similarly, should not have to take lectures from Ministers who sit in the back seats of cars which produce significant amounts of CO₂. The Minister for Finance should amend this legislation at some stage so that section 31 applies to him and his Cabinet colleagues.

The tax reliefs applying to energy efficient mechanisms for business are purely restricted to businesses. I do not understand why they do not also apply to ordinary customers. If one wishes to improve the efficiency of one's home by installing solar panels or geothermal heating systems, one has to apply for a grant and then wait up to 12 weeks for it to be approved. It seems that not enough funding is available to meet the costs of those who have applied for the grant. If one starts one's building work before one applies for the grant, one will not get the grant. The Minister for Finance could make things easier by making a tax relief of this nature available to ordinary people who want to make changes to their homes. One should be able to apply for a tax relief rather than a grant. Every one of us has received a letter from the Revenue Commissioners pointing out how we might be able to claim additional tax relief on the taxes we have paid. It would be easy to slot a tax relief of this nature into the existing structure. If people can claim tax relief on medical expenses, union fees and bin charges, they should also be able to claim tax relief on the installation of energy efficient systems.

The Minister, Deputy O'Dea, has claimed that Ireland is a low tax economy. While it may be a low income tax economy, it is not a low tax economy overall. VAT is paid on almost everything in this country. I notice that the only reduction in VAT that is being made is on condoms. VAT is

paid at an extremely high rate on everything else. Most medical equipment has a VAT rate of 21%. If people decide to buy an automatic defibrillator for their community, they are charged a VAT rate of 21%. Excise charges are extremely high as well.

Fuel prices have been increasing at a rapid rate, especially over the last 12 months when the price of oil has doubled. The largest contributing cost to the price of each litre of fuel that is sold at the pumps is excise, VAT and Government charges. The Government gets the largest percentage of the money paid for petrol and diesel. If it wishes to improve the economy, it should consider how much it is taking from consumers at the petrol pumps. It is fleecing people.

Any suggestion that this country is a low tax economy is rubbish — it is a low income tax economy. The Government gets tax revenues in many other ways. The high rate of VAT that is charged on many everyday things imposes additional costs on those who can least afford them. People on low incomes end up paying some of the highest prices as a result of VAT.

The Minister for Defence spoke about the changes which will affect people who are earning more than €200,000 per annum. Such people will not take much notice of the proposed vehicle registration tax and motor tax changes. It will not hurt them to have to pay an additional €300, €400, €600 or €1,000 per annum. People on lower incomes will be affected to a much greater extent. The measures in this year's Finance Bill are the subject of a great deal of spin. Fianna Fáil's new coalition partners, the Green Party, knows that if it does not go along with the farce of greening the economy, it will be seen to be achieving nothing in government. If we delve deeply into it, we will see that it is all a bit of a farce. If the Government is serious about making changes to our culture in the interests of greening the economy, it needs to make changes which affect everyone, including Ministers, who should not be exempt from the environmental changes to the economy which we will all have to endure over the coming years.

Deputy Willie O'Dea: Doctors should not be exempt either.

Senator Liam Twomey: We may have to wait until Report Stage before we can consider some of the other points made by the Minister in his opening speech. He spoke about making changes to employee share ownership plans and personal pension schemes. The value of private pensions has decreased dramatically over the last 12 months, which is affecting those who are planning to retire over the next few years. I have heard nothing about the Government's plans to assist such people. One in five people in this country benefits from a Civil Service pension. Every Member of this House will benefit from the excellent public pension system. Unfortunately, the vast majority of people have no pension or have

a private pension. Private pensions have gone down in value substantially. While there has been a great deal of debate about pensions — the Government has published a Green Paper on Pensions — nothing has been done to assist those who have experienced a significant reduction in the value of their pensions. The downturn in the international economy has affected the many pension funds which are based on equities. Nothing has been done to improve the circumstances of those who have private pensions and are approaching retirement in the next five or six years, although I expected something to be done. In the longer term, it is possible things may improve and people will get the benefit of that. However, there is nothing in the Bill in that regard.

There are also issues around tax reliefs such as the mid-Shannon corridor tourism infrastructure investment scheme. I thought that from now on the Department of Finance would do cost benefit analyses of any major changes and expenditure. No cost benefit analysis of that scheme has been published. I have no problem with the giving of tax reliefs as long as they are transparent and are of benefit to both the taxpayer and recipient.

I refer to capital gains tax exemptions in respect of a parent who gives a child a site. There is no mention of a brother or a sister who gives a sibling a site. Do the same exemptions apply? Are there proposals to change that? Parents often hand over the farm to the eldest son or daughter who, in turn, may give a sibling a site at a later stage. That issue should be addressed. It is not always the parent who gives a site to a child.

There probably will be more in-depth discussions on some of these aspects on Committee and Report Stages. The Finance Bill 2008 does not do all the Government said it would do for business. Most small businesses will not see major improvements in 2008 on the basis of this Finance Bill and due to the mismanagement of the economy, they will not reap too many benefits in 2009.

Senator Marc MacSharry: I welcome the Minister, Deputy O'Dea. I am delighted to have the opportunity to speak on the Finance Bill, which is the Minister's fifth, and I also welcome many of the measures therein. Since the budget the context has changed slightly. Economic growth has performed below trend but the economic outlook is still positive. The Government is taking into account the changing environment and is prudently ensuring we maintain our competitiveness and our robust economy.

I am always amused when debates such as this take place. I suppose it is the nature of the Opposition to say the economy has been mismanaged and that there has been under-investment, over-taxation and a blindness to the real issues of the day.

Senator Feargal Quinn: Is that what Senator MacSharry is saying?

Senator Marc MacSharry: No. When debates such as this take place, it is perhaps the nature of the Opposition — as was the case when Senator Twomey was speaking — to accuse the Government of all these things. It seems to be a common mantra when debates on the budget, the economy and all matters financial take place. I feel, therefore, compelled to point out our mantra in that context, which the facts back up. No Administration in the history of the State has done more than the consecutive Fianna Fáil-led Administrations to deal with the issues Senator Twomey mentioned, such as reducing the tax burden on all people — the less well off and the well off — taking the lower paid and those on the minimum wage out of the tax net, investing in our infrastructure through consecutive national development plans and starting a process of regulatory reform.

I know Senator Quinn would share my views on regulatory reform in that much more needs to be done in this regard. I am cognisant of the point he made recently about the University of Jerusalem's findings that Ireland is 49th out of 50 countries in terms of over-regulation. That is a challenge of which the Government must be cognisant as it plans for the future. In regard to the points made by Senator Twomey, no Administration in the history of the State has contributed more financially, legislatively and practically through the State agencies, to improve this nation than consecutive Fianna Fáil-led Administrations.

There is no doubt, however, that the international economic environment has changed substantially. There has been a move towards more sustainable levels of house building here. The property market needed to correct itself and I suggest it began to do so approximately a year too late. We have seen substantial slowdowns and an increase in the live register, most notably in February. We have noticed that even in County Sligo. Notwithstanding that, unemployment levels remain extremely low and we are the envy of most other countries, with close to a full employment scenario. However, there are concerns and we must keep a close eye on how matters develop.

The Finance Bill 2008 is based on sound fiscal policies which, as the Minister outlined, are to encourage economic growth while at the same time promoting care of the environment and protecting the less well off in society. In regard to care of the environment, Senator Twomey said we should engage in some type of gimmickry and that Ministers should pay for the miles they drive while working on behalf of the State. Such talk is ridiculous in the extreme. Much of the ministerial fleet has moved to hybrid Lexus-type cars which make a contribution.

Senator Marc MacSharry: It is not wrong. A number of Ministers use hybrid Lexus cars. Perhaps we could see improvements with the whole fleet being changed to such cars. It would be a waste of money to change all the cars at once but as they need replacement, there is no question but that more environmentally friendly vehicles should be purchased, and that is happening. One need only look at the ministerial cars to see that. People, including politicians, doctors, etc., should do all they can for the environment. I must improve in that regard because I drive one the gas-guzzling vehicles to which Senator Twomey referred. I will have to take steps to improve my contribution in that regard.

The Bill includes a range of business-friendly measures which will support continued growth and job creation in a climate of economic slowdown and a period of below trend growth, although a period of growth nevertheless. Independent economists, including Ernst & Young, predict growth of 2% to 3% in the year ahead. That would still be the envy of most of our neighbours in the European Union.

The various measures aimed at combatting tax avoidance and criminal tax activities are welcome. The Minister went through a number of them and Senator Twomey acknowledged that we will have the opportunity on Committee Stage to go into them in more detail if people so wish.

The Finance Bill has brought forward a package of measures underpinning those in the budget which will allow business to thrive and ensure those less well off in our society are properly looked after. In a period of economic slowdown, we should invest, through modest borrowing, in maintaining our capital programme through the national development plan which is key, particularly when we see a fall-off in levels of house building and private sector driven construction. That would serve us well.

I refer to the international environment. Many of the conditions which currently prevail are substantially outside the control of anybody in Ireland. We must be cognisant of that if we are to make a real contribution on this issue. In recent times, the banking system internationally has ceased to operate as before. Banks are not lending to each other at present, other than providing very short-term loans. That is very significant. Recently, the US Federal Reserve loaned \$200 billion to ease tight liquidity. In recent weeks, the financial markets have been extremely unstable.

The strength of the euro against the US dollar is not good for the Irish economy. I suggest that the ECB verbally acknowledges that the euro is perhaps overvalued against the dollar. American tourists coming to Ireland are valuable to our economy. This year it will be 10% more expensive for Americans to go to places like the Killarney Park Hotel or other places that depend to a large extent on American tourists. In the past five or six years it has become probably 100%

Senator Liam Twomey: That is wrong.

more expensive and this is without taking into account our inflation rates or rising prices. This is a real concern.

The ECB has limited tools available to it but I suggest that at least verbally we could begin to acknowledge that this is the case and Mr. Trichet could do then act. The alternative is given that there has not been any intervention in the foreign exchange markets on this side of the Atlantic for some time, perhaps our purchase of a significant amount of US dollars could be considered in order to weaken the euro and strengthen the dollar.

These are some suggestions. I am sure greater minds than mine could put more meat on that argument but foreign exchange is a real issue. I instance an example closer to home. If someone in Derry is planning a night out in Letterkenny, it will be 10% more expensive to do so. These are facts which are substantially outside our control as our only mechanism is through the Central Bank of Ireland communicating with the ECB. I hope the Government would use any tools open to it to impress this issue upon the Central Bank. I assume it is well aware of these issues but I would like to see a little more action.

The fundamentals of the economy are in very good shape and it is the envy of our partners. We are now in a different environment which will require prudence. I believe we should continue, no matter what, provided we stay below the 3% threshold of borrowing. We should borrow to ensure our capital development programmes continue. This is important for balanced regional development and in the context of maintaining our competitiveness. There is no question but there are many serious challenges. Employment is still high, notwithstanding that we have seen changes in the statistics for January and February. This is understandable given developments in the building and construction sector.

The demographics are still positive. The worker to dependant ratio is still very good and is the envy of Germany, France and Belgium. The maintenance of the national development plan is crucial.

I welcome the Bill. It would be impossible to debate every section. I have outlined the three factors of high employment, the right demographics and maintenance of the national development plan in an environment where our public finances are still reasonably sound. There are challenges ahead but I am confident the Minister for Defence, Deputy O'Dea, his colleague, the Minister for Finance, Deputy Cowen, and the rest of the Government, supported by this House and others, will steward the economy through these difficult years.

Senator Feargal Quinn: I welcome the Minister, Deputy O'Dea, to the House. Senators are given the opportunity on the day of the budget to debate it within minutes of it being delivered. I spoke in that debate on two previous occasions.

Last year I spoke like a school examiner when I awarded the Minister marks for the budget and he earned a pass with the comment, "Could do better". This year he earned an honour, admittedly a low honour rather than a high honour, because I appreciate the sort of points made today by Senator MacSharry when he referred to investment in infrastructure and the concept of the business-friendly environment which the Minister is attempting to develop.

I met the Secretary of the US Department of Commerce last year. The words used by the Secretary were that his responsibility was not to create jobs but to create the environment so that the market could create the jobs. This is how a business-friendly environment is created and better regulation plays a large part. This is the reason I gave the Minister a low honour.

I wish to focus my attention on a matter which is not covered in this Finance Bill but which I believe should be. I hope that in briefly raising the issue now, I will encourage the Minister and his officials to think of it for next year's Bill. I am not expecting a reaction today.

One of the positive sides of the Celtic tiger period was that it created a massive upsurge in the amount of personal wealth held by individuals. Not everybody thinks it is necessarily a good thing, but the reality we have to deal with is that this wealth was created during that time and the issue therefore arises of how best to encourage these new high-worth individuals to share their wealth with the rest of the community.

The principal task of the Department and the Minister has been to avoid the anomalies which arise from the operation of tax incentives. Until recently, it was possible for some very wealthy individuals to avoid paying tax altogether if they invested enough in certain property investments. It is clear that over the years the Government decided it wanted to encourage people to invest in car parks, nursing homes and various other schemes. This worked very well. However, Deputy Joan Burton of the Labour Party severely criticised the fact that some very wealthy individuals paid only very little tax or none at all. The Minister reacted by a provision in the Finance Bill 2006 which introduced a cap on the amount of tax that could be clawed back in this way. This ensures that no matter how much a person invests in property, he or she may still be required to pay a certain minimum amount of tax. This was a good solution, and I think it was widely supported by all sides and by the public in general.

Unfortunately, the law of unintended consequences came into play in the operation of the measure; at least I hope that was what happened and that it was unintended. I will work on the basis that it was unintended. The cap on spending allowed against tax applied not only to investments by the taxpayer, but to all spending, including donations to charity. By including charitable donations under the cap, the Act failed to make a fundamental distinction between investing money

[Senator Feargal Quinn.]

for one's own later profit and giving money away for the greater good of others. I argue that there is a world of difference between the two and that it is in fact in the interest of the State to encourage people to give away their money in support of good causes. However, by applying the cap to charitable donations, the State is actively discouraging people from giving away their money and is therefore preventing a great deal of good that would otherwise be done, and at no cost to the State.

I am not suggesting that the role of philanthropy is simply to take on burdens that would otherwise fall to the State, but in practice this often happens. I refer to one obvious and dramatic example, the many millions that were poured into providing new university buildings in the 1980s and 1990s by that remarkable man, Mr. Chuck Feeney. This allowed our third-level system to develop at a pace that the State simply was unable to provide. Mr. Chuck Feeney was unaffected by the Irish tax regime one way or the other, but the same cannot be said for our indigenous wealthy who are now in a position to succeed him, but this cap puts a very effective block in their way. I believe this was unintentional. This approach puts Ireland in a unique position. In the UK, for instance, all charitable donations are simply exempt from tax. The British Government clearly recognises the value of philanthropy to the country and seeks to encourage it. In the United States not only are all charitable donations totally exempt from tax, but a whole raft of other incentives is also in place to encourage individual giving.

Two weeks ago, the American ambassador, Mr. Foley, hosted a day which he called A Dialogue on Philanthropy. In his opening remarks he stated, "We are here to explore what we can take from the American with philanthropy as Ireland builds its own philanthropic model". An ambassador must never appear to interfere in the affairs of his host nation but in this case the American ambassador stated this was a system he believed could be of value to Ireland. He gave examples and those of us in attendance met many people who were fund-raisers for American institutions such as universities, hospitals and others. It was clear that the American system encourages a high level of philanthropy. The provision in the Finance Bill 2006 has put a block on such a system here.

By maintaining this cap on charitable donations we are shooting ourselves in the foot. I believe we fell into this situation accidentally, as the by-product of a very proper anti-tax avoidance device, but knowing the consequences, this provision should be revisited. There is an urgent need to unlock among Ireland's new rich the spirit of generosity that people in general have demonstrated so clearly and consistently on many occasions over the years. The Government should help, not hinder, that process.

There was no real wealth in Ireland 20 years ago. It was brought about by the Celtic tiger and by successive Governments doing the right thing. We now have a situation in which there are wealthy people and we have seen what a number of them have done, very generously. By imposing that cap on two years ago, I believe we have closed the door and made it less effective. I urge the Minister to take that into account. I do not expect action on it today, but I believe it should be considered for next year.

Senator Dan Boyle: The Finance Bill gives legal effect to many of the budget provisions announced in December, with a few additional measures that subsequently have been approved by the Minister for Finance and the Cabinet. The Short Title of the Bill describes it as:

An Act to provide for the imposition, repeal, remission, alteration and regulation of taxation, of stamp duties and of duties relating to excise and otherwise to make further provision in connection with finance including the regulation of customs.

This does not make the legislation very understandable to citizens, and part of our job within the political system is to translate many of the legal technicalities in legislation such as this, to show how it will improve the economy and hopefully the lives of our citizens.

The Finance Bill this year is largely a repetition of the measures announced in the budget. Unlike other Finance Bills in recent years, it is not an entirely new exercise of additional measures. There were very few new measures announced, as opposed to what had already been unveiled in the budget. However, there are significant measures and the one I welcome most is the provision of tax relief for companies seeking to purchase plant and machinery that will result in energy efficiencies. This will help to meet our greenhouse gas targets and work on two levels. It will reduce the cost base of many of these industries while helping to promote the idea of a green economy within the Irish economy. It will promote those who are seeking to develop and sell this technology throughout the economy, which is a measure especially to be welcomed.

Unlike many others who tend to look at the bleakest prognoses for the economy, I believe we are not in a recession, as is, to all intents and purposes, the United States, and this will impact on us. We are not in a slump, in the sense of reduced economic indicators. At worst, the Irish economy is undergoing a slowdown in that the rate of economic growth is slower than what it has been in the past. The rate of economic growth in Ireland has been historically high. We need to make adjustments in that regard, but we need to acknowledge that this rate of economic growth is still consistent with a sustainable economy and is much better than competitor economies are doing, in Europe in particular.

Despite the international climate, the Irish economy is still in relatively good shape. At this time of readjustment we must look at how the economy is structured. Much of the added value of the past 15 years in particular has come from the construction sector. While that has given a short-term impetus, it was never a long-term solution towards wealth creation and sustained growth. Now we must come up with a different make-up to the economy, in terms of supporting indigenous industries, research and development and the provision of the tax relief in the Finance Bill supporting in particular green economic measures which will give a better balance to economic activity into the future.

The Finance Bill covers a number of areas which are to be welcome, after the budget announcements. In introducing any type of improvements in the financial regime sometimes new difficulties are encountered. A number of smaller measures are meant to help the lot of particular sectors in society. For instance, the tax relief for the decommission of fishing vessels helps those whose fishing was based in the open seas, the oceans, but does not offer relief for those involved in draft net fishing in our harbour areas. When we create dichotomies of this type, we must face challenges in dealing with such changes in the future.

There is a provision as regards the capital gains treatment of farming couples whose partnerships are being dissolved. An argument could be made, given the changing nature of Irish society, as to how this might apply to married couples in any line of business within the economy and how it may be addressed in the future. Senator Quinn referred to the need to better recognise the role of philanthropy and how it might be restricted by the overall cap on tax reliefs. To a certain extent, I agree with him. However, even with an improved approach to philanthropy in the future, we should discourage the idea that Irish citizens who do not even pay minimal tax in Ireland believe they can still contribute in terms of philanthropic donations. There has to be a correct mix in terms of the responsibility of being a citizen allied to the ability to recognise philanthropy, and I am not sure if we have attained that particular balance.

The tax system already contains the ability to make charitable donations to bodies that are recognised by the Revenue Commissioners, and there are similar reliefs for trade union membership. There is an anomaly, however, in terms of environmental campaigning that I should like to flag, and have addressed in next year's budget. In view of the charities legislation which is being addressed in the House, organisations dealing with children such as the ISPCC or Barnardos are entitled to tax relief through people making individual donations. Thirty years ago, the then Minister for Finance, Richie Ryan, inserted a provision to allow organisations which deal in human rights to claim such exemptions as well, therefore,

bodies such as Amnesty International are covered. However, it is anomalous that organisations such as Greenpeace and Friends of the Earth, which are not involved in any profitable activity whatsoever, are not entitled to the same concessions under the tax system. I will be seeking changes in that regard.

There is a provision in the Agreed Programme for Government that wherever possible the higher rates of VAT on environmental goods and services will be reduced. I should like to see this done as soon as possible, because it will provide a further impetus towards the green economy. I sense there is a reluctance in this regard within the Department of Finance, and there is talk of the EU VAT directive. I am satisfied that the protocol in that directive which refers to reducing VAT rates for social purposes applies to environmental goods and services. It is a road that has been followed by other EU member states and I should like to see this as one of the centrepieces in next year's budget and Finance Bill.

Overall, the Finance Bill ties together a very balanced budget dealing with an adjusting economy that, in European and international terms, is still performing better than most other similar economies. We can be satisfied that the economic management of the country continues to go well and that the economic future, as a result of that management, will proceed in a healthy manner.

Senator Alan Kelly: I welcome the Minister, Deputy Willie O'Dea, from a neighbouring county of mine. It is regrettable that the Tánaiste and Minister for Finance cannot be with us. He might give us the pleasure of a visit at a future date, as I am sure there is a requirement on the horizon to discuss the economy. I take this opportunity to comment on the economic situation in which Ireland now finds itself but in doing so I do not want to be accused of talking down the economy. This is an old line usually trotted out by Fianna Fáil and the Government when Members of the Opposition seek to have a reasoned debate on the economic situation, which is what I seek. It is amazing how Fianna Fáil always takes credit for the economy when it is on the way up, but fails to take any criticism when it is on the way down, or when there are changes in its momentum. We are suddenly being asked to believe external factors, such as the downturn in the US economy, are at fault, as demonstrated by the Taoiseach in his recent comments. We are told none of the Government's policies is at fault. One cannot have it both ways. Let us face the fact that our economy is at a critical juncture.

Let us debunk the myths and begin by dealing with the facts as they stand in March 2008. The housing market is dead as an driver of the economy. Many of us are of the opinion that the fall off in the housing market has led to a downward spiral in the economy and has infected many other sectors. Some analysis is required regarding how this has been allowed happen under the

[Senator Alan Kelly.]

watch of the current Minister. The level of growth in the domestic housing market over the past eight to ten years led us to a false dawn. We may well see that many of the elements that it has fostered will have a long-term negative impact on the very economy it was supposed to be helping to advance.

While the housing market was booming, we were in reality eating our own flesh from an economic point of view. The housing market boom did not contribute to exports and it inured many of us to any form of international competition. We did not feel we had to compete in many sectors as the migration to the construction industry and the consequent production of massive sprawling housing estates had us in a cocoon. Now that we are in the fresh air, we are struggling to stand on our own feet again. The very immune system of the Irish economy has been attacked by this Government, its policies and, most of all, its failure to act to diversify domestic housing construction as a driver in the economy.

It is said that for every 10,000 houses that will not be built, we will be reducing our growth rate by 1%. It is estimated that approximately 45,000 house will be built this year. More importantly, the decline will deprive thousands of people of work. Thousands of tradesmen, in all constituencies, are now being made unemployed. To date, the figure amounts to approximately 20,000 people.

We need re-skilling programmes to bring many unemployed individuals back into the workforce and the Government is way behind in this regard. These people should not be the ones to suffer due to the mismanagement of the housing sector. Neither should construction workers suffer through their wages, as the Construction Industry Federation wants, nor should the unfortunate young people who have 100% and 105% mortgages and who are now possibly facing negative equity be made to suffer. Surely, if people must suffer, it is those who made tens of millions of euro from construction. However, we should not be at this point in the first place.

We must learn from this experience collectively. It is unfortunate that the Minister for Finance did not learn a lesson quicker. We need to get back to basics. The Government is continuously pushing down the expected growth rate for the economy. It is now estimated at 2.3%, according to the Minister for Enterprise, Trade and Employment on Sunday. The revenue yield is down substantially and tax receipts have dropped dramatically. Statistics for February showed disappointing tax returns, yet there are budgetary increases in capital and current spending of 12% and 8%, respectively.

A worrying trend is that it is not just a drop in stamp duty that is contributing to this decline; corporation tax is down by €100 million, VAT receipts are down by €200 million and capital gains tax receipts are down by 34%. Inflation is

raging, at almost 50% more than the EU average. Consumer confidence is very low. There are now almost 200,000 people, or 5.2% of the workforce, on the live register and this is the highest figure we have seen in over eight years.

Redundancies in January have increased by almost 30% by comparison with the same period last year. There have been significant losses for investors and pensions in the Irish stock market. Between 1995 and 2000, export volume grew by 20%. We now face an increase of 5%. The competitiveness indicator shows we have slipped 17 places in the past five years. The strength of the euro *vis-à-vis* other currencies is having a dramatic impact on the potential of our companies to export and it is also having a great impact on our tourism industry, as will be clear from this year's performance. House repossessions have increased by 350%. As a nation, we have one of the highest levels of personal indebtedness in Europe. We have high fuel prices. The price of a barrel of oil has increased by \$51 dollars in a year. I will let the Minister off with that.

The Minister, I regret to say, has presided over the worst deterioration in Irish public finances ever. He has turned an Exchequer surplus of €2.3 billion into a deficit of €4.9 billion in a short period. If current trends continue, with revenue decreasing and spending continuing on its current course, we will be facing a deficit of €8 billion.

We need to be innovative in order to turn this economy around but, unfortunately, given the Minister's track record, I do not have any faith that he will be able to deliver. We need the Minister to stand up and be counted because, despite his seemingly huge presence within Government, it is not happening for him at present. His non-activity on the economy is practically killing it.

We need to get back to basics, by which I mean we need to focus on what we are good at, where we can compete and the techniques we can use to foster growth in specific high-economic-yield sectors. As the commentator David McWilliams might have said, we need to begin creating value again.

We need to put in place policies that will support high-value business services, be they in the areas of insurance, risk management, computing, IT or financial services. This sector of the economy has performed remarkably well over recent years and we have seen an almost tenfold increase in the volume of exports in this area. However, given the educational profile of our young people and the increasing demand for these services, this area can grow much further. We must provide incentives to push this sector.

We need to promote research and development in the area of renewable energy. Recent moves in this area are welcome but more needs to be done. The €200 million that has been allocated is not enough. The point is that we should have been doing this years ago. This is a key point that needed to be addressed in respect of competitiveness. We all know we need to consider

alternative green technologies to lower our dependence on imported fuels. We are almost 90% dependent on them at the moment. The Minister should focus more on wind energy, and particularly wave energy, in order to make us more competitive.

We need to change dramatically the way in which we promote the technology sector. This is the most important point I want the Minister to address. If we are not more innovative in our policies in this area, we will not be able to turn this economy around as we desire. A divine trinity of components comes into play when promoting the technology sector. These include education, infrastructure and investment policy and techniques. We have catered for education in that the Waterford and Dublin institutes of technology and other colleagues are producing great graduates with IT backgrounds. Unfortunately, we do not have the appropriate infrastructure. The roll-out of broadband is the single largest national infrastructural issue facing us and the Government's record in this regard is a disgrace. I will not dwell on this matter because I could use up all my time on it alone.

The third component comprises investment techniques. We need to increase considerably the quality and volume of incubation services for SME-type IT companies that will allow us to foster new ideas across a range of technology disciplines. Unfortunately, the day of the big catch from the IDA in the technology sector is gone. In my constituency of Tipperary North, the Shannon Development-IDA parks need to be filled with technology start-up companies. It is sad that Shannon Development has recently revealed to me that it cannot obtain a site to develop the "e-towns" project for SME technology companies. Land prices are too high when the owners see Shannon Development calling. This has been happening for years and must be stopped as it stymies growth. I know many SME companies in the sector that would love to move into such facilities.

We now need to foster our own wealth indigenously. I was very disappointed the Minister failed to make advances in the technology area in light of the budget. We need to find ways in which we can support technology-orientated SMEs bringing in medium-risk investment from the domestic market in a friendly way. We need grant schemes and tax incentives that will work. We have seen so many of them in the past from Fianna Fáil that have not worked and only promoted the interests of its patrons. Workable incentives are needed now more than ever for the technology sector because SMEs find it much more difficult to gain access to investment capital from banks, which are putting the squeeze on them.

In the IT sector, we should encourage development of embedded computer systems and devices. Why are we only investing €1 million in an EU joint technology initiative in this area? We should also encourage investment in mobile inte-

gration services, digital advertising, intellectual property rights and their management, second-generation and third-generation web technology development and gaming technologies. This is not rocket science. Most IT gurus could compile such a list better than I could, I have merely selected some of the areas with which I am familiar from my background.

We need to examine our techniques for generating investment from abroad. We need Keynes-type economic strategies in order to get our economy moving again in the direction we desire. We cannot just sit on our hands, as is happening at present.

I welcome the increase in VAT thresholds in the Finance Bill, but we need to consider total VAT reform for small businesses. We need to fast-track the national development programme and broadband roll-out and integrated ticketing in particular. When considering public sector reform, we must consider in particular developments at management level and ensure that we measure performance and achieve accountability. The HSE is an obvious target but we must also consider tourism and job creation agencies. Fresh regional investment policies that achieve positive discrimination are required.

On the specifics of the Finance Bill, I do not agree with the sly privatisation of the construction of hospice care facilities by the Minister through capital tax allowances. Will the Minister finally put us out of our misery in respect of decentralisation? We have exceeded the deadline and we have only witnessed a 10% increase. On the issue of pensions, we need to consider the merits of offering tax relief at the current rate. Up to half the population do not have a pension fund. Why are we still imposing VAT on defibrillators at a rate of 21%? Why are we not doubling the capitation grant to primary schools? Why are the tidy towns organisations not being accorded charitable status?

I welcome a number of points in the Finance Bill but I do not have time to address them, and there are other points I do not welcome. I will move amendments to the Bill on Committee Stage.

The gains made by the PAYE worker in the budget are already rendered meaningless by inflation. If someone earns approximately €35,000 and does overtime or gets a bonus, he or she must pay tax on it at a rate of 41%. The Minister will soon have a salary of €270,000. With that salary comes responsibility, and in this regard he is not measuring up. His self-delusional and non-interventionist attitude is not working. He is acting like the kid who thinks he knows something all the rest of us do not.

Acting Chairman (Senator John Paul Phelan):
I must ask Senator Kelly to finish.

Senator Alan Kelly: I hope the Tánaiste does, but like the kid in the playground he knows much less than he thinks he does and now we will find out that to the country's cost. I thank the Acting Chairman for his indulgence.

Senator John Hanafin: It is interesting——

Deputy Willie O'Dea: Who writes Senator Kelly's scripts?

Senator Jerry Buttimer: Who writes the Minister's *Sunday Independent* articles?

Senator Alan Kelly: I write my own.

Acting Chairman: Senator Hanafin without interruption.

Senator John Hanafin: It is interesting to hear someone state he will not talk down the economy and then spend the next ten minutes, rather than eight, doing so.

Senator Alan Kelly: That is the standard line drawn out.

Senator John Hanafin: This year there will be growth of 2.3% in the economy.

Senator Alan Kelly: Previously they stated it would be 3.5%.

Senator John Hanafin: For an economy that has doubled in size twice in the past 15 years, there is a simple mathematical equation called the 72 rule to work it out. One divides the growth rate into 72 to get how many years it takes to double the size of an economy or of one's investment.

The economy has doubled in size twice in the past 15 years and on top of that it will grow by 2.3% this year. Notwithstanding the fact that the euro is at a very high level, the American economy is going into recession and the price of oil has risen to \$110 a barrel, it is a remarkable robust economy that is still growing at 2.3%. The fact that it will continue to grow shows the solid stewardship of this Government. At a time when there is a slowdown, the Tánaiste ensured in the budget that those who were less well off were looked after. The social welfare provisions in the budget are to be commended.

The Finance Bill deals with supporting enterprise, innovation and employment to advance sustainable development and to ensure a fairer tax system. The fact that the top 1% in this country pay 25% of the income tax shows there is a fair tax wedge. The reality is that a single worker on average earnings in Ireland continues to have the lowest tax wedge in the EU and one of the lowest in the entire OECD. This is a balanced budget and this Finance Bill proves it. It deals with issues that needed to be dealt with.

Since the 1960s we have had the largest and most consistent development in economic terms of which we know. What we are doing is modulating that growth. I will explain what I mean. The construction industry was powering ahead on its own steam. When a slowdown came the Tánaiste took the opportunity in this Finance Bill to increase mortgage interest relief so that a single person can get the advantage of another €33 a month and a married couple can get €66 a month. The Tánaiste has within his capacity to increase that. He could have given marginal relief at top rates. There are many measures the Government can take to ensure the economy is modulated and there will not be a significant slowdown. He has also decreased the term in which owner-occupiers must refund the benefit they accrued from preferential stamp duty rates if they let their house from five years to two years, in this Finance Bill. This is because of the movement in the economy and the way people live now.

I suggest there will be continued growth and we will continue on an upward trajectory. From the 1960s, notwithstanding a recession in the 1970s and the oil shock in the 1980s, there was a continuing line. This Government has continued to see to growth. There is a provision for research and development for ten years so that such activity, which is the higher end of the market, can continue. We are still looking to the future and to the times when we will continue to grow at the rate of growth we had previously.

There are other positive measures within this Bill. The employee share ownership trust, which allows persons the benefit of more tax relief to borrow to buy shares in their own companies, ensures wealth is spread throughout the country.

I suggest to the Tánaiste, now that the UK has introduced a tax on persons of significant wealth and there are those in the UK who might feel an objection to this by virtue of their residency, that there might be an opportunity in the next Finance Bill for us to look to attract some of those people to this country. I am certain there will be an innovative approach by this Government in the future and now that this opportunity has presented itself this year, perhaps that is something that the Tánaiste might bear in mind.

I also commend the Tánaiste on increasing the amount of tax that will be paid by companies drilling for oil. We have a gas industry in this country but not many people know that significant amounts have been expended yearly which have not produced any returns. However, in times past the Tánaiste was generous in his allowances on corporation taxes. Now that events have changed in the world market, the Tánaiste has reflected that by increasing the tax to ensure those companies which benefit significantly from an oil or gas find will pay an appropriate rate, given that billions have been expended with little enough return in many instances.

There have been significant changes in stamp duty and in the way VAT is charged. In the

budget the Tánaiste took the opportunity to tidy up many of the outstanding issues for evasion. He also took the opportunity to increase certain reliefs, including the rent-a-room relief, so that the attractive nature of these remained.

By and large, at a time when the economy was uncertain, the Tánaiste took the prudent approach and did what I would expect him to do. He decreased the burdens on business in terms of red tape, increased taxes where they were necessary on windfall profits on oil companies, ensured people who were less well off received significant increases, and ensured workers would continue to pay the lowest marginal rates in the EU and in the OECD. I could only commend the Tánaiste on his work to support enterprise, innovation and employment, to advance sustainable development and to ensure a fairer tax system.

Senator Jerry Buttimer: Cuirim fáilte roimh an Aire, an Teachta O'Dea. I feel a little like the fiddler on the roof, but having to pick a pocket or two. The Members opposite are probably smiling graciously at themselves and stating that they are in a great world. I was watching the "The Vicar of Dibley" the other night on television and I feel a bit like that here because the world in which I live is not the one in which the Members opposite are living.

Senator Jim Walsh: Remember the 1980s.

Acting Chairman: Senator Buttimer without interruption.

Senator Jerry Buttimer: The 1980s were a time when the party opposite played politics with everything.

Senator Jim Walsh: Senator Buttimer's party played havoc with the economy.

Acting Chairman: Senator Buttimer without interruption.

Senator Jerry Buttimer: When my party inherited the situation, we were financially prudent and when we left office we continued with the Tallaght strategy. Perhaps there could be consensus.

Senator Jim Walsh: That was after the International Monetary Fund was going to come in to pick up after them.

Senator Jerry Buttimer: The Finance Bill is presented to us at a questionable economic time. As Senator Hanafin correctly stated, the US economy is in recession even though President Bush says it is not. Senator Kelly referred to it. Perhaps we would say Ireland is in neutral or perhaps moving backwards, although the Members opposite might not agree.

There are serious questions raised about the competitiveness of the economy at this time and

it is against this backdrop we debate the Finance Bill. The threats are that our competitiveness has decreased and continues to do so, our rate of inflation is ahead of that of other European countries, and our market share of exports is low. The Tánaiste and Minister for Finance, Deputy Cowen, had a surplus and now there is a deficit, which begs the question about his prudence in managing the economy.

Senator Hanafin spoke of housing starts. Total house completions for the fourth quarter in 2007 were down on the same period the previous year. Unemployment, inflation and headline crime are all up and our gross domestic product growth is only half what it was last year. Let us have a realistic debate about our economy and how it is managed.

Whether we like it or not, the Government has blown the funds that resulted from the boom. It has gone berserk. An example of the net result is that in Cork South-Central there is no National Roads Authority road programme. There is a crying need for an upgrade of the N20 to accommodate movement from the port of Cork to Ringaskiddy, but nothing has been done. We have traffic gridlock as part of the Ballincollig-Bishopstown access. Promises were made by the Minister for Enterprise, Trade and Employment, Deputy Martin, with great fanfare, to the effect that new flyovers that would be included in the roads programme, but ten years later we still have nothing at this time of so-called economic prosperity. Perhaps the Minister for Defence, Deputy O'Dea, is delivering for Limerick but Deputy Martin is not giving much to Cork South-Central. Perhaps the Minister, Deputy O'Dea, will have a word with him. I know the Minister is a man of great influence in Cabinet. Given his articles in the *Sunday Independent*, people will listen to him. Perhaps he can talk to the Minister, Deputy Martin, about delivering the roads programme for Cork South-Central.

With regard to the Finance Bill, we have seen complete incompetence by a Minister who has been handed a cash cow. This week is national neurology week, yet there are 22 vacancies for neurosurgeons. We have waiting lists for treatment and have doctors refusing to send people for treatment because it is a pointless exercise on account of the endless waiting lists. Three reports were commissioned, but nothing has happened as a result. What does that tell people and patients?

Senator Hanafin referred to rented accommodation in his remarks. The situation now is that the Private Residential Tenancies Board has closed its full-time office and is no longer open to the public. Landlords rent out rooms, claim all the credits, there is little accountability and the public is left with nothing.

I wish to take issue with sections 69 to 81, inclusive, which deal with measures regarding off-licences. There is a marginal increase from €250 to €300 for an off-licence fee. This is very disappointing given the fact that our alcohol consump-

[Senator Jerry Buttimer.]

tion pattern has increased dramatically. Senator O'Reilly mentioned there has been a retreat from pub drinking to drinking in the home. This has been led by growth in the off-licence industry. It is time the nation said "Enough is enough" with regard to the sale of alcohol in off-licences, shops and petrol stations. The situation has gone beyond a joke. Statistics demonstrate that between 1986 and 2006, average alcohol consumption per adult was 10.1 litres. This has risen to 13.36, which is a 32% increase. This is a staggering increase by any stretch of the imagination, yet there has only been a marginal increase in the fee for an off-licence.

I welcome the measures in the Bill with regard to palliative care. I urge the Minister, Deputy O'Dea, to approach the Minister, Deputy Martin, on another issue. This week in Cork the Minister, Deputy Martin, opposed the co-location of a hospital, a proposal which is promoted by Government policy. Section 26 of the Bill proposes tax incentives for co-located hospitals. What would happen if the Minister, Deputy Martin, were Minister for Health and Children? I would like to hear whether they would go ahead.

Senator Kelly referred to the issue of defibrillators. The situation in this regard needs to be addressed urgently. There is a 21% VAT rate on defibrillators, which is unfair. Many voluntary and community groups raise money to buy defibrillators, but they are penalised with VAT. I urge the Minister to remove the VAT on defibrillators.

I am disappointed that the Cork docklands development has not been included in the provisions of the Finance Bill. We were told by the Minister's colleagues in Government who are from Cork that it would be included. We were told previously that it would be included in the budget provisions, but that did not happen. Tax breaks are essential for this critical project. I appeal to the Minister, Deputy O'Dea, to return to the Minister for Finance and the Minister for Enterprise, Trade and Employment, Deputy Martin, to urge them to include tax breaks for Cork. Howard Holdings published its plans for the docklands this week which propose significant innovative regeneration for the city. We need further debate on balanced regional development with an emphasis on Cork as our second city. Cork is losing out as a result of the access from Dublin to Belfast. We need to redress the imbalance. I know I will be told that EU regulations restrict this but I think that is a red herring introduced because of the failure to make the required provisions in the Finance Bill.

I thank the Chair for the opportunity to speak on this. I hope those of us who seem critical of the economy are not seen as talking it down. As Senator Kelly said, pointing out the errors of the Government's ways does not mean we are talking it down, rather, we are pointing out the errors of the Ministers' ways.

Senator Jim Walsh: Ar an gcéad dul síos ba mhaith liom fáilte a chur roimh an Aire Cosanta, an Teachta Willie O'Dea, go dtí an Teach chun an Bille tábhachtach seo a phlé. Undoubtedly, although the Opposition may be slow to acknowledge this, around the world the economic fortunes of Ireland are seen to have improved beyond all expectations over the past ten to 15 years. Most economists were caught unawares by the significant growth patterns we achieved.

We are now entering choppy economic waters globally. There is a domestic aspect to this also in that our construction industry, which in recent years was a driver of growth rates, was primed strongly. This is no longer sustainable and we have now come to a downward spiral in that regard. This is not to say it is coming back to more realistic levels. Many of us would have argued some years back, when there was a reduction from the 10% and 11% growth we experienced at one stage in the early part of the decade, that it was not sustainable and that all infrastructure was coming under stress and strain as a consequence. The move we are experiencing now is a challenge and must be managed. We will do that from a position of having created a much stronger wealth base than the country has ever seen.

I was taken by the comment made by Senator MacSharry about the currency situation. This is one of the issues which impacts on economic growth, not just here but across Europe. The dollar is still a strong currency used as a barometer and financial tool for business in many industries. Europe showed, particularly 15 to 20 years ago before we got the common currency of the euro, that the economic and monetary union worked very effectively. We had a basket of currencies which, through certain disciplines, were able to fluctuate within certain well-defined bands. I am not sufficiently expert in this area but it strikes me that this system might be a model that could be applied to a global basket of currencies, such as the dollar, the euro, the yen and perhaps the yuan. An international effort should be made — perhaps the European Union could be the vehicle that would pursue this — to see if we can remove what is a risk factor in conducting business which is outside of the control of all businesses and is really an issue of market forces. While market forces in the main can be good, robust and healthy for business, sometimes they need to be tapered. Perhaps that could be done in this instance.

I agree fully with the comments made by Senator Quinn with regard to philanthropy. There is a compelling case to be made for charitable donations to be exempt from taxes. Certain very wealthy people, some of whom are tax exiles, get considerable credit for being philanthropic. I am much more taken with those who remain resident in this country, pay their taxes and still make their contributions to philanthropic causes. This should be equally recognised.

In his speech, the Minister underlined the tax equity that has taken place over the past decade in bringing in people who possibly escaped the tax net because of various tax avoidance schemes. It is a welcome development to see that the top 1% of income earners pay 25% of the income tax. The Minister said that this is up from 15% in 1997. The Minister and Senator Hanafin spoke about developments affecting the single worker. I remember that the tax wedge was a major issue when I entered these Houses. The tax levels deducted from people were an impediment to them doing overtime or any sort of additional enterprising activity. It also succeeded in putting people into the black economy.

Other measures I welcome include the continuation of the business expansion scheme seed capital fund and the research and development tax credit, which is a major area for investment and which will be a driver of the economy going forward. There is quite a long time-line in respect of getting the benefits from it. The Ministers for Education and Science and Enterprise, Trade and Employment, who spearheaded the importance and recognition in this area and came together to get a package of investment in the area, deserve commendation.

I will make some suggestions. Mortgage interest relief should be allowed at the marginal rate for purchasers of new homes. It is an anomaly that people who invest in section 23 properties and other such schemes can get relief at their marginal rate of 41% while those buying their first home cannot avail of that.

There is a case to be made for abolishing the 20% surcharge on undistributed profits in closed companies because it is anti-enterprise. There is a real need to exempt children from inheritance tax. It is only exempt between married couples. There is also a case for looking at exemption in the case of siblings where the threshold is very low at just over €40,000. Other groups are now looking to get the benefits that married couples have. It would be incongruous to think that children would be put in a prejudicial position in that regard. I am saying this from the point of view that if one leaves the wealth with the people, they will employ it more productively in assisting the economy than the State.

The Department of Finance is failing to tackle the large amount of what some would call waste across the public service. Up to €4 billion is being wasted annually. A colleague who works in the public service told me recently that he reckons that the amount is double that. One of the great successes that was initiated was the National Treasury Management Agency. We should have a national public expenditure cost efficiency agency to tackle this area. If we can generate savings from the waste we all see throughout all sectors of the public service, we will have the money to invest in areas which will prime the economy in a focused way that will increase the growth we seek to achieve.

Senator Pearse Doherty: Cuirim fáilte roimh an deis labhairt ar an mBille Airgeadais 2008. Níl dabht ar bith ann nach bhfuil eacnamaíocht na tíre seo chomh láidir is a bhí sé sna blianta atá thart. Dá bhrí sin, is am oiriúnach é seo chun an díospóireacht seo a bheith againn.

I welcome the opportunity to speak about the Finance Bill. There is no doubt that we have entered a time of economic uncertainty. The slowdown in the construction sector has become even more pronounced. We have seen that the rate of unemployment rose to 5.2% in February, which represents the highest number of people signing on since August 1999. On Monday, the Central Statistics Office revealed that employment in the construction sector has fallen by more than 10% in the past year. Even the Taoiseach now accepts what many of us have known for quite some time, namely, that the economy is facing much more challenging times. We have also seen a string of job losses in recent months. These include three companies that closed down in rural Ireland, one of which, Contact 4, shed 34 jobs in my parish of Gweedore, 36 in Achill and 38 in Dingle. A total of 108 jobs were lost in rural Ireland in one day.

The economic difficulties we now face were in part avoidable. The Government failed to address the issue of declining competitiveness. Under this Government, the construction sector was allowed to become overinflated and the economy was allowed to become overly reliant on it. There has been a clear absence of intervention to retain vulnerable workers, especially in the construction sector where, according to the Higher Education Authority, 80,000 workers have only second level education.

The vulnerabilities in the economy and their implication for public finances have long been clear. There was a recognition that a likely decline in the property sector would have serious implications in terms of tax take. That is why Sinn Féin argued in the run-up to the general election that the Government could not afford to cut taxes and maintain, let alone improve, public services and provide essential infrastructure. That is why proposals from the Government parties were deeply irresponsible. Time has shown that Sinn Féin's analysis was correct, that the Government parties' analysis was wrong and that they were out of touch with the economic realities that were clear to be seen. I believe they deliberately did this to hoodwink the public in the run-up to the general election.

The Government's failure to plan for the future of the economy no doubt will have serious consequences for the Exchequer. Revenues across a range of taxes are down while the burden on the social insurance fund is set to rise as a consequence of an increased number of redundancies and a growing level of unemployment. We see that receipts for January and February, which were 8% lower than those for last year, were €516 million below the tax target set for the first two

[Senator Pearse Doherty.]

months of this year. In two months, we have already seen a deficit of €516 million so we can understand and appreciate the implications of how this will expand over the rest of the year. The consequence of all this for the ability of this State to meet public spending demands is a matter of serious concern. The social insurance fund needs to be able to cope with these increased demands. For that reason, it is crucial that there are no cuts in PRSI contributions.

There are measures in this Bill that are to be welcomed. While Sinn Féin welcomes the new measures to tax the profits of oil, gas and mineral exploration companies, we believe they do not go far enough and that we need to implement a revenue structure more in line with that which exists in countries such as Norway and other states which have benefited greatly from the exploitation of their natural mineral resources.

We are also concerned about the fact that this tax will not apply to exploration licences granted before 2007. We saw how, in the run-up to 2007, there was a significant increase in the number of licences granted to such companies. These licences will not meet this criterion to be subject to this tax measure.

Sinn Féin welcomes the overdue reduction in the rate of VAT for non-oral contraceptives from 21% to 13.5%. Such a reduction should also be applied to defibrillators. My colleague, Deputy Arthur Morgan, moved an amendment to this effect in the Dáil. This change would ensure that a life-saving piece of equipment becomes more affordable for sports clubs and organisations throughout this State.

Sitting suspended at 1.30 p.m. and resumed at 2 p.m.

An Cathaoirleach: Senator Doherty has three minutes remaining. As he is not present, I call Senator Burke.

Senator Paddy Burke: I welcome the Minister, Deputy O'Dea, to the House. In his speech the Minister stated:

Section 122 amends the stamp duty regime for owner-occupiers who benefit from preferential stamp duty rates so that they are liable to a claw-back of relief if they let the house in the five years after purchase. This is being reduced to two years [I welcome that]. In addition, in respect of first-time buyers, an anti-avoidance provision is being introduced to address certain abuses that have come to light.

In the past ten or 15 years people found they were in breach of tax regulations and were required to pay back tax and in some cases very hefty penalties, which might have exceeded the original principal. People with money in accounts with foreign addresses or in accounts they did not declare paid large penalties. I ask the Minister to

spell out the type of avoidance that is taking place which gives rise to the change in section 122 as he stated that "an anti-avoidance provision is being introduced to address certain abuses" within that section. We do not want to have another revelation in ten years' time whereby we might need to go back over certain abuses again. It should be spelt out clearly for the people who may be abusing the system without being aware and this is an opportunity for the Minister to do so.

The Minister outlined certain guidelines regarding tax administration, particularly increasing the existing surcharge of 10% to 20%, which is a very large increase and heavy handed. In recent years the Revenue Commissioners have been applying the regulations to the letter of the law. We are now seeing a 10% increase in a surcharge. People who unknowingly abused the system were required to pay large sums of money, in some cases considerably more than the original principal. Going from 10% to 20% will increase it further. If the Minister has some other view on the matter, he should outline it to the House.

As previous speakers have said there is a downturn in the economy. Job losses and unemployment rates have increased. The unemployment rate has reached 5.2%, a significant increase in the past 18 months. Small businesses are under pressure given the environment in which they operate. The majority of small businesses are in the services industry. The stealth taxes include rates, water and sewerage charges, parking charges and others. There are major problems for small industries and particularly in the services sector. It should be streamlined where possible.

Local authorities will be also under serious financial difficulties if they keep going down the road they are. In recent years they have received considerable funding from development charges. With the decrease in the number of houses being built the amount of money coming into the local authorities' coffers will decrease significantly. My local authority, Mayo County Council, has applied a large increase to water and sewerage charges. The refuse system in the area is privatised. Business people are paying more than €10 per 1,000 gallons, which is a major cost for any business and particularly for small businesses. The pharmaceutical company, Baxter, in Castlebar is a large user of water. Given that the water and sewerage charges are applied on a water-in water-out basis, this is significant for any big employer, like Baxter. The local contribution, which in most cases now is 20% to 30% whether it is a small sewerage scheme or a small water scheme or an extension to mains drainage, is a significant cost for local authorities. The business community is required to pay for the commercial end of it. There will be serious problems down the road.

Some of the chickens are coming home to roost. In the past ten years the Government wasted €1 billion on the "Bertie bowl", PPARS and other projects. If that money were in the

system, as Senator Twomey has said, we would have completed at least one interurban route.

IDA Ireland has outlined the difficulties in attracting investment. However, it has had some significant gains also. In the past ten years IDA Ireland created 48 jobs in my county, Mayo, which is the third largest county in the country, which tells its own story. It indicates that the Government is certainly not delivering to County Mayo, as was made clear in the reply to a parliamentary question tabled by Deputy Kenny which stated the IDA Ireland created 48 jobs in County Mayo. We are not getting our fair share. I notice there is an announcement nearly every month in the Cork region, which shows that a Minister brings a certain amount of weight to the area he is from. I heard Senator MacSharry raise an issue in regard to Sligo on the Adjournment debate last night. If the Government is serious about delivering to every area, it should also consider this one.

Minister for Defence (Deputy Willie O'Dea): I sincerely thank Senators for their comments and will try to address each of them as best I can.

First, however, I want to outline to the House the economic context of the legislation. The Bill is being presented against the backdrop of more modest growth in the Irish economy. As is well known, this reflects the significant reduction in house-building activity we are currently going through in terms of adjusting towards more sustainable levels of activity in this sector. In addition, it also reflects a more challenging international economic climate. On foot of these developments, the budget day forecasts envisaged that GNP would grow by 2.8% this year. Others have taken differing views with the range for growth extending from 2% to 4%. Regardless of where one is on this scale, this represents a slow-down compared to recent years, but is still a healthy rate of growth compared with our major trading partners.

The more modest economic growth which is in prospect for this year will have implications for the public finances and for the labour market. I would like to briefly elaborate on those. In terms of the fiscal situation, it is clear that our overall public finances remain strong. We have carefully managed the public finances over the last decade and have delivered general Government surpluses in ten of the past 11 years. General Government debt is forecast to be about 26% of GDP at the end of 2008, one of the lowest ratios in the euro area. When account is taken of the build-up of assets in the National Pension Reserve Fund, the debt-to-GDP ratio, net of those assets, is estimated to be around 14% at the end of 2008, which is a historic low.

This year, the budget is based on a general Government borrowing requirement of 0.9% of GDP. Thus, we are planning for some modest borrowing which is prudent as it will allow us to implement the National Development Plan which

will, in turn, enhance our productive capacity and thereby lay the foundations for future improvements in living standards.

Tax revenues are projected to grow by the order of 3.5% for this year. Taxes to the end of February were €516 million or 6.4% below expectations and 8.3% down on end-February 2007. While it is too early to draw any firm conclusions from the first two months' data, the weakness — in particular, in capital gains tax — is of concern. The Department of Finance monitors tax receipts and expenditure on an ongoing basis and as more data become available during the year, any significant changes to the expected Exchequer position in 2008 will be signalled and presented at the end of each quarter.

Turning to the labour market, the rate of employment growth is expected to slow this year. This is a reflection of lower levels of output in the new house construction sector, which is a labour-intensive sector. Overall employment growth is expected to remain positive, however, and a net increase in employment of 24,000 or 1.1% is expected. The strong labour market performance in the final quarter of last year, when employment rose at an annual rate of 3.2%, supports this assessment. While some increase in the unemployment rate appears likely — we are currently seeing this in terms of live register developments — it is expected to remain below the European average.

In terms of wider economic developments, while short-term prospects are undoubtedly more challenging than we have become accustomed to in recent years, it is important to emphasise that our medium-term prospects remain favourable. This is not just the Government's view, it is the view of most economic commentators. Our population is young and dynamic, while the labour force is flexible and increasingly well educated. Sound fiscal policies have enabled us to reduce the burden of taxation on both capital and labour, and to keep public indebtedness low. We also have an efficient regulatory environment. Our markets are flexible, adaptable and responsive to change.

Moreover, as part of the National Development Plan we are investing in infrastructure in order to bring Ireland's public capital stock more in line with that of other developed countries. Within the framework of the NDP, capital spending as a percentage of national income will remain at high levels — both by international standards and as a percentage of national income — for many years to come. We are deepening the skills pool through investing in education at all levels, within the NDP framework. The skills level of the population will become an even more important factor driving living standards in an increasingly globalised economy.

All of these factors will support productivity growth, boost competitiveness and enhance the productive capacity of our economy. In addition, once short-term difficulties are overcome there

[Deputy Willie O'Dea.]

are grounds for optimism regarding housing market developments. This is because the underlying demand for housing remains relatively high, supported by a relatively young population, continued inward migration together with a relatively low per capita housing stock. It is estimated that the underlying medium-term demand for housing is around 60,000 units per annum. This level of activity is equivalent to levels prevailing at the beginning of this decade, which is still fairly high in both historical and international terms. In these circumstances, once confidence is restored to the market, therefore, the medium-term prospects are reasonably solid. In this regard, the stamp duty measures contained in the Bill the Tánaiste announced at budget time should underpin this confidence.

It must be also recognised that other parts of construction continue to perform well, especially spending on infrastructure under the continued roll-out of the NDP. Outside construction, other sectors of the economy are performing well. Services exports have recorded annual growth rates of around 10% in each of the past five years, with exports of financial services, computer and business services recording particularly strong growth. As a result, services exports now account for nearly two-fifths of total exports and Ireland is now the fifth largest exporter of commercial services in the world — an astounding figure for an economy of our size. The shifting of resources into internationally traded, high value-added services reflects the next phase of development for the Irish economy. In an increasingly globalised economy, internationally traded services will become the main source of highly-skilled, high-paying employment and this is where Ireland's competitive advantage will be. With the exception of the new house building sector, the headwinds into which our economy is now facing are external in origin. We cannot change these; instead, we must build on our strengths in order that we are in a position to benefit from the global recovery when this emerges.

Full implementation of the programme of investment in infrastructure and education under the NDP is an important first step. Maintaining flexibility, prudent management of the public finances and the promotion of a pro-business environment with a low burden of taxation are also crucial. A shared sense of understanding, as embodied in the consensus approach to policy formation, is important too.

The benefits of this approach are clear and the facts speak for themselves. Since 1997 the economy has grown at an average annual rate of more than 7%, one of the best economic performances in the world. Annual employment growth has averaged 4% since 1997, with the number of people at work rising by nearly 700,000 over this period. Immigration has replaced emigration. Economic success has enabled us to improve public services without putting a strain on the

public finances. Our ratio of public debt to GDP remains one of the lowest in the euro area. We have developed a substantial export sector, particularly in knowledge-intensive sectors such as IT, chemicals and financial services. In summary, therefore, it is clear that this Government is best placed to address short-term economic challenges and that the economy is doing so from a position of strength. The fundamentals of the Irish economy are strong as a result of key policies implemented by this Government.

I will now address a number of points that have been raised by Senators. Senator Twomey said the Government was introducing new tax incentive schemes without any appropriate cost-benefit analysis study. This is simply not true. In budget 2006, the Tánaiste made it clear that any proposals for the introduction of new special incentive reliefs should, as far as appropriate, be time-limited and be subject to an assessment of costs and benefits prior to their introduction. Since then, the mid-Shannon scheme was subject to an independent cost-benefit analysis before it was introduced, and the film relief scheme was subjected to an independent cost-benefit analysis before it was extended. Therefore, the Senator's assertion that no cost benefit analyses are being conducted is simply not true.

Senator Twomey also raised the issue of the capital gains tax exemption where a parent gives a site to a child to build a house. The Bill provides for an increase in the exemption threshold from €254,000 to €500,000 and this reflects the substantial increase in the value of building sites in urban areas. In rural areas, the problem of acquiring sites in family situations is not as problematic and there are no plans to expand the current provisions. The changes introduced in the Finance Bill can be regarded as pro-family. They allow parents and their children to live close to each other, which will help people in urban areas to secure houses in their home neighbourhoods.

Senator Twomey also alleged that this Bill was doing nothing for business, whereas in fact there are a number of measures which support business. For example, section 24 finalises the legislation, already provided on a temporary basis, for the revised seed capital and business expansion schemes. Having been approved by the European Commission under state aid rules, these schemes will now be available to support innovative enterprise up to the end of 2013. In addition, we are providing a further ten-year look-back period from 2014 onwards.

There also has been a substantial increase in the VAT registration threshold and in the threshold for payment of corporation tax. These measures will simplify the regime for business and make the transaction of business easier. There are a number of other measures in the Finance Bill which benefit businesses. The Finance Bill enhanced the existing research and development tax credit scheme by extending the current base year of 2003 for a further four years to 2013,

which is an increase over the current six years. I have already mentioned what will happen after that.

The Finance Bill contains provisions, in section 31, aimed at reducing CO₂ emissions from vehicles used for business purposes by directly linking the level and availability of capital allowances to CO₂ emissions. This will be done by restricting or removing the amount of tax relief available for high CO₂ emission vehicles while increasing the relief for certain low CO₂ emission vehicles. This should act as an incentive to business to purchase or lease lower emission vehicles. The changes will also apply to leasing expenses on business vehicles, thus ensuring businesses will get the same benefits as private individuals.

The Bill introduces measures to reduce administrative red tape for companies by negating the requirement to estimate the amount of preliminary tax due in the current year. This is done in two ways: by an increase of €50,000 in the small company tax liability threshold from €150,000 to €200,000, and by companies opting to pay preliminary tax on the basis of 100% of previous year's liability rather than 90% of the current year's liability. The changes cover an additional 550 companies out of an estimated 2,700 companies who do not have the small company option. It is estimated that 97% of companies have the small company option. The new company threshold was increased by €50,000 from €150,000 to €200,000. The Finance Act 2007 relieved these companies of the obligation to pay preliminary tax in their first year of operation.

The Bill introduces a new incentive based on accelerated capital allowances aimed at supporting investment by companies in new energy efficient equipment. It follows from work undertaken by consultants on behalf of Sustainable Energy Ireland which suggests a role for Government intervention in providing supports to businesses to incentivise investment in energy saving technologies. The incentive will assist in improving companies' cost competitiveness and should lead also to a reduction in overall energy demand and help reduce carbon emissions. The incentive is being restricted to companies to contain Exchequer costs while seeking to change behaviour in this area. It should be viewed as a pump-priming exercise. It is proposed to limit its operation to three years. It is hoped that over time companies, business and people generally will see the ongoing value of investing in energy efficient equipment in terms of improved economic returns for them and environmental benefits for society in general.

The Bill also provides for an extension of capital allowances to camping and caravan sites to encourage this sector of tourism. Senator Twomey criticised measures taken in respect of income tax. The tax treatment of employees in Ireland compares favourably with the treatment of employees in all other OECD countries. New data from the OECD which have become avail-

able in the past fortnight highlight the low tax burden faced by workers in Ireland. These data indicate that a married, one income couple on average earnings and with two children continues on the lowest average tax rate in the entire OECD. For the sixth consecutive year, when cash benefits from the State are taken into account, such families face a negative tax burden, receiving more money in cash transfers from the State than they pay in income tax and social security contributions.

In addition, for a single person in receipt of the average wage, Ireland continues to have the lowest tax wedge in the EU and one of the lowest in the OECD. A low tax wedge makes it easier for employers to take on new employees. The fact our unemployment rate is one of the lowest in the EU is no coincidence. These figures do not take account of the further improvements made in the budget for 2008.

Senator Quinn mentioned tax reliefs for philanthropy. The Senator will be aware that section 848A of the Taxes Consolidation Act 1997 provides for tax relief at the marginal rate on donations made by individuals or corporate bodies to eligible charities and other approved bodies including, first and second level schools and third level institutions, including universities. This is a generous scheme by any standards. Following the introduction of the restriction on the use of tax reliefs by high income individuals in the budget for 2006, the Tánaiste received a number of representations on the inclusion of the donations scheme on the list of reliefs to which the measure applied and carefully considered the arguments put forward. The issue was also discussed in some detail in the Dáil on Committee Stage of the Finance Act 2006. The views of political parties were divided on the issue. The Tánaiste decided that, on balance, the donations scheme should remain on the list.

Removing the scheme from the specified reliefs list would reduce the effectiveness of the restriction, the aim of which is to increase the effective tax rate of those on high incomes towards 20%. Given that the proportion, even of high income individuals, who are affected by the restriction is relatively small, it is expected that the socio-economic objectives of the donations scheme will still be met. In addition, where relief under the donations scheme has been denied in any one year as a result of the restriction, it can be carried forward to the next year and following years, if necessary.

Senator Twomey also referred to the changes to the scheme of capital allowances and leasing expenses for business cars and sought to link this to Ministers who in some way should be liable for costs in this area. I should clarify that the scheme referred to is a relief for business and has no application to Ministers or private individuals. The scheme is being amended to restrict tax relief for high CO₂ emitting vehicles while rewarding business with higher reliefs for purchasing lower

[Deputy Willie O'Dea.]

cost, lower CO₂ emitting vehicles. These are appropriate policy aims. This incentive is aimed at supporting investment by companies in new energy-efficient equipment. It follows from work undertaken by consultants on behalf of Sustainable Energy Ireland, SEI, which suggested a role for Government intervention in providing supports to businesses to incentivise investment in energy-saving technologies. The incentive will assist in improving companies' cost competitiveness and should lead also to a reduction in overall energy demand and help reduce carbon emissions. The incentive is being restricted to companies to contain the Exchequer costs while seeking to change behaviour in this area. It should be viewed in the nature of a "pump-priming" exercise and it is proposed to limit its operation to three years.

The Green Paper on pensions published last year and currently undergoing a period of public consultation sets out the range of challenges facing us in the pensions area including, the advantages and disadvantages of extending the flexible approved retirement fund option available to some and not to others. It has begun the debate on the options we should take over a range of pension related issues. Whatever decisions are taken must be made in an integrated and planned way and not in a piecemeal fashion. This is what the Government, in conjunction with the social partners, intends to do.

Questions were raised in respect of VAT rates in Ireland. Having regard to the claim that Ireland operates a high level of indirect taxes, specifically VAT, I point out that Ireland operates a zero VAT rate and a reduced VAT rate which, in terms of the range of goods and services to which these rates apply, compares favourably with other member states. On Ireland's standard rate of VAT of 21%, I note that the level of the standard rate across the EU ranges from 15% to 25% and averages at a level of 19.5%.

On the increase in the price of oil, the excise yield does not increase as the price of oil increases as excise is set at a nominal amount. On the other hand, the yield from VAT, as VAT is set as a percentage of the price, increases as the prices of fuels increase. It should be borne in mind in this regard, however, that to the extent that spending in the economy is reallocated to petrol and other oil products and away from other VAT liable spending and to the extent that the overall level of economic activity is reduced by higher oil prices, there may be little or no net gain to the Exchequer.

ECOFIN has at various times during the past two years considered increasing oil prices. It has concluded that reducing excise duties on fuels was an inappropriate policy response to increasing oil prices. Excise rates on petrol and auto-diesel in Ireland are around the EU average and

are lower than many of our main competitor countries, in particular the UK.

The Tánaiste has used the tax system to promote environmental policies. Measures introduced in recent years include excise relief for bio-fuels of more than €200 million over five years from 2006. This will contribute towards meeting the 5.75% transport fuel market penetration by bio-fuels by 2009 and stimulate activity in the agricultural sector. Other measures are the inclusion of recycling companies in BES seed capital schemes from 2007 and tax relief for corporate investment in renewable energy. The Bill also provides for significant reform of the VRT system to take account of CO₂ emissions and introduces tax initiatives for energy efficient equipment. It provides also for a reduction, from 21% to 13.5%, in the VAT rate applicable on certain supplies used for the agricultural production of bio-fuels. In addition to the incentive provided in the bio-fuels excise relief schemes in the budget for 2007, the Tánaiste provided funding for a national top-up of the EU energy crop payment from €45 per hectare to €80 per hectare. This payment is operated by the Department of Agriculture, Fisheries and Food and provides farmers with a further incentive to grow energy crops.

The VAT treatment of goods and services is governed by EU VAT law with which Ireland must comply. As for the VAT rate which applies to defibrillators, under the VAT directive, member states may retain the zero rates on goods and services which were in place on 1 January 1991 but cannot extend the zero rate to new goods and services. The zero VAT rate therefore cannot be applied to defibrillators which are subject to the standard rate. As for the application of reduced VAT rates, such rates may be applied only to those goods and services which are listed in annex III of the VAT directive.

In the case of medical equipment, the VAT directive provides for the reduced VAT rate to be applied to medical equipment for the exclusive personal use of a disabled person. However, it is not possible under EU VAT law to apply a reduced rate to defibrillators for general use. Therefore, the reduced rate cannot be applied to the supply of defibrillators. Exemptions from VAT are also governed by EU law and under the VAT directive we are not permitted to exempt the supply of defibrillators. Therefore, the only rate of VAT that can apply to the supply to defibrillators is the standard VAT rate, which is 21% in Ireland.

Senator Kelly said that we need to focus on high value added sectors such as financial services. The Bill contains a number of measures aimed at supporting financial sectors where Ireland is a market leader such as banking and treasury, funds management and insurance business.

Senator Kelly also referred to privatising hospice care. The Tánaiste was careful in ensuring

that the section providing for capital allowances for capital expenditure on specialist palliative care units specified that the pre-approval of any proposed development in this area by the HSE with the consent of the Minister for Health and Children is a prerequisite in order to benefit under the scheme. This means that any proposed development which seeks to avail of the approval of the HSE and the Minister for Health and Children must be in line with the plans and needs assessment of both those organisations for the development of palliative care facilities in the State. By putting this pre-approval in place, we can ensure that existing voluntary services will not be undermined through competition. Senators will be aware that representatives of the Voluntary Hospice Managers Group are in support of this scheme and have publicly made the point that the Opposition has got the wrong end of the stick in its criticism of it. What is intended by this scheme is to ensure that it will help with the planned development of necessary palliative care facilities in the State in order to bridge the gap between supply and demand for these facilities in certain parts of the country.

Senator Kelly mentioned extending tax relief for donations to charitable organisations to tidy town organisations. I point out that a number of tidy town organisations already enjoy charitable tax exempt status, the first of which was approved some 20 years ago.

Senator Boyle mentioned issues around human rights organisations gaining access to the charitable donations scheme. I point out that certain human rights bodies can already avail of the tax exemption provisions of section 209 of the Taxes Consolidation Act 1997. They can also qualify for the donations tax relief scheme under section 848A. However, these sections only cover bodies for the promotion of the Universal Declaration of Human Rights and the implementation of the European Convention for the Protection of Human Rights and Fundamental Freedoms. To qualify under this provision a body must have consultative status with the UN or the Council of Europe. The position is, therefore, that human rights bodies, *per se*, do not currently qualify for charitable tax exemption status. This is a policy of long standing and relates to issues around their role in political advocacy, which traditionally has not been regarded as a charitable activity.

Senator Boyle raised the issue of the provision that is being introduced to deal with the break up of farm partnerships and suggested that the issue of the break up of married couples and other couples needs to be examined in the future. The Tánaiste and Minister for Finance has mentioned previously that in regard to the tax treatment of cohabiting couples, the Working Group Examining the Treatment of Married, Cohabiting and One-Parent Families under the Tax and Social Welfare Codes, which reported in August 1999, was sympathetic, in principle, to changes in the tax legislation to address the issues raised relating

to cohabiting couples and it concluded that the options that it set out should be considered further. However, it acknowledged in regard to the tax treatment of cohabiting couples that a key issue is whether tax law should proceed ahead of changes in the general law.

This Bill introduced a number of measures aimed at assisting the ICT industry. Section 50 enhanced the existing research and development tax credit scheme in the ways I already mentioned. Section 47 reduces administrative red tape for companies by changing the definition of a small company for corporation tax purposes and other purposes. In addition, companies engaged in the ICT sector can avail of the pro-business measures introduced in the Bill. These measures include the availability of capital allowances for business which are aimed at reduce CO₂ emissions.

Senator Buttimer referred to Cork Docklands. He criticised the Tánaiste for not including tax incentives for the project in this Bill. The Tánaiste, when introducing Second Stage in the House reiterated his recent comments on the use of tax incentives for the development of Cork Docklands. As the Senators may recall, he stated that the Cork project is at the beginning of a process of evaluation and that we would need to assess how best to devise proposals that would meet with European Commission state aid requirements. He went on to say that the docklands is an exciting project, but at this stage it is still very much a work in progress. He also indicated that an early announcement may not assist in clarifying some of the outstanding issues that have yet to be resolved between the various stakeholders. He said that the Cork Docklands Forum is expected to report by the middle of this year and that he remains open to examining ways in which the tax code can be used creatively to encourage investment and change behaviour.

It should be noted that the Tánaiste appreciates that, due to its unique location and potential, the regeneration of Cork Docklands is both a regional and a national priority. However, it should be borne in mind also that any decision to provide tax incentives for any specific location such as the docklands must take a number of factors into account such as the overall policy context underpinning the provision of tax incentives as previously set out by the Government; the general economic situation in the State; the position of the property market nationally and regionally; and the overall Exchequer position and the amount of taxation that would be foregone though any such incentive.

In regard to sales of alcohol, I assure the House that the Government is as concerned as anyone regarding the availability of alcohol and the problems to which it gives rise. Senators will be aware that the Government alcohol advisory group, recently established by the Minister for Justice, Equality and Law Reform, is examining, among other things, the increase in the number of super-

[Deputy Willie O'Dea.]

markets, convenience stores and petrol stations with off-licences, and the manner and conditions of sale of alcohol products in such outlets. The group has invited submissions from the public and is required to report to the Minister for Justice, Equality and Law Reform by 31 March 2008. The group is examining the issue of off-licences. The Tánaiste will therefore await the group's conclusions and make any necessary legislative changes in the Finance Bill next year.

Senator Burke raised the question of the increase in the surcharge from 10% to 20%. I do not have note on this but I understand it is an incentive measure. If a person sets up a system to avoid paying tax and if the scheme fails, that person is penalised for setting up the scheme in the first place by the imposition of a 10% surcharge, namely being liable for the payment of 10% extra of the tax that is ultimately found to be due. If the person challenges the decision, there will be a change in the balance of proof. The onus in that respect will be on the person, if the tax inspector could have come to his conclusion reasonably. That would make it difficult for the person to succeed in the event of an appeal. This can be avoided if the person issues a protective notification to the Revenue Commissioners in advance advising of his or her intention, or if he or she does so within 90 days of putting the scheme in place. To encourage people to give such notification, the surcharge has been increased from 10% to 20% in the event of failure to notify the Revenue Commissioners in advance. If a person gives such advanced notification to the Revenue Commissioners, they have an obligation to take a decision on whether this is a tax avoidance mechanism within two years. In other words, a decision must be made in that timescale. The Senator also raised another matter of tax avoidance by first-time buyers—

Senator Paddy Burke: Yes, I asked about the type of abuses that have taken place.

Deputy Willie O'Dea: I will get the data on that and forward it to the Senator.

I thank the Senators for the constructive debate we have had and I hope I have addressed some of the points raised by them.

In accordance with Standing Order 131, I request the Cathaoirleach to direct the Clerk to make two minor corrections to the Bill which are of a formal or verbal nature. In section 24, page 32, line 7, the reference to "section 496(2)(xii)" should read "section 496(2)(a)(xii)" and in section 43, page 67, line 30, to delete "(ii)".

An Cathaoirleach: I will so direct the Clerk to make those changes in accordance with Standing Orders.

Question put and agreed to.

Committee Stage ordered for Thursday, 13 March 2008.

Sitting suspended at 2.40 p.m. and resumed at 3.30 p.m.

Passports Bill 2007: Committee Stage.

Section 1 agreed to.

SECTION 2.

Senator Alex White: I move amendment No. 1:

In page 4, line 11, after "2004" to insert the following:

"or the corresponding provision of any statute repealed by that Act".

This is a technical amendment. I understand the Minister of State has received advice on this and that he spoke about it in the other House. However, if the corresponding section is not amended in the way proposed, there is a risk that birth certificates issued prior to the Civil Registration Act 2004 might be open to question. There was some suggestion that the Minister of State might return to this issue. It is a straightforward amendment that would obviate the risk of problems arising in future. It would be of assistance to the Minister of State to deal with that risk now by way of this amendment.

Minister of State at the Department of Foreign Affairs (Deputy Michael P. Kitt): I understand the point the Senator is making. However, I have been advised by the Office of the Attorney General that this amendment is unnecessary because the Civil Registration Act already provides for the issue raised. Section 5(1) of that Act provides that in so far as any certificate issued under any enactment repealed by section 4 of the same Act could have been issued under a corresponding provision of the Act, it shall not be invalidated by the repeals effected by section 4 but shall have effect as if issued under that corresponding provision. Accordingly, it is not necessary to provide a saver in respect of certificates of birth issued under any legislation prior to the 2004 Act. The amendment is unnecessary and I do not propose to accept it.

Amendment, by leave, withdrawn.

Amendment No. 2 not moved.

Section 2 agreed to.

Section 3 agreed to.

SECTION 4.

Question proposed: "That section 4 stand part of the Bill."

Senator Maurice Cummins: I am not sure whether the point I wish to raise is relevant to this particular section. My son and some of his friends came to Dublin last week to process their applications for a J1 visa. They encountered no difficulties and submitted their passports to the United States Embassy as required. However, one of them had travelled from Cork on a Ryanair flight and because his passport was no longer in his possession, he was refused permission to board the internal return flight to Cork.

This is an abuse of the passport requirement for air travel. Ryanair staff were willing, as a last resort, to accept a driver's licence but this young man does not have one. The forms of identification he could offer, a student identification card, Garda identification card and international student card, were not acceptable. Such types of identification should be sufficient to travel from one city to another within the State without the requirement of a passport. I am not sure whether this issue might be dealt with in the regulations provided for in section 4.

Senator Ann Ormonde: I agree with Senator Cummins. We have had many examples of this. It is something that might be dealt with in the regulations, although not necessarily under this section. It is only right that people should be facilitated in the context of internal travel arrangements.

Deputy Michael P. Kitt: This section deals with the regulations, as Senator Cummins observed. However, these are not State regulations and requirements but simply the conditions laid down by the airlines. This was raised on Second Stage in both the Dáil and Seanad. Senator Keaveney, for example, spoke about people being questioned as they came off the Belfast to Dublin train. This section does not deal with that and there is no State requirement in this regard. We all should contact the airlines to make our views known. There is a difficulty in that some people do not have a driving licence. This is an issue we could raise with the airlines.

Senator Maurice Cummins: I welcome the Minister of State's comments. It is an issue that should be reviewed. It makes no sense that a person with three forms of identification cannot get home from Dublin to Cork. It is a ludicrous situation. I hope there is some follow-up on this.

Question put and agreed to.

Section 5 agreed to.

SECTION 6.

Senator Maurice Cummins: I move amendment No. 3:

In page 6, subsection (1), line 4, to delete "may" and substitute "shall".

My colleague, Deputy Timmins, tabled a similar amendment in the other House. There is no reason passports should not be issued at birth as is the case with birth certificates. Cattle, sheep and even donkeys seem to be assigned passports at birth and it would be of great administrative benefit if the same were true for people. We all are aware of the difficulties in Chad where children were exported or transferred to France where no one could identify them. I do not suggest that such a situation could arise in this country but automatically issuing passports at birth would be of assistance where any such eventualities might arise. I ask the Minister of State to consider the amendment as it would do nothing but good.

Deputy Michael P. Kitt: Section 6(1) of the Bill gives a citizen of Ireland the right to apply for a passport. Section 6(2) requires applications to be made in a certain form and to be accompanied by certain information and documents. In other words, a citizen can choose whether to apply for a passport. If he or she chooses to apply, the application must satisfy a number of mandatory requirements. If I were to accept this amendment, I could make it mandatory for a citizen to apply for a passport. I cannot agree to include such a provision in the Bill. While citizens have a right to hold a passport, they are not and should not be obliged to apply for one.

Senator Maurice Cummins: I disagree with the Minister. Passports should be issued at birth. It would solve many administrative problems later. I will not press the amendment.

Amendment, by leave, withdrawn.

Section 6 agreed to.

Sections 7 to 11, inclusive, agreed to.

SECTION 12.

Senator Maurice Cummins: I move amendment No. 4:

In page 9, subsection (1)(c), to delete line 8.

Will the Minister of State give examples of conduct that is, in the words used in the Bill, "contrary to the common good" which may lead to the refusal of a passport? I suggest the term "common good" covers a multitude of forms of conduct. It smacks of the approach that was adopted in the Soviet Union in the past and is being adopted in China at present. If people go abroad to criticise the State or the Government, will they be perceived as behaving in a manner that is contrary to the common good? Such a view is adopted in some countries. People in Burma-Myanmar are not allowed to travel abroad if there is a possibility they will criticise that country's Government. I hope such a measure will not be introduced in this country. What does the

[Senator Maurice Cummins.]

broad phrase “contrary to the common good” mean? I suggest that it be omitted from the Bill because it is not necessary.

Senator Ann Ormonde: When I read the Bill, I did not like the use of the term “contrary to the common good” because I thought it had broad connotations. It is too broad for my liking. I would like to hear the Minister of State’s views and comments on the matter.

Senator Alex White: I agree with Senators Cummins and Ormonde on this issue. The phrase “contrary to the common good” is not unknown to the law. It is used by the legal authority to which the Minister of State referred. The term is capable of extraordinarily wide interpretation. The phrase “contrary to the common good” is used in section 12 which sets out the circumstances in which the Minister, to quote the Bill, “shall refuse to issue a passport to a person”. Section 12(1)(c) provides that a passport may be refused to someone if:

[T]he person would be likely in the opinion of the Minister, after consultation, where appropriate, with the Minister for Justice, Equality and Law Reform or the Minister for Defence or both, to engage in conduct that—

- (i) might prejudice national security or the security of another state,
- (ii) might endanger public safety or order,
- (iii) would be contrary to the common good, or
- (iv) might endanger that person or others.

I have quoted that section to draw the attention of the House to the other categories which, correctly, are quite specific. One can understand why section 12(1)(c)(i), (ii) and (iv), which are quite clear, have been included in the Bill. Section 12, which sets out the Minister’s important role in refusing a passport, provides for three specific sets of circumstances in which a passport “shall”, to quote the Bill, be refused. The fourth set of circumstances in which a passport “shall”, to quote the Bill, be refused, namely, conduct that is, to quote the Bill, “contrary to the common good”, is set out in section 12(1)(c)(iii). Senator Cummins rightly argued that this provision is quite wide.

I do not suggest the Minister of State or his colleague, the Minister for Foreign Affairs, would use this wide net for any nefarious or improper purposes. However, we make laws not just for the current Minister but for the future of the State. This is an important Bill because it represents the first time we have codified passport law into legislation. This Bill might be regarded as a safety net. Each of the other three provisions in this section, section 12(1)(c)(i), (ii) and (iv), is covered by using the term “contrary to the common good”.

I am tempted to conclude that section 12(1)(c)(iii) has been included in the legislation because officials are concerned that something which is not envisaged at this point might arise in future. Perhaps it has been decided that a broad provision of this nature needs to be included to allow us to act in circumstances which are not contemplated at present.

Another possible explanation of this measure is that the Minister of State has a view of what the phrase “contrary to the common good” means in the context of passport policy. If that is the case, he should inform the House. Can the Minister of State indicate what the phrase “contrary to the common good” might mean in the context of the issuing of passports? We can have a general discussion about what the term “the common good” means, but I would like an explanation of how the issuing of a passport can be, to quote the Bill, “contrary to the common good”. Can the Minister of State give some examples of what he has in mind? Can he tell the House the circumstances in which the issuing of a passport would be, to quote the Bill, “contrary to the common good”? The serious issue that has been raised deserves to be addressed.

Senator Feargal Quinn: I am inclined to support the Minister of State in this instance at the risk of being regarded as right-wing or conservative. The word “might” is used in section 12(1)(c)(i), (ii) and (iv), whereas the word “would” is used in section 12(1)(c)(iii). This section gives the Government of the day the right to refuse a passport to a person who would be likely in the opinion of the Minister, after consultation, to engage in conduct that, to quote the Bill, “would be contrary to the common good”. I am not sure that I want people who engage in conduct that “would be contrary to the common good”, to quote the Bill, to be able to get passports. I can understand the balance we are trying to strike. Some countries make it difficult to get passports because they want to protect the right of their citizens to be the only people to access such passports. If a person claims to be entitled to the passport of one of these countries, he or she has to fight very hard to get it. I would like our passports to be valued very strongly. If a Minister refuses a passport application on the basis that the applicant is acting in a manner that, to quote the Bill, “would be contrary to the common good”, I will support him or her.

Deputy Michael P. Kitt: I thank Senators for their comments. The term “common good” is included in the legislation to give the Minister discretion in exceptional cases. In practice, it is unlikely a Minister will invoke the power to refuse a passport on the basis of the common good. This provision is also included in recognition of the explicit use of the term “common good” in the High Court judgment that first iden-

tified the unenumerated constitutional right to travel and as a limitation on that right.

The power to refuse a passport on the basis of the common good is not unlimited and is subject to a number of restrictions. The concept is defined and clarified further by reference to the European Convention on Human Rights, particularly Protocol No. 4 to that convention. The Minister for Foreign Affairs is obliged by the European Convention on Human Rights Act 2003 to perform his functions in accordance with the State's obligations under the convention and its protocols. This means, *inter alia*, that the restriction in each case must be proportionate and necessary in a democratic society. Furthermore, a refusal to issue a passport, including a refusal on the basis of the common good, may be appealed to the passport appeals officer and is also subject to judicial review.

I consider that there is value in retaining scope for discretion under the Bill, as Senator Quinn argued. I am opposed to this amendment as it seeks the deletion of the part of the section providing for such discretion.

Senator Cummins requested examples. If a person had a psychiatric illness and his or her treatment were discontinued if he or she left the country, that would be an issue. My officials checked on the number of passport refusals and, in the past three years, there was only one refusal. As I said, it is unlikely to happen. This provision is intended to provide discretion in exceptional cases.

Senator Maurice Cummins: Although the Minister of State said it is unlikely, it could happen. We are enacting this legislation for the future. I do not accept it is unlikely to happen. For example, if representatives of NGOs were going abroad to speak at an international conference about child poverty, protecting children's rights or autism in Ireland, this Government, or a future one, might believe that is contrary to the common good and may restrict passports for such persons. While that is unlikely, it could happen.

It is not necessary to include such a phrase in the Bill which has such broad connotations, as Senator Ormonde stated. We are going a little too far. I would be one of the first to say we should protect our passport holders and so on and, in many ways, I have a similar opinion to Senator Quinn in this regard. However, this line

is unnecessary. There is adequate protection in the other three areas specified in the Bill.

Senator Ann Ormonde: I accept the Minister of State's reply on the basis that we are protecting against circumstances which may arise in the future. I would not consider a discussion on autism or otherwise, which should take place in the national parliament, as a reason to refuse a passport. It would be a more serious issue. I do not like the phrase "common good" but I understand why it is included in the Bill.

Senator Alex White: I support what Senator Cummins said. We probably would have been assisted if the Minister of State had at least advanced some examples of what he has in mind although, to some extent, I understand his difficulty. We are providing for quite a power. Senator Quinn referred to circumstances where a person would engage in conduct contrary to the common good. That has some sense to it but the problem is that we are including a discretion in legislation which will give the Minister, in consultation with his or her two colleagues in the other two Departments, the power to refuse a passport in circumstances which we cannot envisage. We have not been told what they might be.

I am not suggesting, nor do I believe Senator Cummins is, that the circumstances for refusing a passport would not be legitimate. If we are asked to scrutinise legislation, give our views on it and agree to it, we should know precisely what we are being asked to do. Unfortunately, that is not the case on this occasion.

Deputy Michael P. Kitt: I take on board the points made by all Senators. As I stated, there was clarification by reference to the European Convention on Human Rights, particularly protocol 4 of that convention. There is also an obligation on the Minister under the European Convention on Human Rights Act 2003. The point Senator Cummins raised about NGOs travelling abroad is a very good one. To stop NGOs travelling would be very much against the human rights Acts and conventions. That would not arise. The proof of the pudding is that there has been only one refusal in the past three years. It is very unlikely the Minister would seek to invoke the power to refuse a passport on the basis of the common good.

Question put: "That the words proposed to be deleted stand."

The Seanad divided: Tá, 26; Níl, 20.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callanan, Peter.
Callely, Ivor.
Cannon, Ciaran.
Carty, John.

Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Feeney, Geraldine.
Hanafin, John.
Keaveney, Cecilia.

Tá—*continued*

Leyden, Terry.
MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
O'Brien, Francis.
O'Sullivan, Ned.

Ormonde, Ann.
Phelan, Kieran.
Quinn, Feargal.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
Kelly, Alan.

McCarthy, Michael.
McFadden, Nicky.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Prendergast, Phil.
Regan, Eugene.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Tellers: Tá, Senators Déirdre de Búrca and Diarmuid Wilson; Níl, Senators Paudie Coffey and Maurice Cummins.

Question declared carried.

Amendment declared lost.

Senator Alex White: I move amendment No. 5:

In page 9, subsection (2)(a), line 35, after “or” to insert “the person does not comply with *section 18(6)*, or”

The proposal refers to *section 12(2)(a)*. Again we are dealing with a circumstance whereby the Minister may refuse to issue a passport. *Section 12(2)* states:

The Minister may refuse to issue a passport to a person if—

(a) the application for the issue of a passport to the person does not comply with *section 6*, or

We want to insert, “the person does not comply with *section 18(6)*, or”. This deals with the cancellation and surrender of passports and that subsection provides as follows:

An applicant for a passport shall, if so required by the Minister, surrender a passport that was issued to him or her (whether or not it is valid) to the Minister before another passport may be issued to him or her.

It seems to follow logically that this should be a circumstance in which a Minister may refuse to issue a passport if such an applicant is a person who has been asked, and refused, to surrender a passport.

Deputy Michael P. Kitt: In reply to Senator Alex White, this amendment seeks to provide that the Minister can refuse to issue another passport to an applicant who refuses to surrender a passport previously issued to him or her. *Section 18(6)*, as the Senator said, provides that an appli-

cant for a passport shall, if so required by the Minister, surrender a passport issued to him or her — whether or not it is valid — before another passport may be issued. *Section 6* provides that an application shall be accompanied by such information and documents in relation to the person as the Minister may require under *section 7*. The Minister is thus entitled to require an applicant to submit a previous passport as part of an application for a new passport. Furthermore, the Minister may refuse, under *section 12(2)* to issue a passport if an application does not comply with *section 6*. While I appreciate the constructive intentions behind this amendment, there are other provisions in the Bill which permit refusal — where an applicant refuses to surrender a previous passport — and I do not propose to accept the amendment.

Senator Alex White: I do not propose to press the amendment at this point. I might review the matter between now and Report Stage.

Amendment, by leave, withdrawn.

Senator Paddy Burke: Will the Minister of State say whether a person with a criminal record or somebody in jail can get a passport?

Deputy Michael P. Kitt: The answer is “Yes”.

Section 12 agreed to.

Section 13 agreed to.

SECTION 14

Acting Chairman (Senator Martin Brady): Amendment No. 6 is in the names of Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Dominic Hannigan and Alan Kelly. Amendment No. 7 is related, therefore,

amendments Nos. 6 and 7 may be discussed together by agreement.

Senator Alex White: I move amendment No. 6:

In page 10, subsection (1), line 6, after “child” to insert the following:

“and, if the father of the child is not a guardian but is named on the birth certificate of the child, such father,”.

Deputy Michael P. Kitt: Section 14(1) provides that the consent of all guardians must be sought before issuance of a passport to a child or alternatively, as provided for in section 14(3), a court order dispensing with consent must be obtained. Under the Guardianship of Infants Act 1964 many parents are joint guardians of their children. By contrast, the father of a child born outside marriage is not automatically the guardian of his child. Where a father is not a guardian of a child, he may apply to the District Court to be appointed guardian, or he may become guardian by making a statutory declaration with the child’s mother, agreeing to his appointment as guardian. These options apply whether he is named on the child’s birth certificate.

Where a father becomes guardian, his consent must be obtained prior to the issue of a passport in the same way as the consent of any other guardians must be obtained. Additionally, section 14(2) permits the Minister to take account of the circumstances of a case in deciding whether to issue a passport to a child without the consent of a non-guardian parent. This discretion will allow the Minister to consider the views and rights of non-guardian parents in so far as these are known to him or her.

I appreciate the intentions behind amendment No. 6. However, changing the rights of a non-guardian parent is a family law matter. The Passports Bill is designed to regulate the passports service, and it is not an appropriate vehicle in which to introduce changes in family law. Such matters are best handled by other Departments.

Similarly, amendment No. 7 deals with issues outside the remit of the Passports Bill. The amendment seeks to impose restrictions on the removal of a child from the State. I understand the Senators’ intention, but it is not appropriate to include it in legislation dealing with the administration of the passport service — and I cannot accept its inclusion in the Bill.

Senator Ann Ormonde: I brought this up on Second Stage and I find it quite confusing as regards how the whole system works with regard to the permission of parents and guardians, the consent of the father if his name is on the birth certificate, etc. While I accept that it is outside the remit of this Bill, nevertheless, the fact that it has come up for discussion here indicates that the public needs to have clarification in this area, because it is confusing. If I tried to explain to

somebody in my office as regards consent — given that the fabric of society has changed so much — I should not feel comfortable in giving answers at present. Even though I understand where the Bill is coming from — and that raises another matter for debate, in regard to family law — I believe the Minister of State’s officials should make it clearly known to the public how this legislation will be implemented when enacted. I brought it up on Second Stage and I am still unhappy at the way it is presented. Technically I understand from where it is coming but in terms of implementation the public will still be somewhat confused.

Senator Alex White: What Senator Ormonde says is very fair. There are complex issues associated with the question of guardianship. When I finish here I shall be attending the Joint Committee on the Constitutional Amendment on Children, and we are wrestling with these issues, which are very complex and sensitive. These are issues which have come up in the course of public debate not just in this context of passports, but in the wider consideration of fathers’ rights and the whole question of having births registered in circumstances where they are not births the within traditional family situation. I have some sympathy for what the Minister of State says, as regards whether provisions should be inserted into a passports Bill in circumstances where we are wrestling with wider issues. At the same time there is a provision here in respect of the issuing of passports to children, so we cannot just simply say it is a matter for another Department, another day or other legislation.

With the permission of the House, I shall not pursue either of the amendments but consider the question in more detail between now and Report Stage, when I shall, perhaps, revisit one or both matters.

Deputy Michael P. Kitt: I thank the Senators for their comments. This legislation is about the administration of the passport system and not about social policy or family law, although Senator Alex White’s amendments in this regard are well intentioned. We are all concerned about child abduction, which was highlighted in respect of amendment No. 7, but it is not encompassed by this legislation. Other Departments are involved in dealing with such sensitive issues.

Senator White indicated he would withdraw his amendment and consider tabling it again on Report Stage.

Amendment, by leave, withdrawn.

Amendment No. 7 not moved.

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

Senator Paddy Burke: The process regarding long and short birth certificates should be more streamlined. Some will have the long one and others the short one, and invariably they will have the wrong one. We should just have one type of birth certificate because having two confuses many people.

Senator Donie Cassidy: I support Senator Paddy Burke. It is confusing to have two kinds of birth certificates. If it is more acceptable to the vast majority of applicants to have just one, it should be legislated for. Thus, we would have good legislation and regulation. Senator Paddy Burke should be listened to in this regard. The Minister of State is very approachable. I congratulate him because I have not yet had a chance to do so. I have not spoken in the House on any subject relevant to his portfolio since he was appointed. He is the longest-sitting Member of the Oireachtas and has a very distinguished family tree, which demonstrates the commitment of his family to public office. I congratulate him and look forward to working with him for the next four and a half years. It is a dream come true. To be in this House as a Minister of State is the pinnacle of his political career to date.

I support Senator Paddy Burke's call to have one kind of birth certificate because, if this were achieved, everybody would find the application system much more simple.

Deputy Michael P. Kitt: I thank Senator Paddy Burke for raising that issue and I thank Senator Cassidy for his remarks.

The main requirement is that adequate information be on the birth certificate. I understand that there was a change to the citizenship legislation in 2005 regarding non-nationals. We therefore require as much information as possible on the birth certificate. That is the over-riding concern. I do not have any difficulty with the length of the birth certificate as long as the information is available.

Question put and agreed to.

SECTION 15.

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

Senator Feargal Quinn: This section concerns emergency travel facilities. One reason we need them more than other countries is because we have refused to sign up to the Schengen Agreement. Twenty-four other countries have done so. I urge the Minister of State to consider seriously the manner in which we can approach this issue. Both Ireland and the United Kingdom did not sign up to the original Schengen convention that allows free travel between the signatory states. We retained the right to opt out of the application of the rules after their conversion into

European law. We have not ended border controls for passengers from other EU member states and we subscribe to the measures relating to police and judicial co-operation, which form part of the Schengen *acquis*.

Border posts and checks have been removed in the states within the Schengen area in respect of passengers from those states. The common Schengen visa allows tourists or other visitors access to the whole area. Holders of a residents permit to a Schengen state enjoy freedom of travel to all other Schengen states for a period of up to three months.

The reason we decided in 1990 not to subscribe to the agreement was very simple; we were already part of a common travel area involving the United Kingdom, which decided not to sign up to the agreement. Ireland had to pick one of the two common travel areas and it seemed the one in which we already were would be more valuable. This may have been the case at the time but it is no longer so. I suggest that we put in place a structure under which we can reopen our discussion on this important issue. Clearly, a more careful examination of the pros and cons is required and we should therefore seriously consider setting up an independent commission of some sort to do so.

There are two main reasons we should change horses at this stage. The first is that the benefits of the common travel area including the United Kingdom are being whittled away. Passengers travelling between the two countries have, for many years, been liable to police inspection at either end. It is not only the case between the two countries but between the two islands. Passengers are often required to prove their identity, so much so that the carrying of passports between the two countries became advisable as a way of avoiding hassle. As we know, and as stated by Senator Cummins, passengers from Cork could not even return to Cork from their point of origin yesterday because they did not have passports on them.

The latest news in this regard is that the UK authorities intend to tighten the controls on their jurisdiction and to draw the line around the border of the island of Britain. Their approach is so drastic that they are prepared to exclude not only the Republic of Ireland but the whole island of Ireland. This has infuriated many from the Unionist population. It is becoming very clear that the UK authorities are prepared to put up barriers between Northern Ireland and Britain rather than face the considerable expense and inconvenience of trying to control a land frontier. This means we will be guaranteed free travel across the Border into Northern Ireland while our common travel arrangement with mainland Britain — I dislike using the phrase "mainland Britain" but will do so in this case — will become meaningless.

The private sector has also played a part in undermining the common travel arrangement

between Ireland and Britain. The airline Ryanair has imposed strict photographic identification requirements on all passengers, regardless of their destination, which means most Irish citizens must carry their passports to be allowed on a plane travelling to almost any Ryanair destination. Owing to the actions of the Special Branch and Ryanair, our common travel area, over a number of years, has become a common travel area in name only. One needs a passport to travel from this island to the other and that is the reality today.

We should detach ourselves altogether from the common travel area involving the United Kingdom and instead join the much bigger common travel area that already exists across Europe. This reflects the belief of all of us, namely, that our future lies in being European rather than being linked to one country. I had tabled an amendment to address this issue but I am pleased the Acting Chairman allowed me to make this point. The Clerk is looking aghast having allowed me to get away with saying so much.

Acting Chairman (Senator Paul Coghlan): I cannot stop the Senator.

Senator Feargal Quinn: My amendment on this matter, which I was told by the Chairman was not allowed, was to suggest we should establish an independent commission to report, in the coming year, on the benefits and disadvantages of our signing up to the Schengen Agreement and removing our link with Britain. The land border between Northern Ireland and the Republic will not be affected in that it seems the British are putting into operation controls between the island of Britain and the island of Ireland. Signing up to the Schengen Agreement will remove the requirement for emergency passports because the existing passport arrangements will not apply when we travel to the 24 countries that have signed up to the agreement.

Senator Ann Ormonde: I welcome this discussion and the points raised by Senator Quinn. Now that the Leader is present, I suggest that we debate the Schengen common travel area in the House. I will probably suggest this on the Order of Business tomorrow. A debate would allow us all to tease out, in the presence of the relevant Minister, all the points raised by Senator Quinn. The Senator referred to the need to establish an independent commission and to the benefits that are being whittled away. He also referred to the movement of people between the North and South, to the barriers that will be created between the two islands, and he asked whether we should sign up to the Schengen Agreement in order to get away from the arrangement including the North, South and the mainland.

Senator Feargal Quinn: I never used the word "mainland".

Senator Ann Ormonde: I withdraw the word but I know where the Senator is coming from. It is worthy of a debate where all the Members can get involved with the Minister of State, Deputy Michael Kitt, to tease out the points raised. We have spoken about this on many occasions.

Acting Chairman: It is probably a matter for debate in some other way because I am advised that the Chair has already ruled that this matter is not germane.

Senator Ann Ormonde: I will raise it at another time.

Acting Chairman: Senator Ormonde should, of course.

Senator Ann Ormonde: I accept it is outside the remit of this Bill.

Acting Chairman: I have allowed a little latitude. Does the Minister of State want to respond?

Deputy Michael P. Kitt: While what Senators Quinn and Ormonde have said is interesting, we are dealing here with the regulation and the issuance of Irish passports. The amendment Senator Quinn tabled and which was ruled out of order referred to establishing an independent commission to prepare a report on the implications for Ireland if it became party to the Schengen *acquis*. Senator Ormonde has come up with a good idea, that we would debate the matter in the House and perhaps an independent commission would be part of that debate.

The issues Senator Quinn raised relate to Ireland's policy on the European Union concerning freedom of movement and border controls. I hope the House will have a debate on those issues. They do not relate to the regulation and issuing of Irish passports and, as such, it is not appropriate to include such a provision in the Bill.

I agree that we all would want to see easier travel to and from the European Union member states. I mentioned on Second Stage that we should be aware of the implications for British-Irish and North-South relations. The UK remains outside the Schengen area, as Senator Quinn stated, and we would not wish to risk a negative impact on the common travel area or the establishment of border controls within the island of Ireland. On Second Stage Senator Keaveney gave examples of travelling from Belfast to Dublin.

I take on board what the Senators have said. I will pass on their views to the Minister, Deputy Dermot Ahern. I look forward to hearing the decision of the House about a debate and if I can take part it, I will do so gladly. However, I cannot accept the points for inclusion in the Bill.

Senator Feargal Quinn: While I understand what the Minister of State said, the matter is wor-

[Senator Feargal Quinn.]

thy of discussion in a passport Bill. It may not be the correct place where I attempted to insert it.

Acting Chairman: I am advised that the Chair has already ruled that it is not relevant. Although I am reluctant to rule the Senator out, no doubt he will find another way of raising this matter and having a debate on it. The Minister of State has indicated he would be quite willing to attend if the matter were arranged in another way.

Senator Feargal Quinn: I accept entirely the Acting Chairman's ruling. That is a ruling on setting up a commission, as I had suggested in the amendment that has been refused. We should find in this Bill the opportunity to discuss the question of the Schengen Agreement. It is worthy of discussion in a passport Bill. Whether it happens at this stage or not, I will take the Acting Chairman's point.

Acting Chairman: The Senator will find another way.

Senator Feargal Quinn: I will continue to attempt to find one.

Question put and declared carried.

SECTION 16.

Senator Alex White: I move amendment No. 8:

In page 12, subsection (1), line 26, after "duties" to insert the following:

"or for related or other purposes in accordance with generally accepted international practice".

Some of the provisions in section 16 are intriguing and worthy of further scrutiny. Section 16(1), which concerns diplomatic and official passports, states:

The Minister may, on application in that behalf to him or her in accordance with *section 6* by a person who is entitled in accordance with this Act to be issued with a passport, issue a diplomatic passport to the person if he or she is—

(a) an officer of the Minister of diplomatic rank, or

(b) a person, or one of a class of persons, to whom the Minister considers it appropriate to issue such a passport,

for the purpose of facilitating him or her to travel abroad in connection with the performance of official duties.

The provision at the end of subsection, "for the purpose of him or her to travel abroad in connection with the performance of official duties.", clearly comprehends both subparagraphs (a) and (b). In other words, any such person, whether he or she is covered by subparagraphs (a) or (b), can

only have a diplomatic passport issued to him or her for the purpose of facilitating "him or her to travel abroad in connection with the performance of official duties", to quote the Bill That seems clear according to the Bill.

The following is the reason for my party's amendment. If the Minister is issuing a passport for a person who qualifies under subparagraph (b) but who does not have any official duties or is not a person who would ever be required in the normal run of events to carry out official duties, then as the Bill is currently constructed that person would not be entitled to use a diplomatic passport.

I understand all former Ministers as a matter of course are issued with diplomatic passports. I do not criticise that. That is not my reason for raising this issue. It may be open to debate but that is not my purpose. If a former Minister is issued with a diplomatic passport, however, he or she can only use that passport in circumstances where he or she performs official duties. That is clear from the way the Bill is set out. Is that the intention of the Minister of State? Any reasonable reading of the section suggests that such is the only conclusion to which one could come.

Take, for example, the case of a retired Minister, a judge or a retired judge. I am not sure whether retired judges belong to this class of person. I am almost certain that members of the Judiciary are issued with diplomatic passports under subparagraph (b). If a judge of the High Court travelling abroad on a diplomatic passport is attending a legal conference or an event associated with his or her duties as a member of the Judiciary, clearly he or she is performing official duties.

Has the Minister of State contemplated how persons using a diplomatic passport could perform official duties if they are retired? It would not seem to follow from the way matters would pan out. Is it his intention to require that they should be? Confusion seems to exist in this regard. Perhaps the Minister of State will tell me that the intention is exactly as set out in the Bill and that anyone who uses a diplomatic passport can only do so in the context of performing official duties in the way that Senators, Deputies or serving Ministers are supposed only to travel on a diplomatic passport in circumstances where they are on official duties. Is the Minister of State clear that such requirement applies in equal measure to all persons to whom he might issue a passport under subparagraph (b)?

It seems this is worth addressing and it can be done by our amendment. It provides that it must be for the purpose of facilitating him or her to travel abroad in connection with the performance of official duties or for related or other purposes in accordance with generally accepted international practice. It provides that having regard to international practice, the Minister can feel safe in issuing a diplomatic passport to someone who, although he or she may be a retired or former Minister, strictly speaking is not carrying

out official duties. Clearly, such persons are not carrying out ministerial duties. However, it still may be appropriate for them to have and travel on diplomatic passports, as long as the purpose for which they use them is in accordance with generally accepted international practice. This would seem to facilitate the Minister and the Government in issuing a diplomatic passport to someone in those circumstances. This is the rationale for our amendment. We respectfully suggest that if the provision was to be changed in this regard, it would assist the Minister's purpose.

Senator Ann Ormonde: I agree with many of the points raised by Senator White. His comments made me ask myself if I would use a diplomatic passport if going on holidays. I would not. What use would it be to me or why would I want to use it?

Senator Paddy Burke: The Senator might have lost her other one.

Senator Ann Ormonde: My passport stands as it is. I would not need to use a diplomatic passport. Will the Minister of State explain the role of a diplomatic passport? It does not get one through the airport any faster or allow one jump the queue. It is fine to use one if we are acting in our capacity as officials or Oireachtas Members and are on official business, but why would we want to use one if we were not on official business? I would not want to use one in that situation. Anybody not on official business who chooses to use a diplomatic passport is out of order. Perhaps some people would make up a reason to use it. I could pretend I was going to visit a third world country on behalf of the Minister and use it, even though I was not on official or authorised business, but I would not do so. Perhaps the Minister of State could clarify the issue. The bottom line is we are either on official business or we are not.

Senator Alex White: I have heard it suggested a Senator is always on official duties.

Senator Feargal Quinn: I listened very carefully to Senator White and must agree there is clearly an issue in this regard. His example of what happens is perfect, whatever about the example of going on holidays provided by Senator Ormonde. We have had a tradition of giving diplomatic passports to former Ministers and judges of the Supreme and High Courts, and I understand their need for them. Does the provision in the Bill mean they can never use those passports unless they are travelling in connection with the performance of official duties? The amendment stands up and is worthy of acceptance. The provision should include, "or for related or other purposes in accordance with generally accepted international practice". In other countries diplomatic passports can be used for duties that are not necessarily official, but which are considered

as generally accepted international practice. I support the amendment and believe the Minister should give serious consideration to it.

Senator Maurice Cummins: I support Senator White's amendment. The current provision is too restrictive. The inclusion of Senator White's amendment would improve the Bill and cover the eventualities as enunciated by him. I urge the Minister of State to consider this. Perhaps he can come back to us on the issue on Report Stage, having given due consideration to it. I would welcome his views on the matter. The amendment would improve the Bill and should be accepted.

Senator Paddy Burke: I, too, support Senator White's amendment. He has opened up debate on the issue. I often wondered about the benefits of diplomatic passports. If one goes abroad with a committee or on Oireachtas business, one is given a diplomatic passport valid for a year or 18 months. That passport does not get one through the airport quicker. I wonder what are its benefits, although I am sure there are some. Senator White's amendment would improve the Bill and I support it. I hope the Minister of State accepts it.

Deputy Michael P. Kitt: I thank those Senators who have contributed on this issue. My understanding is that section 16 permits the Minister to issue a diplomatic passport to an officer of the Minister of diplomatic rank, or under subsection (1)(b) to a person or one of a class of persons to whom the Minister considers it is appropriate to issue such a passport. This permits reasonably broad discretion to designate who should be eligible for a diplomatic passport. The section makes it clear that diplomatic passports are intended to be used in connection with the performance of official duties abroad. This is in line with international practice and is a reasonable requirement. Diplomatic passports should not be used for travel for unofficial purposes, such as personal or holiday travel. Individuals should use their personal passports for those purposes. Holders of diplomatic passports are not required to return them between trips abroad on official business. They are advised and expected to comply with the conditions under which the passports are issued and the requirement of the Bill, if enacted.

I do not consider it necessary to extend the purposes for which diplomatic passports may be issued and do not propose to accept the amendment, but I will certainly reflect on what has been said by Senators. I wish to emphasise that the Bill permits the issuing of a diplomatic passport where this is required for purposes related to official duties or in accordance with generally accepted international practice.

The intention behind the amendment appears to relate to the view that former officeholders are less likely to need to travel for official purposes. I will give examples of these people. The Department intends to address this issue post enactment

[Deputy Michael P. Kitt.]

of the legislation by including in all diplomatic passports an insert to remind holders that under the passports Act, diplomatic passports should be used only for the purposes of official travel overseas. With regard to former Ministers, former Minister Joe Walsh chairs the hunger task force and some of his committee were in Malawi recently and former Minister Chris Flood travelled to the areas affected by the tsunami. These former Ministers were issued with diplomatic passports and they work on issues and committees to which they were appointed by various Ministers.

I do not consider it necessary to extend the purposes for which diplomatic passports have been issued, but I will come back to the issue at a later stage.

Senator Alex White: I understand the point made about former Ministers being involved in official duties and have no difficulty in that regard. However, my understanding — please correct me if I am wrong — is that diplomatic passports were being issued almost as a matter of course to former Ministers. I would have to apply for a diplomatic passport if I were to travel overseas on official duties, but are former Ministers also required to apply? Does a former Minister have to apply for a diplomatic passport in reference to a particular trip in the same way I would have to apply?

Deputy Michael P. Kitt: Yes, they would have to apply. On account of having been former Ministers, they would be invited to events or occasions where they would have a particular role, as with the people I mentioned previously.

Senator Alex White: This question may be legalistic, but I will ask it. I understand the use of the term “official duties” by the Minister and in the Bill means duties associated with the State or a Government or quasi-Government activity. In other words, official means official State business of some kind. Am I correct?

Senator Paddy Burke: Given that it is the lead-in to St. Patrick’s Day and that a number of mayors or Cathaoirleach of various local authorities from around the country will go to New York or other locations around the world——

Acting Chairman: I hope the Senator’s own matter is in order.

Senator Paddy Burke: Would a mayor in a particular local authority, for example, the Lord Mayor of Dublin, be entitled to a diplomatic passport seeing as they will be going on official local authority business or representing their county at an association in the US or elsewhere?

Senator Ann Ormonde: I was about to ask the same question in respect of the Cathaoirleach of the various councils throughout the country who

take time out to visit the US at this time of the year. What is the position in respect of these people? Can former Deputies and Senators apply for a diplomatic passport if they are on official business relating to an area in which they have a specific interest? Would they adhere to the same procedures? Does they apply to Deputies and Senators who are not former Ministers?

Acting Chairman: Does Senator Quinn wish to speak?

Senator Feargal Quinn: I will probably repeat the same question. I am fascinated by this matter and was not aware of the implications. In respect of somebody coming to Ireland with a diplomatic passport, would we recognise them as having some particular advantage, as Senator Ormonde has said? If someone who had a diplomatic passport ceased to hold that office for which the passport was used but continued to use the passport, are they in some way or other not acting within the law? I ask these questions to clarify the matter. I am impressed by the argument that Senator Alex White has made and believe it is worthy of consideration but it has raised a number of other questions.

Acting Chairman: Does Senator Cassidy wish to speak?

Senator Donie Cassidy: Time is of the essence.

Deputy Michael P. Kitt: I will try to deal with some of the questions. In respect of Senator Alex White’s point about official duties, there are some examples I could give. A state funeral which a former Member of the Oireachtas or Minister might be asked to attend would be one. In respect of questions about the lord mayor or mayor of a city or county, those applications could be looked at on a case by case basis. Probably the best example of where we have issued many passports would be the United Nations contingent which has been serving overseas. The most recent contingent went to Chad. These people, who are working with the UN, would get diplomatic passports.

I find in my work that many former Deputies and Senators are very keen to work as observers in elections and do a very good job because they are the real professionals when it comes to observing elections and seeing if they are the free and fair elections we all want to have. Those are situations where people would get diplomatic passports, which is only right and fitting.

A diplomatic passport establishes a person’s status. If one was looking for immunity, a court could take that situation into account. There might be a certain degree of courtesy extended by countries because one has a diplomatic passport. There are no hard and fast rules about that. It might be a custom but would not be claimed as a right.

On one occasion, when some of my colleagues and I were travelling from Israel to Jordan, we were amazed to discover that we did not have to pay the \$60 levy because we had diplomatic passports. We would have had to pay this fee if we did not have these passports. There is probably a practical reason why one might have a diplomatic passport if one was travelling between countries.

Senator Feargal Quinn: I am impressed. I introduced a passport Bill here some years ago which was aimed at avoiding the implication of the passports for sale controversy. From what the Minister of State has said, I have just realised that perhaps there are benefits in having a diplomatic passport and how they can be issued. I believe the Minister of State mentioned \$60. I find the debate enlightening.

Senator Paddy Burke: I welcome the Minister of State's statement that local authority members, mayors and Cathaoirleach of various local authorities who go abroad on official business are entitled to diplomatic passports.

Deputy Michael P. Kitt: They are entitled to apply for one.

Senator Paddy Burke: I welcome this news.

Acting Chairman: The Minister of State said that they would be dealt with on their merits on a case by case basis.

Senator Ann Ormonde: I am delighted to hear this. When the legislation comes into effect, perhaps we would alert county managers to the existence of this facility so that lord mayors and Cathaoirleach could apply because I am sure they are not aware of this and it would be an opportunity. When it is implemented, county and city managers should be alerted.

Senator Alex White: It has been an interesting debate. I am not fully satisfied that my amendment would not improve what the Minister seeks to achieve. I will not press the amendment at this stage but I will certainly revisit it on Report Stage.

Amendment, by leave, withdrawn.

Section 16 agreed to.

Sections 17 and 18 agreed to.

SECTION 19.

Acting Chairman: Amendments Nos. 9 and 10 are related and may be discussed together by agreement.

Senator Alex White: I move amendment No. 9:

In page 14, subsection (1), line 19, after "paragraph" to insert "(a),"

Deputy Michael P. Kitt: Amendments Nos. 9 and 10 seek to include within the scope of the appeals mechanism decisions to refuse or cancel a passport that are based on citizenship. Decisions based on citizenship are not covered by the appeals mechanism because this area is the responsibility of the Minister for Justice, Equality and Law Reform. The Minister for Foreign Affairs does not have competence to take decisions on issues which are the preserve of another Minister.

In line with existing practice, a person whose passport is refused or cancelled on the basis of citizenship may raise the matter with the Minister for Justice, Equality and Law Reform. The Irish Nationality and Citizenship Acts already establish formal procedures which allow a person claiming to be a citizen to apply to the Minister for Justice, Equality and Law Reform for a certificate of nationality. I would again add that as with all ministerial decisions, recourse may be had to judicial review. I do not propose to accept these amendments.

Senator Alex White: I do not propose to press the amendments.

Senator Feargal Quinn: I am not sure I understand. Can the Minister of State explain that in words I understand. I am sorry to show my ignorance.

Deputy Michael P. Kitt: I am saying that these amendments were reinstating a right of appeal to the passports appeal officer in respect of decisions to refuse or cancel a passport on the basis of citizenship. I am repeating what I said in the Dáil. Citizenship comes within the competence of the Department of Justice, Equality and Law Reform and would not be relevant to the Bill.

Amendment, by leave, withdrawn.

Amendment No. 10 not moved.

Section 19 agreed.

Progress reported; Committee to sit again.

Protection of Employees (Agency Workers) (No. 2) Bill 2008: Order for Second Stage.

Bill entitled an Act to provide for the protection of agency workers, to require the principle of equal treatment to be applied in respect of their employment, to make provision for the enforcement of the rights, and to provide for connected matters.

Senator Alan Kelly: I move: "That Second Stage be taken now."

Question put and agreed to.

**Protection of Employees (Agency Workers)
(No. 2) Bill 2008: Second Stage.**

Senator Alan Kelly: I move: "That the Bill be now read a Second Time."

On behalf of the Labour Party, I am delighted to introduce the Protection of Employees (Agency Workers)(No. 2) Bill. This is an exceptionally important Bill to provide for the protection of agency workers, to require the principle of equal treatment to be applied in respect of their employment, to make provision for the enforcement of their rights and to provide for connected matters. The EU has been working on a draft directive for the protection of agency workers since 2002. This has been blocked by a minority group, which disgracefully includes Ireland.

The main requirements of the proposed directive were as follows. An agency worker under the control of a client company should not have less favourable employment conditions than a similar permanent worker in the client company unless this can be objectively justified. The following employment conditions are set out in the directive: pay, working time, rest periods, holidays and holiday pay, work done by pregnant women and nursing mothers, children and young people and action taken to combat discrimination. The member country can avoid equal treatment only under very strict criteria. Client companies should give agency workers access to social services provided to permanent workers and agency workers must be informed of permanent vacancies in the client company.

The directive would have given agency workers of all strands the right to equal treatment with a comparable permanent employee on issues such as pay, working time and holidays, maternity rights and protection against discrimination. Many EU countries have already introduced measures giving agency workers equal rights in advance of the desired passing of the EU temporary agency work directive. The purpose of our Bill is similar. It is ultimately to protect agency workers, to require the principle of equal treatment to be applied in respect of their employment and to make provision for the enforcement of those rights. The Bill follows the draft directive in that it does not extend to agency workers who are paid continuously by an employment agency regardless as to whether they are on assignment with an end user.

The central concept to be defined is the issue of a comparable employee. An employee is a comparable employee relative to an agency worker if a collective agreement is in place or the end user for whom the agency worker works is the employer or an associated employer of that employee, or the employee is employed in the same industry or sector of employment as the relevant agency worker. Other stipulations are outlined in the Bill. Put simply, the basic rule set out here is that agency workers who have completed six weeks of continuous work or service with an

end user or associated employer shall not, in respect of conditions of employment, be treated in a less favourable manner than a comparable employee.

The Bill also applies the *pro rata* principle. Where a comparable employee is entitled to receive pay or another benefit, an agency worker is entitled to receive not less than the proportion of that benefit that the number of his or her hours of work bears to the number of hours of work of that comparable employee. The Bill states that a ground is not an objective ground for refusing equal treatment unless it is based on considerations other than the status of the worker as an agency worker, the less favourable treatment which it involves for that worker is for the purpose of achieving a legitimate objective of the employee and such treatment is appropriate and necessary for that purpose.

The Bill also provides that an employer must inform an agency worker of vacancies which become available, to ensure he or she has the same opportunity to secure a position as an employee. The agency worker must be treated equally in a practical way when it comes to giving access to training opportunities, career development etc. The Bill prohibits the penalisation of agency workers who invoke its provisions.

Two additional features go beyond the terms of the draft EU directive. The Bill requires employment agencies operating in the State to maintain sufficient insurance for the payment of all obligations arising from or in contemplation of contracts with its agency workers and for the repatriation of agency workers in the event of insolvency. There is a provision for the prosecution of uninsured agencies, with fines and prison sentences if necessary. The Bill brings both agency workers and self-employed contractors within the framework of section 30 of the Industrial Relations Act 1946, which makes the terms and conditions set out in registered employment agreements binding on all persons working within a sector covered by such an agreement.

The effect of this provision is to include within the definition of workers covered by the terms of a registered employment agreement persons working either as contractors or as agency workers rather than employees if they are working for an end user who is party to or bound by a registered employment agreement relating to the conditions of employment of workers of a particular class, type or group, and the work being done is of a kind generally provided by workers of the class, type or group to which that registered employment agreement relates.

The Bill is necessary and I ask for the Seanad's support for it in order to prevent the exploitation of agency workers. Agency workers used only be involved in secretarial work etc. They were used as short-term temps to fill gaps in organisations etc. With expansion and the changing economy this all changed and we have seen the proliferation of agency workers in the hospitality indus-

try, construction, health care etc. Agency workers became the norm in some sectors for filling jobs rather than hiring permanent replacements.

The pay and conditions of these workers are less than those of permanent workers, which means these agency workers are not getting bonuses, holiday pay, sick pay and a range of other entitlements many other workers get. This completely negates their rights even though they do the same work as their fellow employees and in some cases employers make excessive profits off their backs. We would even argue that this takes away a certain amount of their dignity and treats them as second class.

We have all heard the many cases where we were disgusted by tales of workers exploitation, including the case of Irish Ferries, the response of the IHF to the joint labour committees and the consequent issue we now have with the JLC system, and the unbelievable treatment of the GAMA workers. I would like to highlight the case of the Pakistani national who was forced to work for 60 hours a week for just €50 and was told if he complained he would lose his job. Anyone who engages in such exploitation should be named and shamed.

This is such a serious issue that the president of SIPTU, Jack O'Connor, has already said that any failure by the Government to deal with the issue of agency workers would jeopardise the future of social partnership and, knowing how passionate he is on this issue, I believe it will. He pointed to the current plight of agency workers as being comparable to slavery. The Labour Party stands firm with our colleagues in the trade union movement on this issue and I compliment unions on all their hard work in this area. SIPTU, through Patricia King and her colleagues, has been to the forefront in organising meetings on this issue around the country as part of its campaign to obtain a better deal for workers.

The founding philosophy of the Labour Party was always to promote and espouse equality. Equality is one of our defining components and I am pleased to say we have a track record in this area which continues today with this Bill. We are focusing on vulnerable workers, both migrant and Irish, who are being subjected to naked exploitation, including inferior pay and conditions. We demand an end to this. Why has the Government not acted on this matter to date? Why are we well behind almost every other country in Europe on this issue?

Let us look at what is happening among our friends in Europe. There are equal wage clauses in Holland, while in Portugal there is parity of pay between agency and permanent workers. Agency workers in Belgium must be paid the same wages as their full-time colleagues, and similar laws apply in Spain, Greece and Germany. In France, the pay of an agency worker is linked to the amount of money a post-probationary permanent employee with the same qualifications would earn in that post. French workers also get

other compensations when their specific employment ceases. In addition, laws guaranteeing equal pay and treatment for agency workers have been put in place in most eastern European countries, including Poland, Romania, Slovenia, the Czech republic and Slovakia. Let us face it, even eastern European is ahead of us in this regard.

In fact, Ireland, the United Kingdom and Hungary are the only countries that still shamefully discriminate against agency workers, and they have not legislated for equal pay and conditions between these workers and permanent employees working side by side with them. Our country is a disgrace on this issue and our Government should be ashamed of itself.

If the Labour Party was in Government, this Bill would top of the list of priorities for us. That is what distinguishes our party from others. We will protect the dignity of workers and their rights to fair play. We would ensure an end to discrimination against workers by employers, and the consequent exploitation that comes with that would not be allowed to emerge under any circumstances. We will ensure equality and fair play. Equality of treatment and opportunity has been Labour's *raison d'être* since the party was founded in my home county of Tipperary in 1912.

People argue, incorrectly, that we do not require this legislation as we need to have flexibility of movement in the labour market in order to maintain high employment and protect the economy. This is a bogus argument, however, which encourages the bypassing of permanent workers and the hiring of more agency workers. It discourages training and skills development which help to boost labour productivity. How are we meant to build a knowledge and technology-led economy unless we provide these workers with the prospect of well paid employment with terms and conditions that show we as a country are willing to invest in their futures?

This Bill is about how we treat real people. It is about protecting the rights of some of the hardest working people in our country who are in a vulnerable situation. These people are among us every day. They get up early in the morning to do low-paid jobs and they are still working when we go to bed at night. They are on the margins of the labour market and work with little rights or protection. As a society, we collectively need to protect them.

This House, and the country at large, have a choice to make on this issue. We stand at the crossroads. We can either build a high-productivity economy, investing in people and productivity, where employees are treated with decency, or we can develop a low-pay, low-productivity economy with inequality at its base. In the Labour Party we know where we stand on this issue. Later, we will find out where all the other parties and individuals in this House stand as well.

Our party conference gave a commitment to the wider labour movement that we would move

[Senator Alan Kelly.]

this Bill if the Government failed to act. The legislation is now before the House. Labour, the party of Connolly, Larkin and Johnson, is proposing a Bill that is fundamental to people's rights. It is fundamentally about providing equality of treatment for workers in our society. It is about giving all workers their dignity and it is about fair play. I am proud to move this Bill on behalf of the Labour Party and I commend it to the House.

Senator Dominic Hannigan: I welcome the Minister of State to the House and I wish to second the proposal that the Bill be now read a second time. In November 2002, the European Parliament issued a directive on the treatment of temporary workers. It mainly concerned ensuring fair rates of pay to temporary workers, who are growing in number and are often exploited by unscrupulous employers. Ireland and Britain were the main opponents of this directive. In opposing it they ensured that temporary workers did not benefit from such protections, including fair rates of pay. The Government's inaction is used by some employers — although not many — as a means of making excess profits on the backs of temporary workers. This form of cheap labour is unacceptable and it is time for this model to change. It beggars belief that our Government would fail to represent the interests of our workforce in Europe.

An agency worker in Ireland runs a real risk of being denied sick pay, maternity pay, holiday pay, other types of family pay, personal leave and overtime. The Taoiseach said he will introduce two distinct Bills to deal with the problem. The employment law compliance Bill will issue licences to agencies, to try to regulate the way they act, and to institute a code of practice. The second Bill referred to by the Taoiseach will empower labour inspectors. If the first Bill does not have much teeth and is simply a licensing body, and if the second Bill does not increase the number of labour inspectors — I understand there are 17 inspectors at present — then neither Bill will lead to any change to the *status quo*. Very little will change.

When can we expect to see these Bills? We have all learned this Government's trick — it promises to deliver legislation, while many such Bills do not see the light of day. The Government appears to be proactive in talking about introducing Bills but it does not happen. Senator Callely is smiling but there has been a dearth of legislation in this session.

Deputy Michael Ahern: There were never so many Bills as there were last year.

Senator Dominic Hannigan: I worry therefore when the Taoiseach says he will introduce two Bills. If we saw one of them it might be a way forward, but I worry about the timescales.

Towards 2016 made no progress on the issue of protecting agency workers. We can see this when it comes to things like rates of pay. Temporary workers are paid two thirds the rate of full-time workers who are doing more or less the same job. Not only is this discriminating against temporary workers, it is also bad for full-time employees. During the general election campaign I came across a man in Duleek who found it difficult to get a full-time job because he was being undercut by temporary workers seeking employment. It is not just about protecting the rights of temporary workers, therefore, it also concerns the effect it has on full-time employees. There is no doubt that exploitation is happening. Recently I read about a person who sued their agency and received over €100,000 in compensation for years of serious underpayment.

The World Economic Forum says Ireland is lingering at No. 41 of 130 countries as regards the equality of distribution of rates of pay. A recent OECD survey found that Ireland has one of the top ten least protected labour markets, but nothing has been done to change that. Our failure to implement this directive has made things even worse than most other European countries. As Senator Kelly said, temporary workers should have employment rights. We cannot continue to grow our knowledge-based economy unless such protections are in place to prevent a cheap and unregulated supply of labour.

Our Bill calls for such things as a balance of rights between temporary staff and full-time, permanent workers. It sets down a maximum amount of time before which a temporary worker becomes employed directly by the employer. It also allows temporary workers to organise a union. The Bill demands that insurance is put in place so that if a temporary agency goes out of business the temporary worker's pay will be protected. These protective measures are nothing more or less than basic working rights. It is time to help these workers and, if enacted, the Bill would put the employment of temporary workers on a fair footing.

The Government's inaction on this matter is reprehensible. In addition, its refusal to allow the introduction of the EU directive is indefensible. If the Government is serious about protecting our workforce, temporary and permanent, it should support this Bill.

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Michael Ahern): I oppose the Second Stage reading of the Protection of Employees (Agency Workers) (No. 2) Bill 2008. However, I can advise the House that the subject matter of this Private Members' Bill is to be considered with the social partners in the course of the forthcoming pay talks. A number of significant matters require to be considered with the social partners and the Bill before the House is premature in this context.

I note the contents of the proposed Private Members' Bill, the stated purpose of which is to provide for the protection of agency workers, to require the principle of equal treatment to be applied in respect of their employment, to make provision for the enforcement of their rights and to provide for connected matters. It seeks, as a general condition, to provide that employment agency workers who have completed six weeks of continuous work or service with an end-user or associated employer shall not, in respect of conditions of employment, be treated in a less favourable manner than a comparable employee.

Senators may be aware that the issue of equal treatment is at the heart of the stalled draft EU directive on temporary agency work which did not win sufficient support at the European Council in Brussels on 5 December 2007. The draft directive proposes that equal treatment with regular employees in the end-user enterprise to whom agency workers are assigned would apply, except in respect of short-term six-week assignments, which is similar to that now being proposed in the Private Members' Bill. However, the directive provides a form of derogation from equal treatment in terms of pay for member states which have in place legally binding collective agreements negotiated by the social partners at member state level. This means that in certain instances other member states can, and do, avail of a six-month qualifying period whereas countries such as Ireland and the UK, which have a different legal and industrial relations system, are subject to the six-week qualifying period. Clearly, this is imbalanced and is unacceptable in an EU legal instrument.

The Government is deeply committed to maintaining decent standards of employment and to ensuring they apply to temporary agency workers. Protection is provided already to agency workers by the existing body of Irish employment rights legislation. The issues raised in the Private Member's Bill require further consideration in the context of the forthcoming partnership pay talks and of possible further moves by the EU Presidency to progress adoption of the directive on temporary agency workers by, possibly, mid-2008.

The Government's position on the draft EU directive has been that while we support the principle of equal treatment, the most recent proposals did not have the necessary degree of balance for flexibility between employee entitlements and the needs of enterprises in a competitive market economy. A number of other member states took a similar position and the Portuguese Presidency did not push the matter to a vote, indicating an acceptance that further work was necessary.

In essence, the Private Members' Bill does not contain the requisite balance to command Government support. It goes beyond the commitments agreed in Towards 2016. The Government indicated in the course of the debate on the

Private Members' motion in the Dáil on 19-20 February 2008 that the principle of equal treatment is supported and that it is accepted that the matter will be the subject of discussion in the forthcoming pay talks. While, to meet the requirements of EU law, any agreement will be primarily for the social partners, the Government will obviously have a significant role in the process and in introducing the necessary supporting legislation. Any such talks will need to consider not alone the qualifying period for equal treatment but, the constituents of equal treatment, namely, the various entitlements to be included in any package. The FDI sector, in particular, is concerned about any possible measure which might require enterprises to offer permanent employment to temporary agency workers following a specific period of employment.

It was intended that contributions from the Government side to the recently debated Private Members' motion in the Dáil, would form part of a discussion on where we might want to go as a society and how best we might proceed. In summary, we are discussing an aspect of changing employment structures and relationships in an evolving market economy and it is accepted that the rate of change experienced in this economy in recent times can, in some areas, lead to unwelcome imbalances. In addressing emerging challenges in such periods of change, Government must try to establish where the broader public interest lies at any given time. Governments must consider the impact of specific decisions on wider society and these decisions should have an eye to the longer term consequences of short-term decisions. It is important to remember that agency working as such has a very legitimate role in an economy such as ours and that many people benefit from the flexibility, personal freedom and good earnings it can provide. However, it is also clear that this does not suit everybody and that the very flexibility it offers can have negative consequences in some cases.

No government wants to see the emergence of agency working as the norm, to the extent it might begin to push out what might be termed "regular" jobs which provide for a stable and longer-term relationship between an enterprise and its employees and an enterprise and its host community. The longer-term development of a competitive economy and a healthy society requires the existence of a labour market where there are reciprocal responsibilities and shared benefits. Again, there is a need for a balanced approach here. Even in situations where we believe we have in place a good social protection framework, there is always a need to assess if further improvements are possible while ensuring our framework does not become so inflexible as to damage employment prospects. This is especially relevant for those attempting to get into employment for the first time or those wishing to re-enter employment following a period out of the labour market. In considering the nat-

[Deputy Michael Ahern.]

ure and possible impact of any changes, all concerned must bear in mind the affect of such changes on a future labour market, one that may, perhaps, be more challenging than the one to which we have become accustomed in recent years.

I want now to turn to the next stage in this discussion. In the course of the recent debate in Dáil Éireann, Ministers acknowledged that talks on pay and related issues forming part of the current social partnership programme will resume shortly. The Dáil was also informed that some issues relating to the Private Members' motion before that House were likely to feature in those discussions and that the Government is always ready to participate in discussion on how further improvements can be made in legislation under preparation.

In light of some of the calls for new legislation in respect of agency working made in the course of that debate, I again emphasise that any discussions as to what constitutes "equal treatment" in any given employment relationship must take into account the legitimate expectations of workers in terms of fairness and employers in terms of flexibility. They should also have regard to the legitimate role played in a modern market economy by quality employment agencies and those who choose to work for them.

In the context of the developing Irish model of social partnership, all parties involved in such talks must accept that progress imposes responsibilities on all participants and that all must be willing to play their role in negotiating arrangements which meet, in so far as possible, the legitimate aspirations of all stakeholders and which do not damage our national competitiveness. Our social partnership model is not built on the basis of Government imposing its view on other participants. The Government has a vital interest in ensuring that eventual outcomes reflect the balance necessary to sustain long-term competitiveness. In this regard, the Government will take its responsibilities seriously. It is confident that if the right approach is adopted by all stakeholders positive outcomes for society can and will be possible.

It is noteworthy that as discussions on the issue of agency workers and the development of agency working have continued in recent months there have been a number of interesting developments at firm level. Unions and companies have been able to negotiate innovative arrangements for handling issues while continuing to facilitate the required flexibility in response to market forces. Of particular note has been the very pragmatic approach agreed in deciding how agency workers become entitled to benefit from terms of employment comparable to direct employees of the firms in question. The type of agreement reached has much in common with the incremental approach reflected in collective agreements in this area in a number of continen-

tal countries, often on a sectoral basis. I would argue that developments in Ireland on this subject should not reduce the options open to agency workers in this country nor put Irish enterprises at a disadvantage in respect of those in competing countries.

Given our particular partnership model and the EU legal dimension, it is clear that while the employer and employee representatives have the lead role in negotiating changes at workplace level, the Government has a role in assisting the social partners and in legislating for any new arrangements as may be necessary. There is a strong basis for stating that discussions on possible changes relating to agency working and the entitlements of agency workers must involve all parties to the Towards 2016 agreement and will require a pragmatic and co-operative approach from all concerned. The type of pragmatism and flexibility shown at firm level has demonstrated this is possible.

While not wishing to anticipate the outcome of any future talks, it may be that elements of an agreement may be best addressed at firm level because it is at that level that enterprises and their employees have the keenest appreciation of their situation, strengths and vulnerability. What may work for one company may not work for another. While legislation may be appropriate or necessary in some situations where there is agreement at partnership level on a principle or a basic workplace entitlement, some flexibility in regard to lesser detail may be more appropriately left to agreement at firm level.

This is a complex issue which will be considered further in the forthcoming pay talks. In the circumstances it would be neither prudent nor appropriate to offer support to the Private Members' Bill before the House, no matter how well intentioned it might be. A successful resolution of the matters at issue requires a broader, more carefully thought-through approach. The Government intends to ensure this happens.

Senator Paschal Donohoe: I wish to quote from someone who knows a great deal more about these matters than I do. He wrote, "As awesomely productive as market capitalism has proved to be, its Achilles' heel is a growing perception that its rewards, increasingly skewed to the skilled, are not distributed justly." The writer of those words is Alan Greenspan, the recent chairman of the Federal Reserve. By the use of that description he captured the insight that some people are not being treated fairly and are not benefiting from the fruits generated by our market economy. Our failure as politicians to deal with that issue could reduce the support our community and country has for the operation of the free market economy in the long run.

Alan Greenspan easily sits on the far right of our political spectrum. He is a libertarian in his views. If he has identified a weakness in how some workers are rewarded for their enterprise

and effort and that not addressing it will become an issue for our society, that offers an insight, which means the Bill introduced by my colleagues in the Labour Party is worth supporting. While I have some questions about the operation of the legislation, its objective in seeking to introduce equality and fairness in the treatment of a portion of our workforce, which is currently lacking, must be supported.

In preparing my contribution I spent some time trying to ascertain the number of agency workers in Ireland and given that we and opponents of this approach spend much time justifying a flexible approach to our economy, with which approach I mostly would agree, I would have thought that time would have been devoted to identifying the portion of our labour force which is vulnerable in the way that has been identified in the Bill. I was disappointed I could not ascertain those figures. I took time to go through the last annual FÁS labour report which provides statistics on every aspect of the labour market, whether on gender or age, but from my perusal of it I was not able to find that information. I can see a flurry of paper on my left and predict that those figures may be produced at a later stage in this debate. They did not receive the prominence and weight I would have expected them to receive.

We must acknowledge that the flexibility and creativity of our market economy play a vital role in sustaining our society. We also must acknowledge that since 1998 a phenomenal 600,000 jobs have been created. Flexibility plays an important role in such job creation. The important issue is to ensure a proper balance is struck between making an ethical judgement on how the labour market performs while acknowledging that the labour market needs to perform, generate opportunities and drive wealth creation. We have not struck the right balance. I can think of no greater symbols to illustrate how that balance is wrong than the issues raised concerning the Turkish workers in Gama in this country and the treatment of workers in Irish Ferries. If we accept that an economy must be embedded in a moral framework within which there are basic thresholds for the treatment of people, we must acknowledge those episodes were fundamentally unacceptable. Strong legislation is required to deal with these issues and to ensure such incidents do not recur.

Many of the issues raised clearly deserve action and merit the support of this Bill. I refer to such issues as sick pay, holiday entitlements and when a person's employment can be terminated. The current conditions for these workers are unacceptable. I speak as someone who employed agency workers in a former life and recognised the role they could play in the operation of the organisation for which I was responsible. The limitations in terms of how they were rewarded and treated were apparent to me as an employer.

A number of questions merit further investigation if this Bill is to progress further. One is the

question of payment and the principle of equal payment. There is a framework as to how workers are paid. There is a basic threshold of a minimum wage which people need to survive and that should be adhered to at all times. Beyond that, there is complex framework in terms of how good a person is at his or her job, his or her level of performance, the length of time he or she has been working and his or her qualifications. Such considerations give rise to a number questions that should be addressed in this Bill, but from my reading of it, they do not appear to be.

For example, if I were a permanent worker employed in a company for ten years, had acquired qualifications for which I had received an increase in salary, had performed in such a way that had resulted in my receiving salary increases and was loyal to that company, should a temporary worker who came to work in that company be paid the same salary? The answer to that question is "No". Monetary rewards should be in place that reward performance, experience and longevity of service. The principle of equal payment is a blunt one in that it does not recognise the merits and factors that drive the level of pay of permanent workers.

We need to be careful in ascertaining those who constitute agency workers. It is important to address the lack of information in that respect. Many agency workers are paid more than permanent workers because they are willing to take a risk, to be unemployed for some periods and have no pension contributions, which is an essential point. Many agency workers are paid more than permanent workers to justify the lack of those provisions and reward the decisions they have made. I read the relevant sections of the Bill carefully and an implication of it is that people who work in particular sectors would be disadvantaged as a result of its implementation. However, this Bill recognises that we are more than an economy; we are a society. For an economy to perform well, there are standards and objectives that must be delivered to ensure people's work is recognised. Given that, we support this Bill.

Senator Ivor Callely: I congratulate my Seanad colleagues in the Labour Party for putting this Bill before the House. It provides for the protection of agency workers, requires the principle of equal treatment to be applied in respect of their employment, provides for the enforcement of their rights and for connected matters. I also thank the Leader of the Seanad, Deputy Cassidy for his accommodation, without a division and in the spirit of unity of purpose, in having this Bill before the Chamber to facilitate discussion.

In a rapidly changing global environment of work and working relationships, newer forms of employment and management pose new challenges for legislators. There must be open discussion and consultation with all stakeholders. This is all the more important in times of economic difficulty and uncertainty such as we are

[Senator Ivor Callely.]

experiencing. We open this debate with confidence in our cause, goodwill towards our objective, satisfaction that we have achieved much in this area, especially in the past decade, and are in preparation for further considerable improvements in the protection framework for workers.

We have made good progress in the broad sense but we must continually review and take account of changing trends and needs in the workplace. Much has been said and reported about agency working. I listened with interest to Senator Donohoe's comments about higher rates of pay and so on. Much of what has been reported and said includes an undercurrent of concern about exploitation. It is essential, therefore, that whatever further protection measures the Oireachtas considers and agrees reflect the current realities based on the available evidence and statistics. In principle, the Government is committed to equal treatment. I listened with interest as the Minister of State, Deputy Michael Ahern, spoke about the Bill. I agree with his remarks on the six-week qualifying period and the need for a definition of equal treatment.

Senator Kelly spoke about the opportunities before us, the great labour movement, the priority of this legislation and the fundamental importance of putting something in place. He and Senator Hannigan indicated that Ireland and the United Kingdom had delayed the legislation at EU level. That is not the case. There was no vote on the matter and a consensus emerged that it was not opportune to proceed. Moreover, I understand the Government is on record as indicating a desire to see progress and a balanced outcome on the matter.

I have genuine concerns about the six-week period. It is important when making comparisons with other countries that we do so to the fullest extent possible. My understanding is that some of what was alluded to by Senators Kelly and Hannigan would not be compatible in terms of what is applicable in Ireland compared with some of the other countries mentioned. They would have derogations and exemptions should this legislation be applied.

I noted with interest that we all seem to be singing from the same hymn sheet in expressing our support for providing protections. If that is the case, we should proceed with unity of purpose, with all the stakeholders fully supportive and no one being forced into a particular position. Do my Opposition colleagues propose to force a division on this Bill and, assuming it can be carried, present it to the social partners as something that will be forced upon them, like it or lump it? This is not the correct way to approach the social partnership discussions. It is not the method by which we have achieved success in our social partnership negotiations to date.

Senator Donohoe is right that it is difficult to find helpful statistics. I understand the only available data, which were compiled back in 2005,

indicate that temporary agency workers represent 2% of the workforce. I welcome the commencement of work by the Central Statistics Office in this area. We will be in a good position to reflect on the existing realities when the latest quarterly national household survey is published in the coming weeks.

As the Minister of State outlined, the Department is finalising a draft section of a Bill which will require employment agencies to comply with the terms of a statutory code of practice. This legislation will strengthen and enhance further the effective enforcement of the employment rights of agency workers. Under existing employment rights legislation, agency workers, regardless of the type of work, their nationality or whether posted by the employer to temporary work overseas, already enjoy certain protections. Such workers are entitled to take complaints to the labour inspectorate and to have their case heard by the State's dispute resolution machinery, which includes the rights commissioner service of the Labour Relations Commission, the Labour Court and the Employment Appeals Tribunal.

I ask the Minister of State to clarify a specific issue for me. When the Labour Court, for example, makes a recommendation on a matter that has been the subject of dispute between an employer and employee, is the Department satisfied that there is a mechanism in place to ensure such recommendations are adhered to? I am aware of a case where the employer refuses to adhere to the Labour Court recommendation. I will not name anybody but the case number is CDO7299, recommendation LCR18977. My understanding is that the Minister is aware of this case but has stated that he cannot intervene. The recommendations of the various bodies that make up our dispute resolution machinery should be binding.

It has also been brought to my attention that legislation relating to contracts of indefinite duration may require some amendment. I was told of a woman who was much valued and appreciated by her employer. On reaching 65 years of age in November 2005, she was given a year-to-year contract. She has now been advised, however, that due to the Protection of Employees (Fixed-Term Work) Act 2003 and legislation concerning contracts of indefinite employment, she must be offered permanent employment or let go. Does this represent discrimination against the over 65s?

It is our responsibility as legislators to have a reliable and constructive debate with an appreciation of our evolving economy and its many competing demands. There must be unity of purpose and a mutual understanding of the needs of all stakeholders — employees, employers, trade union leaders, representative bodies, State and semi-State sectors and the Government. If we genuinely wish to have an improved employee social protection framework and, at the same

time, tap into the maximum potential for job opportunity and creation, we must achieve this without becoming so rigidly bureaucratic as to damage either job opportunities and creation or the competitiveness of the economy. This debate will give rise to different views. I hope it will lead to the unity of purpose, mutual understanding and co-operation that are required if we are to achieve the potential that exists. The expertise, knowledge and input of all stakeholders are required if we are to ensure the appropriate protection is in place, specifically designed to bring about the right balance between the relevant competing demands.

Senator David Norris: I welcome the Minister of State, Deputy Michael Ahern. He is a decent man and I know he will not take anything I say either amiss or personally. I compliment Senator Donohoe on his outstanding contribution. While I am delivering bouquets, I compliment the Labour Party on introducing an important and socially relevant Bill. It seems to be part of a pincer movement. I notice the party introduced a similar motion in the Dáil recently and applied some pressure to the Government on this issue.

I turn to the Minister of State's speech and the remarks made by my good friend and colleague, Senator Callely, on the involvement of the social partners. We are the sovereign Parliament of this land and are not bound to be deferential to the social partners. They are citizens, as are we, but as legislators, we can instruct them.

We all may be singing from the same hymn sheet but some of us are singing out of tune. There was a rather flat note in the Minister of State's speech when he stated that the Government is committed in principle to equal treatment for agency workers. What does this mean? It means the Government will not do anything really. That is what it looks like.

Deputy Michael Ahern: We will.

Senator David Norris: It may mean the Government will do something pretty weak. I have come across promises of this nature on many occasions. The Minister of State's comment that "the Government's position on the draft EU directive has been that while we support the principle of equal treatment, the most recent proposals did not have the necessary degree of balance" is what the leader of the Minister of State's party would describe in his inimitable way in the other House as "waffle". The Government side has recognised, at least, that agency people have problems getting regular jobs. I shall return to this important aspect of the debate in a minute.

I am concerned that we have not solved the problems which led to the Irish Ferries dispute. While I was involved in the styling of the Irish Ferries' *Ulysses*, I refused to be involved in the styling of its new ship, *Oscar Wilde*, because of my concerns about the way that company treats

its workers. Trade unions raised considerable questions about the apparent proposal by Irish Ferries to pay less than half the minimum wage. The company thought it would be able to get away with it by virtue of some kind of offshore arrangement until a storm was raised. It may not be happening now.

Questions remain about the manner in which 500 operatives were made redundant and had their jobs filled by temporary agency workers. There was a suggestion that the employees were working 12-hour shifts for a two-month period. The company was almost boasting about the fact that the workers did not come ashore to Ireland but instead were put on a sister ship during their time off. That is very close to slavery in my opinion. It is an appalling situation in which to be. I do not know exactly what the situation was although I am not sure anyone does. There are serious questions, however. A spokesperson for the company has said that complaints about working conditions should be directed to a Cyprus-based company, Dobson Fleet Management, which employs the crew. I find it quite astonishing that the company claims it is not responsible and refers questions to an English-sounding company that is based in Cyprus.

It is regrettable that Ireland, in nasty collaboration with the United Kingdom and Hungary, is holding up the draft workers directive by reserving its position on it. The Government can massage its position any way it wants but there does not seem to be any doubt about what I have said. I note that Senator Callely is shaking his head. I do not know what the relevant officials are doing behind closed doors, in cigar smoke filled rooms if such behaviour is still allowed under the smoking regulations. I understand that 24 of the 27 EU member states, including Romania and Slovakia, have legislated to provide for equal treatment of temporary agency workers. The three countries which have not done so are Ireland, the United Kingdom and Hungary. One of the reasons we have not done so is that we have a massive inflow of immigrants.

Senator Ivor Callely: No.

Senator David Norris: Yes, it is.

Senator Ivor Callely: The Senator is mixing it up.

Senator David Norris: I am not inviting interruption.

Senator Ivor Callely: What about the other legislation?

Senator David Norris: We have a serious and nasty problem in respect of these workers.

Senator Ivor Callely: The Senator is cherry-picking.

Senator David Norris: I could not dig out any clear research pertaining to the conditions which apply. Perhaps the Minister of State and his colleagues will be able to point us in the right direction. I have found comparable stuff from our neighbouring island, however, the attitude of which we seem to be mimicking. Agency workers in the United Kingdom are paid an average of 68% of the earnings of directly employed workers. They have fewer entitlements. They do not get basic human things like medical treatment, pensions or time off. As agency workers are younger, on average, they are more vulnerable and have less control over the work they do. Work patterns of this nature are spreading into areas such as construction, retail, distribution, transport, logistics, food processing and hotel and hospitality services in which agency workers have not traditionally been involved in this country.

There are many aspects to this interesting problem. I am concerned about the involvement of agency workers in the hotel sector, for example. While I love dearly all my fellow human beings, including Slovenians, Poles and Lithuanians, I find it rather curious to be met with halting English when I go into an hotel. People who come to this country are sometimes disappointed when, rather than getting the traditional Irish welcome, they get an eastern European saying "Yes, you want?" or something similar. Workers from other countries are pretty vulnerable because they are not always in tune with, or aware of, the employment conditions which apply in this country.

I am not sure if it has been mentioned that 520 employment agencies operate in this country which has a population of approximately 4.2 million. Poland, which has a population ten times that of Ireland, has slightly more than 700 agencies or not even twice as many as Ireland. There seems to have been a bloom of agencies on Ireland's troubled employment waters. Just ten of this country's 520 agencies were inspected in 2005. There were 21 inspections in 2006 and six in the first half of 2007, which was after the former Deputy, Joe Higgins, unearthed the problems faced by the Gama workers. The meanest aspect of this matter is that employers frequently employ agency workers for 11 months before kicking them out, which means they do not have to fulfil their obligations, and employing another set of temporary workers. Such behaviour is in flagrant defiance of the intention of the Oireachtas, regardless of whether that intention is enacted in the legislation. This is really awful.

Like my good friend, Senator Callely, I am a north-sider from Dublin. I was concerned to read an article recently written by Matt Cooper about Arnotts, which is the best department store in this city, closely followed by Clerys and to hell with the south side.

Senator Ivor Callely: Hear, hear.

Senator David Norris: Mr. Cooper wrote that it is suspected that 600 jobs will be lost during of the redevelopment of Arnotts.

An Cathaoirleach: The Senator's time is up.

Senator Ivor Callely: This is an important point. The Senator should be allowed to talk about the north side.

Senator David Norris: Irish Ferries got rid of 500 staff.

Deputy Michael Ahern: John Arnott, who founded the store, was a Cork man.

Senator David Norris: We have to watch this space to see if Arnotts, which is a wonderful firm, engages in the noxious practice of hiring agency workers when it reopens.

Senator Jerry Buttimer: Senator Norris is going for the Dáil.

Senator David Norris: I would not touch it.

Senator Ivor Callely: Well done, David.

Senator Déirdre de Búrca: I welcome the Minister of State to the House. I am pleased to have an opportunity to discuss this Labour Party Bill which attempts to highlight an important issue that requires Government attention. Temporary agency work has been the most rapidly growing form of atypical work in the EU over the past 20 years. The use of temporary agency workers has increased fivefold in Denmark, Italy, Spain and Sweden and has at least doubled in most other countries according to the European Foundation for the Improvement of Living and Working Conditions, which is based in Dublin. Like other Senators, I found it difficult to get exact statistics for Ireland. The foundation estimates that in 2000, 2% of workers in the 15 EU member states at the time were on temporary agency contracts. It believes that approximately 6 million people are on the books of employment agencies in any given year.

This form of work is also on the increase in the new EU member states, although few statistics are available. Slovenia, for example, passed legislation to authorise temporary work agencies in 1998, with new measures to protect workers in 2003. Since the enlargement of the EU in May 2004, more opportunities for temporary agency workers from the new member states have opened up in the 15 pre-accession member states. Therefore, we need to establish minimum standards if we are to avoid the undercutting of pay and working conditions.

An increasing number of companies are using temporary agency work to cut costs and increase flexibility by allowing them to adjust their staffing levels at short notice. Agencies help employers to find workers with specific skills when they want

them while avoiding recruitment and administration expenses. According to the International Confederation of Temporary Work Businesses, companies most often use temporary agency workers to fill in for staff absences. Such arrangements can also have benefits for individuals, enabling them to work flexibly when they want to or gain experience in a specific sector. Young people under the age of 25 make up the largest category of temporary agency workers. Overall, research shows that a higher proportion of temporary agency workers are unhappy with their jobs and conditions than permanent staff. Many employees do not choose this way of working and would prefer secure employment.

While the manner in which temporary staff move frequently from one workplace to another means it is not easy to secure collective representation rights, trade unions have concluded national deals in a number of pre-enlargement member states, including the Netherlands, Sweden, Belgium, France and Spain. However, the importance of union representation is underscored by the unions because the potential for the exploitation of vulnerable migrant workers and the parallel undermining of well established standards in the workplace through the use of temporary agency workers has been very evident for some time.

Compared with all other forms of employment, temporary agency work has the worst record for working conditions judged on a number of indicators, including repetitive labour, the supply of information to employees about workplace risks and control over the kind of work done and how it is done. Research shows that agency workers get less training than others, that they have a higher rate of workplace accidents, that they are less well informed about safety, that they do more shift work and that they are given less time to complete jobs.

In most countries, agency work means greater job insecurity. In France, for example, the average assignment lasts only two weeks. Senator Donohoe referred to some examples of temporary agency workers earning higher rates than permanent staff — for example, agency nurses in Scandinavia. However, most evidence points to lower wages for similar work coupled with exclusion from bonuses and benefits awarded to other employees. Agency workers are also deprived of the typical rights to which other workers are entitled, such as maternity rights, holiday pay, sick pay and even overtime pay.

The growing need for an EU-wide legal framework which offers protection to temporary agency workers is clear. The European Commission responded to this need in 2002 by proposing a directive laying down the principle of non-discrimination against temporary workers and aiming to set minimum EU-wide standards and to create a level playing field for companies in different member states. The principles laid down by the Commission state that a temporary

agency worker may not be treated less favourably in terms of basic working conditions, that is, working time, rest periods, holiday pay, etc., than a permanent member of staff doing a comparable job in the same firm. However, to accommodate national laws and practices, it also allowed for exceptions to be made where workers have a permanent contract with an agency or where collective agreements provide adequate protection.

Since 2002, despite the efforts of the European Commission, the opposition of a small number of member state governments has meant that no progress has been made in this crucial area. Unfortunately, the Government has been one of those which has failed to reach agreement on this proposed directive. Attempts to break the deadlock by the Finnish EU Presidency between July and December 2006 and, more recently, by the Portuguese EU Presidency in December 2007 were unsuccessful. It would be fair to say there is stalemate and no progress has been made.

I listened to the Minister of State's response and accept he made the case that the Bill is premature given that the social partners are discussing and negotiating on this issue as part of their pay talks. While I accept Senator Norris's point that we are legislators, that the social partners are citizens and that we are entitled to legislate for them, the social partners are proactively discussing and negotiating on this issue. I am happy to accept the Government's bona fides on this but if Ireland continues to drag its heels in approving and reaching agreement on the temporary agency workers directive at EU level, it will be showing itself in a very poor light. Along with the UK, we will gain a reputation of being extremely neoliberal in our approach to trying to create the most flexible labour market conditions possible in the European Union at the expense of workers. That would be very unfortunate.

I am a member of the Oireachtas Joint Committee on European Affairs and ICTU spoke to us about the Lisbon treaty. David Begg was slow to indicate that ICTU would support the treaty. It has many reservations about developments in the European Union and many them relate to the undermining of long established rights and protections for workers. It is up to member state governments to get the balance right. Member states have a responsibility to ensure their labour markets remain flexible and that they are not over-regulated in a way which would deter investment or the creation of new employment. They must, however, protect the rights and interests of workers. Unfortunately, the European Union's reputation of providing a good model of a social Europe is being undermined.

This Bill has highlighted the issue which has been the subject of a lengthy debate in the Dáil. The onus is on the Government to bring the negotiations on the EU directive to a conclusion and to use our very considerable negotiating skills to reach a satisfactory conclusion. By supporting the directive, we are recognising that we have

[Senator Déirdre de Búrca.]

created a single market for companies, employers and workers. There is a greater degree of mobility among the workers and citizens of EU member states. To respond to that, we must set down these minimum levels of protection for agency and temporary workers.

I support the spirit of the Labour Party Bill and call on the Government—

Senator Alan Kelly: Of which the Senator is part.

Senator Jerry Buttimer: Only when it suits.

Senator Déirdre de Búrca: —to progress the negotiations at EU level and to support an EU-wide directive to protect these workers.

Senator Phil Prendergast: I wish to share my time with Senator Alex White.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Phil Prendergast: This Bill will go some way to address workers' concerns in regard to displacement in particular industries. We are all aware of the changes in the construction industry. Under this Bill, employers would not be able to discriminate against workers and would have to give them proper pay and conditions. A Pakistani worker who had to work 60 hours per week and was paid €50 per week by a restaurant was fired when he complained. The Labour Court subsequently awarded him a very large sum in compensation, which was justified. It should not have happened in the first place. The appalling way Irish Ferries treated its staff has been mentioned.

I heard some on the Government side rightly say that all workers should be entitled to earn an honest day's pay for an honest day's work, with which we agree. The Labour Party would stand over such treatment of workers because workers' dignity should be protected and they should get fair pay for the work they do.

We should not lose sight of the fact that the continuous exploitation of agency workers is not only awful for those involved but it poses a significant threat to the labour force. Employees' pay and conditions will be undermined if this situation is allowed to continue. Therefore, as a result of the Government's continued opposition to the draft EU directive on agency workers, it is the Labour Party's view that legislation is needed to protect the rights of workers and to ensure agencies which recruit workers are not allowed to circumvent quality provisions of employment, that agency workers are entitled to equal and fair pay and working conditions and that they should not be treated less fairly than others.

There are some instances where agency workers might accrue a higher rate of pay, for

example, nursing. At one stage, I did agency nursing. The downside is that one must be available at very short notice to work unsociable hours often at Christmas and Easter when other people are off. Nurses must be available 24 hours per day, seven days per week and 52 weeks per year, whether they like it or not. The Bill is about how we treat people and we should not discriminate against anybody.

Senator Alex White: Despite the talk of people being in favour of the spirit of the Bill, of everybody singing from the same hymn sheet and of the Bill being premature and not thought through, the Labour Party, with the support of others, is proposing a real and practical measure to protect agency workers which is being opposed by the Government. It is being rejected by the Government which will vote against it. I suggest we cut through the waffle—

Senator Ivor Callely: It is being opposed for very good reasons.

Senator Alex White: —and all the nonsense about everyone singing from the same hymn sheet. When someone presents a practical proposal which has been well thought through and is clear in describing the impact of the measure, the Government informs them this proposal will be rejected and that it might do something in the future and it will discuss it with the social partners.

Senator Ivor Callely: There are very good reasons.

Senator Alex White: We will go through the reasons because there are many of them. The Minister of State does not seem to be able to decide what the reason is.

Senator Jerry Buttimer: Well said.

Senator Alex White: I refer to the contribution by the Minister of State, Deputy Michael Ahern, which lists at least five or six reasons. He referred to the reason the Irish Government did not support the EU directive on temporary agency work. He spoke a nonsense about the fact there are different industrial regimes across Europe, something we all know is the case. Everyone knows there is a long history of collective agreements at national level in Germany and other European countries. This is not a new discovery. There is employment legislation going back 30 years which applies in equal measure across the European Union in circumstances where different employment law and industrial relations regimes are in existence in those countries, such as the fixed-term work legislation and the equality directives. Much legislation and many directives that have been introduced and implemented in different member states are implemented in countries that have different regimes and differ-

ent industrial relations regimes. The Minister of State's argument is a nonsense and an excuse.

Senator Ivor Callely: The six-week period might not apply.

Senator Alex White: The Minister of State's second reason and explanation is that flexibility is required. He stated that the Irish Government is concerned that these proposals to give proper basic rights to agency workers might compromise the flexibility that is required in a market economy. We are now getting to the real meat. He gives a reason that is much closer to the truth of what is going on. The foreign direct investment sector in particular is concerned about any possible measure which might require enterprises to offer permanent employment to temporary agency workers after a specific period of employment.

Senator Ivor Callely: It is cherry-picking.

Senator Alex White: Who runs this country? Is it the sovereign Irish Government or the FDI sector? We listened to the views and must take into consideration the views of people who set up industries in this country and I do not disagree with that for one moment. However, such people do not decide, do not determine and should not be allowed determine the basic employment standards in this country. The foreign direct investment sector is just one sector and only a sector. For the Minister of State to elevate this, as he appeared to do in his speech, to being yet another one of his reasons for rejecting the proposal is simply unacceptable to this House.

The Minister of State listed further reasons in his speech. He referred to his fear of unwelcome imbalances. He stated that the Government must try to establish where the broader public interest lies at any given time. What does he mean? His next point states, "It is important to remember that agency working as such has a very legitimate role in an economy such as ours" and is the choice of many people. Senator Paschal Donohoe and others made the point that no one is saying that agency work is to be banned. No one is seeking to impose a prohibition on agency work. Everyone knows that agency work in sectors such health and elsewhere is part of the environment. We are arguing for the principle of equal treatment, that people are not treated differently or less favourably by reason of the fact they are agency employees. What is wrong with this proposal? No one is suggesting a prohibition.

Senator Ivor Callely: What about the six weeks?

Senator Alex White: If Senator Callely reads the Minister of State's contribution, he will see that the six weeks proposal is entirely consistent with what is being proposed in the EU directive.

Senator Ivor Callely: Have they the derogations and exemptions?

An Leas-Chathaoirleach: Senator White, without interruption.

Senator Alex White: Senator de Búrca who is sitting behind Senator Callely on the same side of the House, made a very good speech and I agree with her criticism of the Irish Government for its failure. I am not seeking to embarrass anyone in this House; I genuinely agree with what she said, that the Irish Government is wrong to stand in the way of this progressive measure. It is not enough for the Minister of State to come to the House and say the measure did not win sufficient support and it was not going anywhere and so on. The Irish Government was part of the reason for it not going anywhere.

Senator Ivor Callely: That is not true.

Senator Alex White: Senator Callely does not seem to know the facts.

Senator Ivor Callely: There was no consensus among member states and that is the simple answer.

Senator Alex White: If he checks the facts he will see clearly that Ireland is one of the three governments that has essentially blocked this progressive measure. He cannot have it every way; either he is for this measure or he is not.

Senator Ivor Callely: Let us have unity of purpose.

Senator Alex White: The Minister of State referred to flexibility. Why is it that this great notion of flexibility is so privileged and elevated in the case of what employees must tolerate and sustain but never applies on the other side of the equation? Flexibility is something only looked for from employees. What about flexibility from employers and from this Government in terms of introducing basic standards?

The Minister of State said in his contribution, "I can say already that no government wants to see the emergence of agency working as the norm" but he then refers to "what might be termed "regular" jobs which provide for a stable, longer-term relationship between an enterprise and its employees". We all want this but the Government is standing in the way of it by refusing to implement this legislation.

Senator Ivor Callely: It is not thought through.

Senator Alex White: In what manner is it not thought through? This legislation is modelled on existing legislation covering the rights of fixed-term workers. There is nothing particularly strange or unusual in the overall scheme of this legislation. That statement is not thought

[Senator Alex White.]

through. It is a self-serving attempt by the Government to renege on the responsibility it should have as a sovereign Government to legislate for the basic rights of employees and workers in this State.

Senator Norris is correct. We should not leave this to social partnership in case, as Senator Callely extraordinarily said, we would be imposing it on the social partners. This is the parliament of a sovereign country. We make the legislation; we set the standards; we set what the minimum standards ought to be. That is what we should be doing, not hiding behind this notion of flexibility. The only thing not thought through in this House is the Minister of State's speech. It is a tissue of excuses and alibis and it simply is not acceptable in this State.

On behalf of my colleagues I thank others who have supported the proposition. I wish to reply to the very reasonable question asked by Senator Paschal Donohoe in respect of pay. He was concerned that other criteria should be used when differentiating pay and I agree with him. Performance targets was one issue he raised. We might have differences on exactly how that might be implemented but this Bill will not interfere with it. We simply propose that there should be no discrimination against someone solely by reason of the fact he or she an agency worker. If performance or some other criterion is introduced, it can be introduced in equal measure for agency workers and non-agency workers. There should not be different treatment of agency workers.

Similarly in the case of pay, the Bill proposes that there should not be less favourable treatment of an agency worker. Senator Donohoe expressed the legitimate concern if an agency worker were earning more than the comparator, whether they would be stymied by this Bill. I assure him they would not because the provision in section 5(1) states that an agency worker should not be treated in a less favourable manner than a comparable employee. This would settle any concerns that an agency worker's pay might be reduced by this Bill.

Senator John Carty: I welcome the Bill proposed by the Labour Party as it has many good points. There is evidence of agency workers not being well treated by employers and it is time that protection was afforded to them.

The Minister is well aware of this and has set out to strengthen the Employment Agency Act 1971. In May 2004, the Department of Enterprise, Trade and Employment, issued a discussion paper on the review of the 1971 Act and submissions made by various interested bodies. In 2005, the Department issued a White Paper on the review of the Employment Agency Act 1971. This White Paper took account of the submissions received on the Department's discussion paper of May 2004. The review was undertaken and was subsumed into the discussions on

Towards 2016. There are commitments regarding the licensing regime, the establishment of a statutory code of practice providing for standards in the employment agency sector and the setting up of a monitoring and advisory committee to oversee preparations of the code of practice. This committee will be representative of the social partners and the employment agency sector of Departments.

The Minister has drafted a Bill which will reflect the commitment in Towards 2016 to a licensing system where to be licensed, employment agencies will be required to comply with the terms of a statutory code of practice which will set out the practices and standards which employment agencies will be obliged to follow.

The issues I wish to put forward are the legitimate role in the economy of the choice for employees to benefit from the flexibility, personal freedom and additional income arising from agency working; the reduction of bureaucracy in the challenge to address the rapid change in employment structures and any purposes which reflect realities in the workplace and sustainability of employment; ensuring a pragmatic mix of employment opportunities prevails in society to accommodate the competing demands of all stakeholders; competition and efficient work practices and willingness to devise and co-operate in initiatives to think outside the box to improve employee-employer relations; and acknowledgement of the long-term broader public interest and the benefits received right across all sectors in a sustained vibrant and competitive economy.

These are some of my views, but my overriding objective is that we must continue to improve our competitiveness to achieve sustained economic performance, and we must continue with a unity of purpose and the right approach being adopted by all stakeholders. A number of issues will be considered further in the forthcoming pay talks. While this Bill is well intentioned, we must await broader legislation which will provide for all aspects concerning agency workers to be well covered. I know the Government intends to do this and I await the outcome of its deliberations.

Mention was made in the House that the new directive was being held up by Ireland, the UK and Hungary. During the Portuguese Presidency last December it was decided there was not sufficient consensus to proceed.

Senator Dominic Hannigan: That is because we held them up.

Senator John Carty: There was no vote in the matter. Ireland wanted to see progress and a balanced outcome. I should like to put that on the record of the House.

Senator Dominic Hannigan: We held them up. They do not like to vote. They like consensus, but we would not agree.

Senator Jerry Buttimer: Cuirim fáilte roimh an Aire Stáit, Deputy Conor Lenihan. The motion before the House is timely, given that we are in a period of economic uncertainty and there is a question mark over the competitiveness of the economy. I attended a SIPTU meeting recently in Cork which was very enlightening.

I commend the Labour Party on the Private Members' Bill. There are two issues to be considered, the regulation of the agencies and the protection of workers' rights and entitlements, including an end to exploitation. It is important we regulate and have appropriate legislation.

The Minister of State referred in his speech to social partnership. My information is that it is the preferred route of SIPTU to have legislation. Exploitation of workers has been mentioned. We all agree that we cannot tolerate exploitation any further. The Gama and Irish Ferries workers were mentioned and I agree with Senator Norris about the hospitality and catering industry where very few Irish people now are employed. I wonder about the rates of pay, the length of the working day demanded by employers and the conditions of service.

In many ways we are somewhat akin to *Animal Farm*: two legs good, four legs better. In this case some work was good, other work was better. We all know what happened to the animals in *Animal Farm*. I take issue with the fact that legislation on the Statute Book since 1971 is outdated and needs to be changed. I shall not argue back and forth about who is holding up what but we need to have the law in this area updated urgently. That 520 agencies operate in Ireland requires vigilance. Senator Norris referred to ten inspections in 2005 and six so far this year. That is wholly inadequate. How can workers be protected when we do not have an inspectorate that is coherent, cogent and working properly? The workers of this country built up the economy through social partnership. If we are to continue with social partnership, at its core must be the worker as the man or woman producing the output.

We face a significant issue regarding competitiveness and I would not like to see workers' entitlements lost during a transition period in the economy. I am a member of a trade union, the ASTI, and have been involved in education all my working life. I see the erosion of teachers' rights along with those of other workers in society. We need a Bill from the Government before the Oireachtas immediately. I take Senator de Búrca's comments on board but I must emphasise that one cannot be critical on one level in this House as an agent of Government. This is not a talking shop. We are legislators and it is our duty to stand up for the people we represent. I challenge Senators de Búrca, Callely and Carty on the legislation. Let us bring it in and enhance the protection of workers.

The process of a labour inspectorate is slow and cumbersome. It needs to be fully resourced and the number of inspectors increased as a

matter of course. I agree with Senator Donohoe that we have an issue with permanent and temporary agency workers and their pay. I would like to see that debate expanded because I am not entirely convinced about the norms pertaining to length of time, payment and experience where temporary agency workers are concerned.

I will not attempt to replicate Senator Alex White's criticisms of the Minister of State's speech, but the Minister of State said the emergence of agency workers' terms of employment as the norm should not be the way. None of us wants to see that. Like Senator Alex White, I seriously question whether we are being dictated to by the foreign direct investment sector. Are we being told that because these companies demand flexibility, no unions, lower pay and other conditions, there is no argument? Is that what we are saying at one level? If so, it is a poor day and the Minister of State should go back and read de Valera's writings and pronouncements, which are quite different in tenor to what the Minister of State appears to be saying. I look forward to clarification in that regard.

Senator Ivor Callely: We are not saying that. We want it based on the realities and statistics.

Senator Jerry Buttimer: We have had growth in the economy on the back of both employers and employees. The key word here is "both". When the issue goes pear-shaped, do not blame the employee and write him or her off because that is not right. Let us not do that.

Senator Dominic Hannigan: Hear, hear.

Senator Jerry Buttimer: It is important we have social partnership and the Fine Gael spokesman on finance, Deputy Richard Bruton, has raised some legitimate questions in this regard. I hope we have an informed debate. I ask SIPTU and the other agents involved for a real discussion on what it means to have social partnership in Ireland in 2008 because it is very important. Senator Donohoe referred to equality and fairness in the workforce, and we need that. Unfortunately, that has been lost in some areas, for example, in health, education and tourism where the hospitality industry is concerned. There is a major issue concerning the way people are being treated and I would like the Members opposite to give serious consideration and not just pay lip-service to the protection of agency workers and, indeed, all workers.

I cannot understand why the Government has not yet established the national employment rights agency, NERA, on a statutory basis. I would like to hear why that has not happened.

If we are to continue to have proper employment methodologies and equitable pay and conditions of service, we need flexibility. The Irish workforce, regardless of whether it includes agency workers or non-agency workers, has never

[Senator Jerry Buttimer.]

been slow to be flexible and fair over the past 20 to 30 years. However, the time has come in which we need to be vigilant regarding what and who we are protecting.

I commend the Labour Party on introducing this Bill. We have some questions on this side of the House but it is important we have this debate and meaningful dialogue.

Senator Pearse Doherty: Cuirim fáilte roimh an mBille seo, atá curtha chun tosaigh ag Páirtí an Lucht Oibre. I welcome the Bill proposed by the Labour Party which comes some weeks after Sinn Féin and the Labour Party tabled a Private Members' motion on agency workers in the Dáil. While I welcome the Bill, it is a pity it has been left to the Opposition to introduce legislation that is worthy and necessary.

The exploitation of agency workers has blighted this State and the Six Counties for the best part of a decade. During this period, we have had promises from Fianna Fáil, the Progressive Democrats and now the Green Party that legislation would be forthcoming. It was even alluded to in Towards 2016. During the discussion on the Private Members' motion there were protestations from the Government benches to the effect that legislation was pending, yet three weeks later we are debating legislation on agency workers put forward by an Opposition party. Tonight again, Senators on the Government side claim the Government is committed to introducing legislation. When will it be introduced? Let us include it on the Order Paper and deal with it.

The excuses and delaying tactics of the Government have been ridiculous. It has claimed the evidence of agency workers being exploited is based on hearsay. When my colleague, Deputy Arthur Morgan, attended a SIPTU campaign meeting on this issue in Waterford, he noted it was attended by a Fianna Fáil councillor who, having met agency workers, spoke at length about the problems faced by them. If Fianna Fáil had attended any of the other campaign meetings held by SIPTU throughout the State, it would have direct evidence from agency workers regarding their having to work for lower pay than that received by directly employed workers, and regarding their having to work in poorer conditions while doing the same work.

SIPTU and all the other unions have countless cases of the abuse of agency workers on their books. If the Government asked the social partners to give it the details of these cases, I am sure they would do so. Who are we really kidding? If the Government did not know its friends in the world of big business were benefiting from the exploitation of agency workers, there would be no problem introducing legislation on agency workers.

The Government, along with the authorities in the United Kingdom and two other member states, has stalled the proposed EU directive on

agency workers. I heard Senator Callely denying this but he is incorrect. The Government voiced concerns over the lack of competitiveness that would ensue if it legislated in this area. This is the nub of the problem. When a British Member of Parliament from the Labour Party introduced legislation on agency workers in Westminster last month, the British Chambers of Commerce stated the clampdown on flexible workers would put Britain at a competitive disadvantage.

We cannot sustain the economy with a race to the bottom in respect wages and conditions. Doing so is madness. We cannot compete with the economies of China and India, even with agency workers, and anyone who believes we can needs to do a refresher course in basic economics. The future of the economy in this State lies in high-end quality industries such as those that engage in research and development. It lies in our having a qualified, educated workforce that wants to build that economy. The rights of this workforce must be protected or labour disputes will multiply and harm the economy we would like to see developed.

We need to develop workers' rights on the basis of equality, which also means equality for agency workers. Agency workers are being used by employers to avoid employee legislation that has been in force for 30 years. The exploited loophole, like the one that allows the employers' rich friends to avoid paying tax, has been left alone because unscrupulous employers will run riot if flexible employees, including agency workers who, with no recourse, can be treated like rubbish, are clamped down upon. In this regard, I welcome this legislation and hope that, with some amendment, it will receive the support of all Members of the Oireachtas who claim to represent, or work on behalf of, the people.

I have some questions on the Bill which I hope my colleagues in the Labour Party can answer, if not now perhaps on another day. Sections 5 and 6 refer to incidents in which an agency worker can be treated in a less favourable manner when that manner can be justified on objective grounds. The Bill lists such objective grounds. I seek clarification because this could open up a can of worms in terms of what constitutes objective grounds for less favourable treatment.

When composing section 5, did the authors of the Bill consider reducing the number of weeks of continuous work after which an agency worker should be treated as comparable to a direct employee, except under the conditions set out, from six to four? Did they consider making them comparable from the day of commencement of employment? I ask this because it has been brought to Sinn Féin's attention, especially by employees in the construction sector, that the six-week timeframe has the potential to allow employers to continue to use and exploit agency workers owing to the short-lived nature of many construction jobs. The EU directive recommends a period of six weeks but some debate is needed

on this issue. After all, we do not have to accept every EU recommendation.

I have some less serious concerns about the Bill which I can deal with on the upcoming Stages. I hope the Bill will be supported as a first step in dealing with the problems faced by agency workers. I commend the Labour Party Senators on introducing it.

Senator Joe O'Toole: I, along with Senator Doherty, congratulate Senator Kelly and his Labour Party colleagues on bringing forward this important and testing Bill. It has been terrible to listen to Members trying to avoid agreeing with the very ordinary, sensible and pragmatic measures of the Bill. There were weasel words, false arguments and a specious approach to the relevant issues.

The legislation is very simple. When I was listening to the debate, I thanked God we joined Europe. Senator Doherty might not agree. I heard the arguments propounded in the legislation in the early 1970s when I was fighting with many individuals to obtain simple rights for workers in respect of unfair dismissals, equal treatment and equal pay for equal work. The issues are arising again. This is a one-principle Bill in that all it is calling for is equal pay for equal work. There is no complexity attaching to it.

No issue of competition arises unless we say we ought to pay people nothing to maintain competitiveness. My colleagues on the Government side should note that the Competition Authority issued a statement, which we all received in the past month, pointing out the areas in which we are and are not competitive. We do not have a problem in terms of labour costs. We have problems with telephone costs, energy costs and access to broadband, and all these issues come ahead of labour costs. I say this in good faith.

The practices that are taking place are purely exploitative. Agency workers are being taken on and used. Senator Callely stated we should hand the matter over to the social partners for them to deal with it. As it happens, I participated for years in social partnership negotiations and led them for quite some time. Consequently, I can assure the House that this legislation would help social partnership. Would we be prepared to wait for consensus on social partnership? It is a bit like considering how we dealt with issues in the past. We must determine what we are talking about. We are talking about people in bondage, who are tied in a bond in a country far from home. They are transported, and almost trafficked, to Ireland and put into tied work where they are used and abused. This used to happen in the past and it was called slavery. How long would we have waited if President Abraham Lincoln had been told to hang on for consensus in the south of the USA and they would surely get rid of slavery in a short time? This is not an issue of consensus; this is an issue of right and wrong. I want to hear just one

person tell me why it is right for two people doing the same job to be paid different amounts of money.

Senator Alan Kelly: Hear, hear.

Senator Joe O'Toole: It is a simple question. People will then state that we will get them to work for nothing or for half nothing so that we can be competitive. They will end up telling me that that is right and that is the basis on which we build our economy.

Members on all sides of the House fought for 40 years to ensure we were fair and protected people in employment. There were 100,000 people on the streets of Ireland less than two years ago when they saw what was happening in Irish Ferries. People did not like it. It did not meet the vision Irish people have of themselves. It was not right that people were recruited into bonded employment on the ships and paid pence to do work which should have attracted greater money. Any Member who ever spent time working abroad, as a student or in another capacity, knows how strongly he or she felt if he or she found himself or herself in employment where he or she was paid less than the people with whom he or she was working. It was unacceptable.

I have spent my life fighting for people who were not treated fairly in all sorts of ways, for example, women or people on incremental service. There is no answer to the argument that people should be paid equal pay for equal work. I have never found any objection to it. No one dealt with it in this debate.

People spoke of the free movement of labour. This is not about the free movement of labour. The people who take advantage of the bondage in which many of these agency workers find themselves are exactly the same people who would put gates and locks around the country to ensure people could not come here for equal pay for equal work.

If we applied the Treaty of Rome as we envisaged it in the 1960s and 1970s so that people could move about the place, we would not have this difficulty. If someone had told us in 1973 that we could send Irish workers to Germany, France or the UK but they would be paid only half what the local people were paid, how would we have felt about it? That is the question we must ask ourselves. Would we have stated that France, Germany and the UK needed to be competitive and therefore it was okay for Irish workers to be steamrolled, oppressed and stood upon in order that the competitiveness of other countries could be maintained? That is what we are saying in this debate and nothing else.

It is not complex and anyone who tries to introduce complexity into this argument is not examining the reality as we look at it. It is a matter of equal pay for equal work, of protecting, giving dignity to and respecting people.

[Senator Joe O'Toole.]

Members come from communities where, regardless of the part of the country, in the local street in the local town or village there are people from all different types of backgrounds. A person could be unemployed, the veterinary, the shop-keeper or could have another job. We live and mix together and treated each other with dignity. That is what this is about.

I do not want to live in a country where we bring people in from abroad, employ them in factories and keep them tied to there, such as we have heard. A Member cited the example of Pakistani workers in a restaurant who were being paid €50 a month. Mushroom pickers in another part of Ireland were found to be spending almost their entire wages on their substandard accommodation. This is not a correct image of modern Ireland. This is not what the Celtic tiger was about. This is not why we tightened our belts in 1987, 1990 and 1995. This is not the vision we had. The vision we should have is of a place where people do their best and are rewarded for it. It is a place where we have allowed market forces to develop.

What social partnership has done, and some of us bear the brunt for having to compromise on this point, is to allow the market to work in a regulated space so that everyone gets fairness and protection. I am not happy with the level of protection but I realise it is good to a certain point. I am not happy either with the influence the market can exert sometimes but I have had to concede that point. Neither am I happy at times with the increase in wages, salaries and rewards for workers, but it is a compromise we have had to make and sell and for which, perhaps, we have received little thanks from the people we represent. It is a matter of trying to get that balance into it. However, there is no balance in this situation.

The other aspect of this is that if an Irish worker cannot get a job because an agency worker has been employed at half the price of the Irish worker, that feeds xenophobia. Irish workers ask whether such people are taking their jobs. These people do not even know whose job has been taken. They have arrived looking for work, have been employed and, suddenly, are objects of hate and the focus of attention. The result is a growth in the level of xenophobia. We cannot allow that to happen.

There is no basis for doing anything other than accepting the principles in this legislation. It cannot be right to do otherwise. The only question we must ask ourselves is what is right in this situation. What is right is either to accept this Bill, introduce something similar or deal with the issues in it. There is no way other than the right one on this matter.

Senator Alan Kelly: I thank Senators for their contributions on this Bill. I especially thank all those who spoke in favour of it — Senators

Donohoe, Norris, Buttimer, Doherty and O'Toole. I even thank Senator De Búrca because, as far as I could hear, she spoke in favour of it as well.

I want to respond to a few comments by the Minister of State, Deputy Michael Ahern. He stated this Bill is premature. The opposite is the case. It is badly needed now and it was needed a long time ago. I would like him to make the same comments to the likes of Mr. Jack O'Connor and Ms Patricia King who have organised thousands of workers throughout the country to go to meetings on this issue.

We also heard that the EU directive did not receive consensus. It did not because the Government did not allow it to happen. The Minister of State hit on a sore point and he was getting close to the bone when he mentioned that the foreign direct investment sector had certain concerns about it. This Government is facilitating big business to exploit vulnerable workers.

Senator Pearse Doherty: Hear, hear.

Senator Alan Kelly: That is the reality of the situation and if the vote on this legislation is not successful, that is the message that should go out to all and sundry. That is the truth and I will stand over it.

It is a bit rich of Senator Callely to state that no Government wants to see the proliferation of agency workers to become the norm when this Government has facilitated it. It has done so over recent years as the economy has changed and it continues to facilitate it by its refusal to act.

Concerns were expressed by Senator Callely and others about the six-week period. We in the Labour Party believe this is an adequate period and we stand over it. We believe the terms workers would receive under this legislation are correct and it is the most proper timeframe that should be put in place.

We also must look at the suggestion that has been made that social partnership should deal with this. What happens if the next round of social partnership fails, which will be the case if this issue is not dealt with and if Mr. Jack O'Connor, whose bona fides I can state safely I accept 100%, is being true to his word? The time to legislate is now. We are the sovereign Parliament. If we are not going to legislate for this, we cannot expect social partnership to deal with it. That simply is not the way this should work.

As Senator O'Toole stated in his excellent contribution, this Bill is a simple one. It is about giving agency workers equal rights across a range of entitlements, including pay, holidays and sick pay. There is a sizeable list. It is not complex or premature. It is, as others stated previously, a matter of equal pay for equal work done by two people working side by side in the same organisation or in comparable organisations. It is not complex and it is certainly not premature.

We need to avoid the horror stories, which Members from all sides of the House know and of which they have spoken in this Chamber, such as Irish Ferries or GAMA. This Bill will protect not just agency workers but all employees, permanent and agency. It will help stop the rush to the bottom in standards which we are seeing. The Bill deals with exploitation and displacement and with the possible growth of xenophobia. This is important because these problems arise in the absence of this kind of legislation. The Bill also helps to build society's values. We should know this, because of the good experience of many of our diaspora and their treatment while working abroad. It seems we are expected to treat people differently here. That is not on and we should not be countenanced.

We heard from Senator Carty and others that we need flexibility in the workforce. This is a bogus argument which encourages the bypassing of permanent workers. It discourages training, skill development and the continuation of employment, and means *de facto* that we do not intend to invest in people, which is not good for the economy or employees.

I have been in the House nine months and have a track record on raising the issue of workers' rights. On many occasions I have heard the Leader say that all workers are entitled to an honest day's work. I agree. It is time to put up or shut up. The time for rhetoric is over. I accept that Senator de Búrca fully agrees with what is proposed in the Bill. Unfortunately, she will

sleepwalk through the "No" lobby, just like everyone else on the Government side of the House, even though she agrees with us, and not just in spirit.

Tonight, the Labour Party is following in the tradition of Connolly, Larkin and Johnson. It asks Members to give agency workers their dignity and to protect them and invest in their future and that of the economy.

The Bill is a distinguishing Bill for the Labour Party. Over a long period of time I have heard Members of the main Government party say theirs is the party that looks after workers and deals with the working class. They say theirs is the party that has the fundamental needs of these people at heart. The reality is the Labour Party is the party that looks after these people. This Bill proves it and I ask Members to support it.

Question put.

The Seanad divided by electronic means.

An Cathaoirleach: Under Standing Order 61, I have to inform the House that due to a technical fault, it is necessary to take the division again otherwise than by electronic means and Members should proceed to the lobbies where the division will be taken manually. The bells will ring again for four minutes.

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

The Seanad divided: Tá, 20; Níl, 25.

Tá

Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.

Kelly, Alan.
McFadden, Nicky.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Prendergast, Phil.
Regan, Eugene.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callanan, Peter.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Feeney, Geraldine.
Hanafin, John.
Keaveney, Cecilia.

Leyden, Terry.
MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Dominic Hannigan and Alan Kelly; Níl, Senators Déirdre de Búrca and Diarmuid Wilson.

Question declared lost.

An Cathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: Tomorrow at 10.30 a.m.

Adjournment Matters.

Air Accident Investigations.

Senator Jim Walsh: The report adopted on the Aer Lingus Viscount aircraft which crashed off Tuskar Rock in 1968 was taken up in the lifetime of the previous Dáil and Seanad. I believe Deputy Mary O'Rourke was the Minister in charge at the time and a full investigation was undertaken. It was a terrible tragedy. Many unanswered questions arose from that tragedy. For many years, pilot error was blamed but that was subsequently discovered to be unfounded. There was disquiet, however, among the bereaved families and people from the area in Wexford near where the crash occurred. The investigation was seen as a mechanism to ascertain the truth about the plane crash in which all lives were lost. There was a suspicion for a long time that perhaps a drone from a military base in Wales might have been responsible or that the aircraft was shot down by mistake.

RTE's recent investigation analysed all aspects of the report and appeared to underline certain deficiencies in it. I am raising the matter now to highlight that investigation and to see what the Department is saying about it. The general thrust of the RTE investigation was that certain aspects should have been analysed further and more importance should have been attributed to them by the accident investigators who produced the report. These issues involved ejector seats and various things of that nature.

I have tabled this Adjournment matter to elicit a response from the Department to the RTE investigation and to ascertain whether the report, which was published a short number of years ago, should be revisited. I also wish to ascertain whether, as a consequence of the investigation undertaken by RTE, this matter should be analysed further by experts to find out if at long last some elements of the causes can be recognised. In that way people could get closure regarding the incident.

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Michael Ahern): I thank Senator Walsh for raising this matter on the Adjournment. As the 40th anniversary of the crash approaches, on my own behalf and that of the Minister for Transport, Deputy Noel Dempsey, I want to offer sympathy to the families of the victims of this tragedy and to the colleagues of the Aer Lingus crew. Many of the bereaved families come from my area and

I know them personally. It has been a sad 40 years for them.

The Aer Lingus viscount *St. Phelim*, registration EI-AOM, operating as flight 712 from Cork to London, crashed into the Irish Sea near Tuskar Rock at approximately 12.15 p.m. on 24 March 1968. All 61 passengers and crew were fatally injured. A report of the investigation was conducted by the aeronautical section of the Department of Transport and Power and was published on 30 June 1970. The report concluded that there was not enough evidence available on which to reach a conclusion of reasonable probability as to the initial cause of the accident. In view of the circumstances pertaining at the time and certain unsubstantiated hypotheses raised in the report, such as a mid-air collision with another aircraft or missile, the cause of the accident remained controversial.

At around the time of the 30th anniversary of the accident, the UK ambassador to Ireland met with relatives of victims of the *St. Phelim* and offered to assist them in establishing the exact nature of the role of the UK Ministry of Defence in this accident. The then Minister for Public Enterprise, Deputy Mary O'Rourke, also met with the UK ambassador and it was jointly agreed that Irish and UK officials would review all files held concerning the accident to see if additional information could be found that would contribute to determining the cause of the accident.

The comprehensive review report published in June 2000, which was headed by the then chief inspector of air accidents of the air accident investigation unit, AAIU, found no evidence of UK involvement in the occurrence of the accident. Nor was there any evidence that the UK, as a state, conspired against the investigating body in an attempt to conceal any facts. Some inconsistencies and omissions in the maintenance schedule of the ex-KLM viscount-type aircraft, by the operator Aer Lingus and by the Department's airworthiness surveillance office, were found. These errors were examined during the original investigation and that investigation concluded that the errors were not a factor in the accident. However, the original report made no mention of the errors it had found. The later 2000 review concluded that no link could be found between these errors and the accident. The cause of the accident was still not established and a number of relatives of the Tuskar Rock accident victims would not accept the AAIU's review of files, stating that it was a "cover-up".

Subsequently, in July 2000, the Minister then responsible, Deputy Mary O'Rourke, commissioned an independent international team of aeronautical experts with the objective "to shed further light on the cause(s) of the accident" by making a study of all available documentation, material and-or sources.

The study did not constitute a formal investigation or a re-opening of the original investigation. The objective was to shed further light, if possible, on the cause or causes of the accident.

Other than a significant amount of paperwork, there was no longer any material evidence available. However, a number of witnesses were interviewed by the study team.

To ensure full independence of this exercise, the role of the AAIU of the Department of Public Enterprise, at the direction of the Minister, was solely to facilitate the study team in providing access to all file documentation and associated contacts. The AAIU had no other input into the study report or its conclusions. It is therefore inappropriate that the Minister or the AAIU should comment on this independent study. The study team took advantage of a much longer in-service experience of the viscount fleet than existed in 1968, and performed a deep analysis of several accidents considered as relevant, since they presented similarities with the Tuskar Rock accident. This resulted in the identification of a field of possible causal factors.

The Department of Transport's AAIU has always examined any new information as it became available. It has done so on several occasions up to the present day.

On 28 February 2008, RTE's *Today with Pat Kenny* radio show raised a number of possible issues including, the alleged presence of another aircraft and the recovery of an ejector seat. The 2002 study review rejected the presence of another aircraft or missile and no new supporting evidence has been found to support such theories.

The programme also referred to the discovery of an ejector seat some 14 years ago by a local trawlerman in Wexford. Since the AAIU was set up in 1994, it has rigorously recovered and examined all items of aircraft wreckage that was brought to its attention and has published reports where appropriate. While the radio programme stated that the ejector seat was sent to the AAIU, I can inform the House that, to date, no ejector seat has been presented to the AAIU since it was set up in 1994. However, the AAIU has sought details of this ejector seat recovery, as reported by RTE, and will endeavour to establish its authenticity or origin.

On behalf of the Minister of Transport and on my own behalf, I again take this opportunity to offer our deepest sympathy to the families of the victims of this tragedy and to the colleagues of the Aer Lingus crew.

Senator Jim Walsh: I thank the Minister of State for his response and the explanations therein. As he said, he is familiar with the background to the accident as the plane involved took off from Cork and he knows the bereaved families, as I do also. Can the Department's air accident investigation unit examine each and every aspect of the findings in RTE's investigative report? The report seemed credible, although I am not an expert in aeronautical matters and therefore I am not in a position to comment on the validity, or otherwise, of the report. Given the questions this raises about the report, each aspect of the investigation should be examined. We owe it to the vic-

tims involved to obtain a response in this regard from the AAIU. I would be extremely grateful if the Minister were to convey this to the Department.

Voluntary Housing Scheme.

Senator Cecilia Keaveney: I thank the Cathaoirleach for giving me the opportunity to raise this matter on the Adjournment. I welcome the Minister of State to the House to respond to this issue, namely, the need for the Minister for the Environment, Heritage and Local Government to review with the Department of Health and Children the possibility of having a medical support or medical dimension incorporated within the voluntary housing scheme given the age profile of occupants.

A couple of years ago, the voluntary housing scheme was for many people a new idea and it is possible not everybody was *au fait* with it. In preparation for this matter, I asked a number of my colleagues if there were voluntary housing schemes in their areas. They all responded that there were several schemes in their areas. This is a good indication the scheme is successful and there exists a need for it.

Previously, the Government grant aided 95% of the cost of schemes operated by organisations which came together to provide voluntary housing for people aged over 50 years. A recent review of the scheme in terms of what organisations were required to do to obtain the 95% grant has resulted in the grant being increased to 100%. A group in Clonmany was the first to pull together in respect of voluntary housing provision in my area. Following its success, we now have voluntary housing schemes in Malin, Moville, Carndonagh and another is currently under construction in Muff.

I am asking that the Minister re-examine the age profile of the people involved and understand the concept that these people have often asked or required rehousing having lived alone in isolated areas. Many of them are seeking the companionship of others. No two schemes in the country are the same. Some, like the Clonmany scheme, are embedded in a primary care centre type setting while others are not. Also, some of schemes are urban based while others are rural based.

A person who moves into this type of accommodation and takes ill can go to hospital. However, a difficulty arises when a person is not sick enough to remain in hospital and not well enough to go home alone. I wonder whether there needs to be tied into this scheme an element of medical support for these people. There are two options available to us, namely, we support voluntary housing schemes in becoming a little more than independent living supported by a medical dimension or we examine the supports available in private nursing homes and community nursing facilities. Ultimately, we need to provide step-down facilities from hospitals. Too often, we find the district hospital is sustaining,

[Senator Cecilia Keaveney.]

rightly or wrongly, people who may not necessarily need full-time medical care but are not well enough to go home alone.

Most of the people involved in voluntary housing schemes are from community-orientated backgrounds. They know the client at which their service is aimed. The thrust of the scheme is good as is the level of support given. Approximately €30 million has been injected into this area in a short period. The scheme is yielding strong results. Many of us may need to avail of this service in the future.

I am concerned about the people who live alone in a community, be it in a sheltered apartment, housing or village complex. There is need for a review by the Departments of the Environment, Heritage and Local Government and Health and Children in respect of best practice in this area. This could then be used in consultation with those providing the service in the roll-out of best practice. I am not an expert on this issue. It is merely an issue which came to my attention on the basis of there being many good schemes in the country. However, people living alone who take ill are vulnerable and those living within the voluntary housing scheme are as vulnerable as they would be if they lived alone in their own homes.

My ideas on this are not set in stone. The scheme, while operating well, is not yet doing so at its best. I ask that the Minister pass on my views to the Departments of the Environment, Heritage and Local Government and Health Children in terms of a review of the overall scheme. A significant amount of public money and community time and effort is being invested in this scheme. I take this opportunity to applaud those involved. While I accept there is significant grant aid involved, I am aware, having worked with a number of groups, of the significant amount of time, effort, sweat, toil and frustration involved, as is always the case when groups have to get involved in paperwork, plans and systems.

This is an excellent scheme in which many excellent people are involved. While there are many positives it is, perhaps, only through a review of the scheme we will be able to identify the areas that require improvement.

Deputy Michael Ahern: I thank Senator Keaveney for raising this issue which I am taking on behalf of my colleague, the Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Batt O'Keeffe.

I am pleased to have the opportunity to place on the record of the House my appreciation of the good work being done by the voluntary housing sector in Ireland. The provision of accommodation by approved voluntary and co-operative housing bodies is an integral part of the

Department's overall response to delivering on social housing need. The sector works in close co-operation with the local authorities in delivering an expanded range of accommodation types. Voluntary housing bodies have, for more than 20 years, championed the provision of special needs housing for many vulnerable groups in this country including the elderly, the homeless and persons with an intellectual or physical disability.

To date more than 20,000 units of accommodation have been provided by the voluntary and co-operative housing sector. This was made possible with the assistance of capital grants from the Department of the Environment, Heritage and Local Government of up to 100% of the approved cost of schemes. Last year, capital investment in voluntary and co-operative housing reached an all-time high, with more than €270 million being provided by the Department. This enabled more than 2,200 units of accommodation to commence construction last year, the highest number ever recorded by the voluntary and co-operative sector.

Specific State support for the accommodation needs of older people ranges from grant schemes which allow people to remain in their own homes to the provision of specific sheltered housing options. Many voluntary housing bodies are actively involved in the provision of sheltered housing for older people and it is recognised that, as is the case with most vulnerable groups, interventions in this area generally require an inter-agency response, particularly where there is a care dimension to the supports required.

The cross-departmental team established in July 2007 is chaired by the Department of the Environment, Heritage and Local Government and includes representatives from the office of the Minister with responsibility for older people within the Department of Health and Children, the Health Service Executive, local authorities and the Office for Social Inclusion. The team will, over the course of 2008, develop the policy framework in respect of sheltered housing for older people. This will feed into the new national positive aging strategy to be developed by the office of the Minister of State, Deputy Hootor. The completion of the work by the cross-departmental team is an important contribution towards the continued development of comprehensive housing and care solutions which will further enhance the quality of life of older people in Ireland today.

Senator Cecilia Keaveney: I would like if my contribution could be taken into consideration as part of that review to ensure issues not thought about up to now might be incorporated.

The Seanad adjourned at 7.40 p.m. until 10.30 a.m. on Thursday, 13 March 2008.