



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Thursday, 18 February 2010.

[illegible]

SEANAD ÉIREANN

Déardaoin, 18 Feabhra 2010.
Thursday, 18 February 2010.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of the Seanad.

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

The need for the Minister for Education and Science to outline the circumstances under which a decision was made to remove DEIS designation from Togher boys' national school, Cork, and to indicate if the issue is being reconsidered.

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

The need for the Minister for Agriculture, Fisheries and Food to outline the reason moneys are not available this year to progress works at Greencastle Harbour, County Donegal, causing them to cease, leaving a potentially dangerous situation.

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

The need for the Minister for Health and Children to take steps to secure the immediate opening of Knockamann, the replacement unit for St. Joseph's intellectual disability services in Portrane, County Dublin, which has been completed and fully fitted out, for which a business case has been submitted by the HSE to her Department and on which a decision is awaited.

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

The need for the Minister for Arts, Sport and Tourism to make a statement on the future role of Fáilte Ireland training centres in providing training courses for people who are unemployed in Cork, Dublin and Waterford and to make reference to the 2007-09 figures.

I regard the matters raised as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Boyle, Keaveney and Ryan and they will be taken at the conclusion of business. Senator Buttimer may give notice on another day of the matter he wishes to raise.

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, statements on the special report of the Ombudsman on the lost at sea scheme, to be taken at the conclusion of the Order of Business and conclude not later than 1.30 p.m., on which spokespersons may speak for ten

[Senator Donie Cassidy.]

minutes and all other Senators for seven minutes and Senators may share time, by agreement of the House, with the Minister to be called upon ten minutes from the conclusion of the debate for closing comments and to take questions from leaders or spokespersons; No. 2, motion re An Coimisinéir Teanga, back from committee, to be taken at 2 p.m. and conclude within 25 minutes, on which Senators may speak for five minutes.

Senator Frances Fitzgerald: I formally give the Cathaoirleach notice that in this House Fine Gael will be tabling a motion of no confidence in the Minister for Defence, Deputy Willie O'Dea, as precedent allows. Yesterday in the Dáil we saw the half-hearted efforts of a Green Party Minister in defending the Minister. The Green Party prides itself on promoting ethics and standards in public life, but it seems that not all of its Members on the Government benches are as willing to express confidence in the Minister, on whom the Leader heaped praise here yesterday, yet we had Senator Boyle using Twitter and Facebook to tell the world and the media that he had no confidence in the Minister, that he believed he had been compromised and that the Green Party had been bounced into supporting the Government. Will the Leader clarify whether Senator Boyle has informed him that he intends to resign from the House? Is the Leader concerned that the Deputy Leader who was appointed by a former Taoiseach does not support a member of the Cabinet and believes he should not be allowed to continue as a Minister? What does this say about Government cohesion? On the two seats given to the Green Party by the former Taoiseach, is the Leader not embarrassed that one incumbent resigned, claiming the Green Party had become a mere extension of Fianna Fáil, while the other is now criticising a member of the Cabinet and seeking his resignation?

An Cathaoirleach: As regards a no confidence motion, a written notice must be sent to me in the normal way.

Senator Frances Fitzgerald: Does the Green Party intend to confirm these views in the Seanad this morning? I shall finish by quoting one of its former councillors, as reported in *The Irish Times* today: "The lowest standard, once again, wins the day." I look forward to hearing the Leader's response to this most serious issue, the lack of confidence of Members of this House in the Government.

Senator Joe O'Toole: If a motion of such moment is to be dealt with by the House, it should be done as soon as possible. The rest of us can work out our positions on the motion when we see what is being proposed.

An Cathaoirleach: We have not yet received a formal motion.

Senator Joe O'Toole: That is fine. However, the sooner it is dealt with, the better in order that there will be no uncertainty about the role of the Deputy Leader or anything else. I shall hold my comments until then, at which time, I can assure the Cathaoirleach, the House will receive an independent view on what is being proposed.

Last week in the House the question of the Education for Persons with Special Educational Needs Act and special needs children was raised by Senator Fitzgerald. Three or four Adjournment items on the question of special education have been raised in the meantime. When the EPSEN, Education for Persons with Special Educational Needs, Act was passed in this House I welcomed it as something of a dream solution to the problems of special education. Last week in the House people criticised the National Council for Special Education but it is an old trick of Government to blame institutions. The National Council for Special Education has done its job very well. It examined the EPSEN Act and produced a substantial report. I refer

to two pages of that report, several copies of which I have before me and which I will give to interested people, which outline 42 different actions. The pages set out what constitutes each actions, by whom it should be implemented and a date line for it. A separate part of the report places a cost on every action.

To give one example, by January 2007 the recruitment campaign to hire 210 educational psychologists for the country should have taken place but at present there are fewer than 150. People raise questions here about SNAs, special needs assistants, and the reason this is a problem is every child with special needs is supposed to have attached to him or her an exact requirement of support. This is called an individual educational plan, IEP. In many cases this would require an SNA and in other cases, other supports. However, since this is not in place on a statutory basis the Department can pull back on support. People are being utterly frustrated, schools cannot do their business, it is coming back to us through the political system and we continue to raise issues on the Adjournment which should have been dealt with through the commencement of the Act, which we passed in good faith and which the Government is ignoring. It is an absolute disgrace that special needs children are being treated in this way in this country at the moment. I suggest we call on the Minister to come to the House and outline how now for the EPSEN Act. When and how will it be implemented? I recognise the problems of the economy and I do not maintain the Government should stick with the datelines set out by the National Council for Special Education but people in this area should be aware of the supports. Special children only get one chance to go to primary school and we should ensure they learn from it.

Senator Alex White: When our colleague former Senator Deirdre de Búrca resigned from the House last week, she stated one matter of great concern to her former colleagues was that the Green Party was having rings run around it by Fianna Fáil. We did not have long to wait in order that——

An Cathaoirleach: Questions to the Leader, please.

Senator Alex White: Does the Leader agree that we did not have long to wait to witness precisely what former Senator de Búrca was upset about?

Senator Frances Fitzgerald: That is true.

An Cathaoirleach: What the Green Party said or did not say is not relevant.

Senator Alex White: It is entirely relevant. With great respect to the Cathaoirleach——

An Cathaoirleach: Not to me.

Senator Fidelma Healy Eames: They are in Government.

Senator Alex White: With great respect to the Cathaoirleach, it is entirely relevant to the business of the House. We have the spectacle of a Government, senior members of which claim to have confidence in the Minister in the other House, but others do not have that confidence here.

Senator Jerry Buttimer: Hear, hear.

Senator Alex White: What possible credibility could attach to any Government, the senior members of which appear not to be able to make up their minds in respect of confidence in a senior, experienced Minister of considerable longevity in the Cabinet? We are aware Deputy Gogarty has a background in circus performances but it would appear now the entire Green

[Senator Alex White.]

Party has reduced itself to a circus act. It takes one view in the other House and another view here. It is a matter of grave, considerable moment that should be debated in the House. I defer to Senator Fitzgerald's proposal to give notice of a motion she intends to raise but this matter should be dealt with urgently today. Senator Boyle stated in the newspaper, through twitter, tweet or whatever this morning that there would be several more chapters to this story. These chapters should unfold now in the interests of the people and the credibility of this Government, which is rapidly disappearing.

Senator Dominic Hannigan: Hear, hear.

Senator Mark Daly: I call on the Leader to organise a debate on the initiative launched yesterday by the President, Mary McAleese, entitled Your Country, Your Call that, to quote her, seeks game changing ideas. The concept was put together by her husband, Martin McAleese. He spoke of how if this country continues to believe it can solve its problems using the solutions of before, then we will never get out of the troubles in which we find ourselves at present.

I call for a debate in respect of the deteriorating relations with Israel. As early as this morning, we learned the Israeli ambassador will be called in by the Minister for Foreign Affairs, Deputy Micheál Martin. There is a growing suspicion that Mossad, the Israeli secret service agency, was involved in the assassinations in the Middle East, as a part of which fake Irish passports were used. To date, it seems the Israeli Government has not denied the allegation that Mossad was involved. In fact, it may appear that it wishes the world to believe this is the case and that it can kill anyone, anywhere, at any time of its choosing, using any methods and any disguises it sees fit. Ireland is a neutral nation and its passports are respected throughout the world. The fact that our passports were used in this particular case is of grave concern to all of us. I call on the Leader to organise a debate on this issue.

Senator Liam Twomey: The Israeli Government has what it describes as a policy of ambiguity when it comes to assassinating its enemies abroad. It is clear the Green Party has a policy of ambiguity also when it comes to staying in Government with its Fianna Fáil colleagues. The behaviour of the Green Party Oireachtas Members is nothing short of a disgrace. We expect nothing less than low standards from Fianna Fáil. It has a long and proud history of low standards in Government and politics.

Senator Kieran Phelan: The Senator should leave room for it.

Senator Liam Twomey: If we were given plenty of time we could discuss it in depth.

An Cathaoirleach: Questions to the Leader, please, and not across the floor. We are not getting involved in an across the floor debate.

Senator Liam Twomey: Even fellow Government Ministers of Deputy Willie O'Dea have low standards in politics.

An Cathaoirleach: Questions to the Leader, please.

Senator David Norris: Let him cast the first stone.

Senator Liam Twomey: I refer to questions to the Leader. I fully support our call next week for a motion of no confidence in the Minister for Defence, Deputy Willie O'Dea. I call on the Leader to request the Green Party Senators to appear in the House and put their views on the record rather than rely on Twitter to inform the rest of the nation of what the Green Party

believes. The way in which Minister O'Dea is playing around with words and with the law of the country is an absolute disgrace, an insult to our democracy and an insult to the standards to which we should keep in politics.

Senator Jerry Buttimer: Hear, hear.

Senator Frances Fitzgerald: Hear, hear.

Senator Liam Twomey: The Minister is a trained barrister and has been a member of the Government for a number of years. It is absolutely disgraceful.

Senator Mary M. White: I refer to the former Senator, Deirdre de Búrca. I take a strong view about the matter to which she referred last week. I spoke with her many times about her desire to go to Europe——

An Cathaoirleach: Questions to the Leader, please.

Senator Mary M. White: I do not believe she would have spoken out as she did, had she received the appointment in the Commissioner's cabinet.

Senator Jerry Buttimer: Why did the Senator not support her?

An Cathaoirleach: This is not relevant.

Senator Mary M. White: I do not believe her. She would not have done so.

Senator Jerry Buttimer: Why did the Senator not support her?

An Cathaoirleach: Questions to the Leader, please. This is not relevant.

Senator Mary M. White: I simply wish to make that point.

An Cathaoirleach: I understand but I wish to hear questions to the Leader on the Order of Business only.

(Interruptions).

Senator Mary M. White: I seek the truth at all times. I call on our Leader, Senator Donie Cassidy——

Senator Liam Twomey: Is there a rule in this House about saying something about Members not actually present?

A Senator: What was the Senator saying a few minutes ago? Was the Minister, Deputy O'Dea, in the Chamber then?

An Cathaoirleach: She is not a Member of the House. She is an individual.

Senator Liam Twomey: She is no longer a Member of the House.

An Cathaoirleach: She is not a Member.

Senator Mary M. White: Perhaps if former Senator de Búrca had been voted into the Seanad rather than appointed she might have appreciated it more.

Senator Liam Twomey: Senator White is basically saying that once someone is bought, she remains bought.

An Cathaoirleach: That is not a point of order; it is merely an interruption.

Senator Liam Twomey: It is absolutely disgraceful.

Senator Mary M. White: I call on our Leader to call urgently for the Minister for Education and Science——

Senator Liam Twomey: The view is once bought, one stays bought.

Senator Mary M. White: ——to come to the House and explain his vision for the teaching of mathematics and science. A report by the national centre for excellence in mathematics and science suggests maths teachers in secondary school are not qualified to teach the subject. I am deeply concerned that some 35% of maths teachers are not qualified to teach the subject. Students at all levels of ability require the best teachers to reach their potential. The report outlines that some 65% of younger teachers, aged 35 years and under, are not qualified to teach maths in secondary school.

Last week in the Mansion House, Dr. Craig Barrett the former chief executive and chairman of Intel, referred to the issue of education and competitiveness in Ireland. He stated he was very concerned about the quality of education in Ireland. The quality of education was one of the reasons Intel came to Ireland 20 years ago. He further stated education in Ireland is not what it used to be and he believes this will have a significant effect on continued foreign direct investment. The national report on the quality of education was reinforced by the OECD PISA report. It examined 15-year olds across 57 countries and shows Ireland is only average in the OECD at mathematics and science. For God's sake, how can we compete if we are not top of the class and the best in the world at mathematics and science, bearing in mind the new nanotechnology to be developed in the future? The Minister for Education and Science should be invited to come here urgently to tell us his plans to improve the standard of mathematics and science. We have lost our hunger to be at the top.

Senator Dominic Hannigan: I join other Senators in calling for a debate on whether we have confidence in the Minister for Defence, Deputy Willie O'Dea. I would like to hear the Leader's views on whether he believes a crime has been committed under section 62 of the Garda Síochána Act 2005 and under the Prevention of Electoral Abuse Act.

Many former workers of SR Technics live in my constituency. There are two issues to be addressed in this context, the first of which relates to hangar 6. I would like to see Ryanair, Aer Lingus and the Government meet to discuss at an EGM the issue of whether Aer Lingus should give up its lease on the hangar. Ryanair and the Government have a majority shareholding and I would like to see them direct Aer Lingus to give it up. Aer Lingus has a moral responsibility to former employees of SR Technics to take them off the dole and ensure every job that can be created is created. Many SR Technics workers are trying to re-skill and going back to college to retrain as engineers. It is proposed to have an engineering course at the Dublin Institute of Technology. Over 60 former employees have signed up but they are waiting for EU globalisation funds. The Minister for Enterprise, Trade and Employment, Deputy Mary Coughlan, knows about this. All she has to do is put a guarantee in place until the funds are released. If she does not do so, the course will not be offered and the 63 people who have signed up will not be able to start. Will the Leader telephone the Minister today to ask her to put a guarantee in place in order that the people will have some hope?

Senator Labhrás Ó Murchú: The protection and security of Irish citizens at home and abroad should be a paramount consideration of this House. Ireland enjoys a particularly high status internationally, mainly because it never colonised any other country. It has always been seen to be helping with missions, peacekeeping forces, etc. This status has been very important to us. On the issue of Irish passports being used in the murder of a Hamas leader, it has emerged clearly that Israel is implicated. Unless this matter is clarified and we take a particularly strong stand on it, other interpretations of the incident could eventually have an impact on our citizens. The Minister for Foreign Affairs has made a reasonably strong statement in this regard but it must be evident that we do not accept our passports being used in any way, particularly in such an act. If we suffer as a result of this, the blame must be lie at the doorstep of Israel. We have had to condemn it in the House in the past because of its excesses. It seems to engage in certain practices without any explanation. I call on the Leader to convey our view that we are not happy and that the matter should not be sidelined. We must be clear on the response we are receiving from Israel and that such an incident will never happen again. I understand other countries have had similar cases in which Israel used their citizens' passports. There was a very lame apology given, after which Israel moved on and did exactly the same again. This is not acceptable. It is vital that we make our views known in the strongest possible manner.

An Cathaoirleach: It is simply not good enough that telephones are still ringing in the House. I have spoken about this on numerous occasions and will be seeking support to have the Chamber blocked such that no telephones will work therein.

Senator Mary M. White: Hear, hear.

Senator Jerry Buttimer: Senator Ó Brolcháin cannot find Leinster House.

Senator Fidelma Healy Eames: Once again, we have received mixed messages from the Green Party. Green Party Members and Ministers in the Dáil are supporting the Minister for Defence, Deputy Willie O'Dea, and in so doing contravening the rule of law, yet overnight the Deputy Leader, Senator Boyle, said the Green Party had been bounced into it and that he had no confidence in the Minister. Is he being sincere or is he just playing a game to keep the Green Party on the field? I agree that the Minister is not fit for public office and will be supporting the motion my party will be bringing forward to the Leader formally today. Does the Leader agree that the Minister has undermined the rule of law? Did the Government not support an electoral abuse yesterday? Is the Government fit for office?

I call for a debate on the sustainability of third level education. Third level education is costing €2 billion from a total intake of €34 billion. All of the universities are in debt. Last week the Leader kindly consented to arrange a debate on CAO applications and places. I asked the Minister at the time how, given the surge in the number of CAO applications, third level education could continue to be funded. His response was that the Government wanted the universities and colleges to be creative with their finances. They are broke. From reading between the lines of what the Minister said to me, it is clear fees are on the way back. Once again, the Green Party has been fooled. The Minister needs to discuss in the House——

11 o'clock

An Cathaoirleach: The Senator has her point made.

Senator Fidelma Healy Eames: ——the role and mission of the institutions and the need for centres of excellence among them——

An Cathaoirleach: I call Senator Leyden

Senator Fidelma Healy Eames: —and to determine whether we need 40 third level colleges.

An Cathaoirleach: Senator Healy Eames should respect the Chair and resume her seat.

Senator Terry Leyden: I agree with the Senators on the disgraceful abuse of three passports of Irish citizens, allegedly attributable to the Israeli secret service. This raises many issues. The Minister for Foreign Affairs, Deputy Michéal Martin, has acted swiftly in this regard and called in the ambassador. We should withdraw our ambassador from Israel until the matter is clarified. Ireland has a very high standing and its passport is one of the most highly regarded in the world. One can travel anywhere with an Irish passport. A situation has arisen in Gaza——

Senator Jerry Buttimer: Is that why Fianna Fáil was selling them? In fairness to it, it got good value for them.

An Cathaoirleach: There are to be no interruptions, please.

Senator Terry Leyden: Hamas is in power in Gaza. This has created a serious difficulty for the peace process in the region. We should take serious action in this regard.

I refute Senator Twomey's comments on Fianna Fáil.

An Cathaoirleach: The Senator should not comment on other Members. Comments should be addressed to the Leader.

Senator Terry Leyden: We should be in a position to refute——

An Cathaoirleach: The Leader will reply. I do not ask any other Member to do so.

Senator Fidelma Healy Eames: The Senator should talk through his Leader.

Senator Liam Twomey: The Senator should use Private Members' time to discuss it.

An Cathaoirleach: Senator Twomey spoke to the Leader.

Senator Terry Leyden: It is unprecedented to have a vote of confidence in this House in a Minister. The Minister for Defence has performed his ministerial duties in a most exemplary fashion.

An Cathaoirleach: I would prefer if Members reserved their comments until the motion to be tabled by the Leader of the Opposition is discussed next week. Members will have sufficient time to make their comments.

Senator Feargal Quinn: We had a very good debate on Northern Ireland last night. It was interesting that there were representatives of the SDLP in the Houses yesterday. They were not here for the debate because it was delayed because of some kerfuffle in the other House at the time. Part of our objective is to have unity of mind between the two sides in Northern Ireland.

I watched two rugby matches in recent weeks. One took place in Dublin and there were two anthems for our team, one of which was "Amhrán na bhFiann". Certainly, those from south of the Border seemed to join in that song with vigour. Those who came from the North did not seem to know the words. The second anthem, if that is the word to use, "Ireland's call", was clearly supported by both sides. I wonder is it again time for us at this stage to consider whether we should have a national anthem which would incorporate North and South and which would be representative of both sides.

As we stated some years ago, the national anthem is not the only one that has a viewpoint, but “A Soldier’s Song”, or the national anthem of the French or the national anthem of the British, is very bloodthirsty as well.

Senator David Norris: There is nothing bloodthirsty about “God Save the Queen”.

Senator Feargal Quinn: There is.

An Cathaoirleach: No interruption.

Senator David Norris: A remarkable woman——

Senator Feargal Quinn: Go down to the following chorus.

Senator David Norris: ——and a direct descendant of both Brian Boru and Hugh O’Neill, which is more than can be said for Mr. Gerry Adams MP MLA.

Senator Feargal Quinn: I mention it because it is worthwhile for us to look again, not just at the national anthem but at matters at which we do not look too often to see how can we manage now that we have got peace in Northern Ireland and now that we have two sides working together in Northern Ireland. With the changes that will take place in April, we have an opportunity to incorporate a full Ireland in many other ways, not just in that area.

Another point was introduced by Senator Daly today. Rather similar words to the rugby song were used yesterday by President McAleese or, at least, her husband, Mr. Martin McAleese, “Your Country, Your Call”. It seems here is an opportunity for us in Ireland to recognise that if we are going to succeed, let us get behind it. A number of people have put up sufficient funds to encourage this. Instead of relying solely on foreign direct investment, it is an opportunity for us to do something ourselves. I recommend consideration of that because it is really worthwhile.

Senator Ann Ormonde: I agree with what Senator Quinn stated about Northern Ireland. It was a very worthwhile debate last night. This Chamber should be utilised for more of that kind of debate. We would welcome an up-to-date report on how we are making progress on the many issues which affect north and south of the Border such as health, education, transport and current infrastructure, if we start thinking with an all-Ireland approach.

In some of the contributions this morning Senators asked whether we should have the young unemployed graduate engineers brought back into the education system to teach mathematics for the leaving certificate. The idea is good, but I am a little wary. While a person might be qualified in a subject, he or she may not be a good teacher. That is the point. We need to be careful, if we are putting on a course, that we are selective about whether such persons would be able to impart knowledge.

That brings me to another point, that we need to look again at the courses in college and why young students are not pursuing mathematics as a subject. It says something about why they are apprehensive about taking a course in mathematics. We do not have enough teachers who have qualified in the mathematics area at that stage——

Senator Fidelma Healy Eames: Hear, hear.

Senator Ann Ormonde: ——and that needs to be explored. There are two serious issues and we could easily hold a debate on how we move forward. However, I would be a bit wary about saying young unemployed graduate engineers should be brought back into the system. They

[Senator Ann Ormonde.]

might be very well qualified but we all know from having gone to courses that some do not impart the knowledge.

Senator Paschal Donohoe: I call for a debate on the Renewed Programme for Government of 10 October last. This programme for Government was negotiated by Senator Boyle. He was part of the team that led to the delivery of it. The introduction of this programme for Government states:

we have a responsibility to lead by example. ... We need to start a process...so that the highest standards apply and they are truly representative.

It goes on to state, “As elected representatives we will work to earn and repay the trust that is placed in us.”

I want to ask the Government, and the Green Party in particular, whether they believe these high standards they are looking for were delivered yesterday and whether they believe their willingness to stand by a Minister who broke the law repays the trust that the people are placing in us. It says a great deal about the value Senator Boyle and his colleagues place on the institutions which they pretend to respect that he is quite happy to sit in his office tweeting away on matters about standards and problems.

Senator Kieran Phelan: Senator Donohoe himself tweets.

An Cathaoirleach: Questions to the Leader. Do not mind about persons tweeting. There are many tweeting.

Senator Paschal Donohoe: This is a question to the Leader. Senator Boyle will not come into this House to stand up and make clear his own views. What exactly is it that Fianna Fáil needs to do before Senator Boyle’s conscience finally gets the better of him?

Senator Cecilia Keaveney: On the mathematics argument, I would agree with Senator Ormonde that sometimes the brightest people are not necessarily the best teachers because sometimes they are a step ahead and cannot bring themselves down to the level of understanding that someone does not just get how to do something. As a teacher myself, that is no denigration of the teaching profession either.

I also concur with Senator Quinn on last night’s debate on the North being very important. I ask the Leader to consider taking my report on how to teach history in areas of recent conflict, which was done for the Council of Europe and endorsed by 47 countries, as a starting point to explore further what we could be doing on getting to know each other to the island of Ireland and developing the critical skills for employees and employers that can evolve from there.

Another point on mathematics is that we keep on nodding our brow to the issue of music and how music is intrinsically related to one’s mathematical capacity. I again ask that we look at the role of the arts at preschool and primary school, not as arts subjects but as conduits for opening up a child’s ability and leaving him or her much more ready for more difficult situations later in life.

I ask that we have a debate on the NCSE, the National Council for Special Education. There is a review going on nationally. There is not a cut in the provision of services, but schools are finding changes because special needs assistants could well be still in the school but the child has moved on. There is a fundamental need to look at this organisation, which is not long up and running, to see where are the gaps in the provision. These should be the guardian angels

of special needs students. At present, sometimes we do not have issues such as health and transport integrated with education, and a discussion about the NCSE would be timely.

Senator Brendan Ryan: I join my colleague, Senator Hannigan, in raising the issue of the continuing maintenance jobs debacle at Dublin Airport, which is rolling on with no obvious signs of resolution. There is more than 300 jobs, an entire industry, at stake. There is ample aircraft work in this country with the two major airlines. Dublin has been the service provider of choice for many international airlines, and that should not be lost. We have the skills, we have the experienced aircraft technicians and we have a batch of young apprentices waiting to complete their training.

The Government has let these people down, particularly in not keeping SR Technics open in the first place. The loss of Aer Lingus work was critical to SR Technics decision to pull out. At a time when the Government had a 25% stake in Aer Lingus, this was an obvious error. Following this, the Government failed to support a management initiative supported by the workforce to continue the business in Ireland and to retain most of the jobs.

The Government can sort this problem out. It must try to redeem itself by taking every step possible, including if necessary the pulling of the Aer Lingus lease on hangar 6. Apparently, legally, this is possible.

Mr. Michael O'Leary and Ryanair are not necessarily friends of ours, but I trust the company is serious about these maintenance jobs. Michael O'Leary has been critical of Government policy on aviation during the years and taken out full page advertisements in national newspapers and so forth to that effect. I hope, however, that this is not a factor in the Tánaiste adopting a position in which she does not wish to see herself being bullied, as she puts it, by Ryanair and Michael O'Leary. There is no place for pride at this critical point. I call on the Leader to urge the Tánaiste and the Minister for Transport to do everything possible on this matter. This is the last sitting day this week and I hope every effort will be made from now and over the weekend to resolve the matter. The business and skills are available.

Senator Jerry Buttimer: Does the Leader agree that the Minister for Defence, Deputy Willie O'Dea, acted unethically?

An Cathaoirleach: Please, Senator.

Senator Jerry Buttimer: I am asking the Leader a legitimate question. I know Fianna Fáil Members are embarrassed by what has happened and they have questions to answer. Does the Leader believe the Minister has acted unethically? Does he agree that the Minister has brought politics into disrepute? When will we see an end to cute hoorism in Fianna Fáil—

Senator Cecilia Keaveney: That is unparliamentary language.

Senator Jerry Buttimer: —whereby its members think they can do and say what they wish and subvert democracy? Where are the Green Party Members this morning? Are they hiding in cyberspace or behind trees?

An Cathaoirleach: The Senator need not worry about any Member who is not present.

Senator Jerry Buttimer: I am not talking about any Member. I am asking a legitimate question.

An Cathaoirleach: I am asking the Senator to put questions to the Leader.

Senator Jerry Buttimer: I am asking a legitimate question.

An Cathaoirleach: I make that decision.

Senator Jerry Buttimer: I am asking a legitimate question.

An Cathaoirleach: I am asking the Senator to ask questions of the Leader, not to worry about any Member who is not present in the House.

Senator Jerry Buttimer: I am not worried about the Green Party Members at all. The people will give the Green Party their answer in the ballot box.

An Cathaoirleach: Questions for the Leader, please.

Senator Jerry Buttimer: Its members can hide in cyberspace or behind trees but they will be incinerated not by the Poolbeg incinerator but by the people.

An Cathaoirleach: I call Senator Norris.

Senator Jerry Buttimer: That is what will happen.

An Cathaoirleach: Does the Senator have further questions?

Senator Jerry Buttimer: I have two more.

An Cathaoirleach: Please be quick.

Senator Jerry Buttimer: I have sought a debate in the House on the airport tax. Last week and this week Cork Airport has seen the closing of certain routes. Can the Leader give us a commitment that there will be a debate on the abolition of the tax? When will the Tánaiste and Minister for Enterprise, Trade and Employment come to the House to speak not just about jobs in the Dublin Airport Authority but job creation in general? There is no Government jobs policy.

An Cathaoirleach: Has the Senator concluded?

Senator Jerry Buttimer: No. I am waiting for the Leader to give me his attention.

Senator Donie Cassidy: I am sorry.

Senator Mark Daly: The Senator's time is up.

Senator Terry Leyden: He should sit on his hands again.

Senator Jerry Buttimer: Unlike Government Members of the House——

An Cathaoirleach: The Senator's time is up. I call Senator Norris.

Senator Jerry Buttimer: ——there are people who have no jobs——

An Cathaoirleach: The Senator's time is up.

Senator Jerry Buttimer: ——and those Members should listen to them.

An Cathaoirleach: I will ask the Senator to leave the Chamber if he continues like this.

Senator David Norris: The apparent behaviour of the Minister for Defence does raise certain ethical issues, although it is not the most important matter confronting the country. I would

welcome a clean-up of electioneering practice. I hope it will not shock Members too much to learn that, even in the sacred groves of academia, things can get mucky at election time, believe me.

Senator Rónán Mullen: That is because there is so little at stake.

Senator David Norris: I wish to raise a matter which I have raised previously on the Order of Business, on the Adjournment and at the Joint Committee on Foreign Affairs committee, that is, the existence of camps for Roma families at Cesmin Lug and Osterode in Kosovo. There are 600 people living there in the most heavily lead-contaminated dump in Europe. I also raised this issue with the United Nations Secretary General, Ban Ki-moon, when he was in this country and the human rights commissioner, but nothing is being done. Children are dying at the behest of a United Nations organisation and people are being forcibly repatriated to these camps from a number of European countries. A statement was issued this week by the Council of Europe Commissioner for Human Rights, Mr. Thomas Hammarberg, who visited the camps last week. He said:

The fact the camps have been inhabited for a full decade is no less than a scandal. The international community has a large part of the responsibility for this situation ... I call on European states to stop the forced returns until Kosovo can provide adequate living conditions...

It is extraordinary that in the 21st century countries which are members of the Council of Europe and the European Union can forcibly return people to a situation where their health is seriously threatened. Will the Leader, as a matter of urgency, bring the report of Mr. Hammarberg to the attention of the Minister for Foreign Affairs and ask him to see if it is possible to end this practice and rehouse the 600 people concerned? The highest levels of lead concentration have been recorded in the livers and other organs of small children in these camps. It is a moral reproach to Europe.

Senator Eugene Regan: Politics and politicians are held in low regard. In large part, that is due to low standards in public office. However, when one raises the issue of standards in public office, it is trivialised. Debate is blocked and diverted. It is trivialised by people saying: "Sure, it is just a simple mistake." In this instance, we are dealing with the most serious issues concerning our legal system — a false accusation of criminal behaviour——

An Cathaoirleach: We are not going there.

Senator Eugene Regan: ——a false sworn affidavit and the perversion of the course of justice on foot of that affidavit.

An Cathaoirleach: We are dealing with questions to the Leader.

Senator Eugene Regan: I am coming to the question.

An Cathaoirleach: We are not getting involved in a case that has finished in the courts.

Senator Eugene Regan: I am grounding my question.

An Cathaoirleach: No, we are taking questions to the Leader. That matter has finished in the courts.

Senator Eugene Regan: That story did not change, except when the Minister for Defence was caught red-handed, not anticipating that a tape of his interview had been retained. Given

[Senator Eugene Regan.]

these facts, does the Leader accept that the Minister for Defence, Deputy Willie O'Dea, cannot recognise the truth and that the Taoiseach and his Cabinet also cannot handle the truth? Will the Leader give me his views on that question?

Senator Paul Coughlan: Paul Cullen of *The Irish Times* refers to a very serious report in this morning's newspaper. The report was commissioned by the Department of the Taoiseach on the Department of Health and Children. According to it, there is a scandalous situation in that Department where many staff have little or nothing to do, while others are run off their feet. The Department is in crisis daily. Morale is low and senior management appears to be oblivious or unconcerned by these facts. It is a serious matter to have such waste in such an important Department of State. Are other Departments similarly affected? What are the Leader's views on the issue?

There is another matter which I intend to raise next week, the serious situation in the south west with regard to the future of the Cork-Swansea ferry.

Senator Paddy Burke: Why is the Senator raising it today?

Senator Paul Coughlan: It needs to be aired. It was raised in the Lower House yesterday by the former Ceann Comhairle. Does the Leader agree that tourism has been so badly affected that if we are to assist the industry properly, as we should, that service is vital? It is an industry in which the south west and my home constituency lead very well. With the assistance of State agencies, we must get around the state aid rules.

Senator John Hanafin: Will the Leader inquire if the newly appointed Irish Commissioner, Mrs. Máire Geoghegan-Quinn, would agree to attend a sitting of the Seanad to discuss her excellent portfolio and the opportunities for Ireland within it? It would be particularly useful at this time. Unfortunately, the Opposition seems to spend its time floundering around in pursuit of the next big thing that the media will follow. I want some constructive work to be done on job creation. That would be well served by inviting the Commissioner to attend a sitting of the House.

Senator Liam Twomey: We should get the Tánaiste in first to see if she can do something about it.

Senator Donie Cassidy: She was here previously but the Senators were not.

An Cathaoirleach: That is a matter for the Committee on Procedure and Privileges.

Senator Rónán Mullen: I welcome the "Your Country, Your Call" initiative. We badly need to reflect together on what must be done to harness our national talents to build a better future. Congratulations are due to Mr. McAleese and the others involved. In that context, I welcome Senator Ormonde's comments on the teaching of mathematics. We need to find ways of deploying talented and well qualified individuals, but we also need to have a discussion about how we can continue to maintain quality in the teaching profession in order that teachers will continue to serve us well as a country. I would welcome a debate on the issue at the earliest opportunity.

I understand Henry Kissinger said 90% of politicians gave the other 10% a bad name. I fear what is at issue today is not just the conduct of the Minister for Defence, Deputy Willie O'Dea, but that of all of us as politicians. We are back to the culture of looking for a head. It seems to enthuse the media and politicians like nothing else on Earth. I deplore a situation where there are no intermediate sanctions. There is no incentive for politicians to "fess up" when

they do something wrong because they face the political equivalent of capital punishment. The Opposition ends up sniffing for blood, while the Government circles the wagons and the truth is the casualty. I would like to see maturity in our political process, whereby when people do something wrong — something wrong did happen in this instance — there will be mechanisms in place to undertake appropriate investigations. Senator O'Toole is of the view that this should take place within the House and I agree with him. Proper sanctions should be available in order that we will not have people in utter denial when the whole world knows they are at fault.

Senator John Paul Phelan: I agree with Senators Hannigan and Ryan who called on the Minister for Enterprise, Trade and Employment, Deputy Mary Coughlan, to do all in her power to ensure the Ryanair proposal to create 300 jobs at hanger 6, the old SR Technics site in north Dublin, will not go by the boards. I do not accept that, thus far, she has pulled out all the stops in that regard. If we look back on our period of economic expansion in the early 1990s, there were many multinational companies for which the Government bent over backwards to try to ensure they invested in Ireland. Ryanair is an Irish multinational and we should not let the opportunity pass. I do not believe the Minister has done everything in her power to ensure 300 jobs are created at hanger 6 in north Dublin.

I support the leader of Fine Gael in the House, Senator Fitzgerald, in her call for a debate on the question of whether the House has confidence in the Minister for Defence, Deputy Willie O'Dea. I disagree with Senators Mullen and Norris. When a situation is presented where a senior Cabinet Minister is shown to have given incorrect information in an affidavit in a High Court case, that is a matter of huge national significance. I do not believe intermediary steps are needed in terms of how he should be treated by the House having broken the law. He is a senior office holder of the State and a practising solicitor. There are two Members of the House who are Green Party members. Where are they this morning? The Leader might be able to enlighten us on the issue.

An Cathaoirleach: It is irrelevant if a Member is missing from the House. It is no one's business and the question of where they are should not be raised.

Senator John Paul Phelan: Does the Leader agree that for a qualified solicitor, a senior Cabinet member, to engage in such law-breaking activities——

An Cathaoirleach: Questions to the Leader, please.

Senator John Paul Phelan: ——in which the Minister for Defence, Deputy Willie O'Dea, has engaged, is completely unacceptable? Does the Leader agree that Senator Boyle, in his statements on a bank inquiry and his confidence in the Minister, is acting like Mighty Mouse on Twitter and a church mouse in the House?

Senator Pearse Doherty: It would be opportune to have a debate on the accusations the Minister for Defence, Deputy Willie O'Dea, has levelled against a colleague of mine, Councillor Quinlivan. The statements made and, in particular, the leaking of information used by the Minister——

An Cathaoirleach: The matter was dealt with in court.

Senator Pearse Doherty: ——during a political campaign——

An Cathaoirleach: Questions to the Leader, please.

Senator Pearse Doherty: All of us in the House have concerns about the high number unemployed. We had a debate on youth unemployment. Some 85,000 people under the age of 25 years are unemployed and there is no action being taken by the Government to do anything about it. Given the statement made by the Minister for Enterprise, Trade and Employment, Deputy Mary Coughlan, yesterday on “Barr Scéalta”, during which she discussed the new strategy about to be launched by the IDA which is conducting a review of its strategy and in its first term will launch its 2020 vision, that it will include a policy whereby 50% of all newly created jobs by the IDA will be located in counties Donegal, Sligo, Limerick and Waterford, it is an important initiative. In my report, *West Awake*, I called for targets to be set for job creation in the western region and sub-regions. I am glad the Minister has acknowledged and started to work towards the achievement of this policy. Her statement yesterday, that the four counties to which I referred will be the location of 50% of all newly created IDA jobs, a policy which will be announced, I understand, next week, forms part of the strategy but she made the announcement on *Radio na Gaeltachta* yesterday. We should have a chance to tease out this policy. How does she believe the direction she has given to the IDA will be implemented? How will the blocks and the barriers in the counties concerned be lifted in attracting foreign direct investment? What is the policy to be followed in the rest of the country in attracting inward investment in the light of this new policy? It is important, therefore, that the Tánaiste come to the House to discuss the announcement she made yesterday.

Senator Donie Cassidy: Senators Fitzgerald, Alex White, Twomey, Mary M. White, Hannigan, Healy Eames, Keaveney, Buttimer, Regan, John Paul Phelan and Doherty expressed their views on proceedings in Dáil Éireann yesterday. As we all know, the matter was dealt with in court three months ago. We all know a vote of confidence——

Senator Jerry Buttimer: We never mentioned what happened in the Dáil yesterday.

Senator Donie Cassidy: ——was taken in the Dáil yesterday——

Senator Jerry Buttimer: Senator Cassidy has got his facts wrong.

An Cathaoirleach: No interruptions, please.

Senator Jerry Buttimer: The Leader is misleading the House.

An Cathaoirleach: Senator Buttimer, no interruptions, please. The Leader is replying.

Senator Jerry Buttimer: He is misleading the House.

An Cathaoirleach: The Leader is replying and if there are interruptions, I will ask the Senator to leave the Chamber immediately.

Senator Donie Cassidy: A vote of confidence in the Minister for Defence, Deputy Willie O’Dea, in whom I have every confidence, took place in the Dáil last evening and the motion was carried by 80 votes to 69. Normally matters relating to membership of Dáil Éireann are dealt with in the other House but what has been proposed is unprecedented.

Senator Frances Fitzgerald: It is not.

Senator Donie Cassidy: In my time in this House——

Senator Frances Fitzgerald: On a point of order——

An Cathaoirleach: Members have a right to raise such an issue if they so wish.

Senator Francis Fitzgerald: I am glad the Cathaoirleach has clarified the matter. There is a precedent for tabling such a motion.

An Cathaoirleach: Yes, the Opposition can table a motion if it so wishes.

Senator Fidelma Healy Eames: The Minister is a Member of Parliament.

A Senator: It happened in 1991.

Senator Donie Cassidy: I was also a Member of the other House.

Senator Frances Fitzgerald: Yes, there is a precedent. It happened in 1991.

Senator Donie Cassidy: Senators O'Toole and Keaveney asked for a debate on supports for children with special needs. As I indicated last week, I will have no difficulty in allowing such a debate to take place.

Senators Daly, Quinn and Mullen complimented the President and her dear husband on the initiative, "Your Country, Your Call", which aims to build a better future and encourage everyone who is an innovator to develop job creation proposals. It is something we fully support and we congratulate them on their efforts. We look forward to its success.

Senators Daly, Ó Murchú and Leyden expressed serious concern about the misuse of Irish passports. Many of us heard the Minister for Foreign Affairs, Deputy Michéal Martin, speak on radio today on the matter. It is a serious one, on which the Minister has called in the Israeli ambassador today. Perhaps we should leave it and review the position on the Order of Business next Tuesday.

Senators Mary M. White, Healy Eames, Ormonde and Keaveney expressed strong views on the teaching of mathematics and science. I have been a great supporter of this from the time I was Chairman of the Joint Committee on Enterprise, Trade and Small Business. It is a matter of serious concern which, as Senator White who is a champion of industry and has a proven track record in this area said, has to be dealt with head-on. Some Senators are members of the teaching fraternity. The Minister for Education and Science, Deputy Batt O'Keeffe should come back to the House for a special debate on the teaching of mathematics and science and the challenges facing the country in terms of job creation, including by multinationals, all of which are linked with attracting high value jobs through the IDA and Enterprise Ireland. I will have no difficulty in arranging a debate on the matter. We should also include in it the issue of funding for third level, a matter brought to the attention of the House by a number of Senators, as well as for the arts, an issue highlighted by Senator Keaveney in the debate on Northern Ireland yesterday.

Senators Hannigan, Ryan and Phelan sought further support regarding the SR Technics proposal and for the service providers at the airport where there is a quality workforce. These people are highly skilled and available to be re-employed which is of great importance should any further jobs become available in the aviation business. I fully support the call because common sense must prevail. It is never the wrong time to do the right thing and it is right to take this action now.

Senators Quinn and Ormonde complimented the debate on Northern Ireland in the House yesterday in the presence of the Minister for Foreign Affairs, Deputy Martin. It was a wonderful debate and I congratulate all Senators for their serious contributions. The Minister stayed a long time in the House for the debate. I note also the comments of Senator Quinn on anthems.

Senator Donohoe spoke of the programme for Government and we can certainly discuss this matter. The Finance Bill will be introduced to the House in two weeks at which time I will

[Senator Donie Cassidy.]

allow additional time for Senators to make their points of view on job creation. Perhaps the programme for Government can be discussed at the same time.

Senator Buttimer spoke of airport taxes. This issue should be highlighted on Second Stage of the Finance Bill. There is a good case to be made on this point and the Senator has made it. We all agree that if we can do anything to bring tourists to the country this year we should do it. Tourism is one of the three planks on which we must rebuild our economy.

Senator Norris made a very strong case for the poor people in Kosovo who are living in camps in appalling conditions. Children are dying. I will pass on his strong views for the attention of the Minister.

The report on the Department of Health and Children and related staff duties was brought to the attention of the House by Senator Coghlan. This has been commented upon on many previous occasions. We will have a full debate on health issues and can tease out the issues of this report with the Minister at that stage.

Senator Coghlan spoke also about the Cork-Swansea ferry which is a great help to tourism and to people in the south of the country. The Senator, who comes from the tourism capital, Killarney, knows this is a matter of serious concern to the people of the south and south-west. I fully support his call for any action on getting that ferry into business again.

Senator Hanafin spoke again of the possibility of the Irish Commissioner, Ms Máire Geoghegan Quinn, coming to the House and that would be my wish also. The Committee on Procedure and Privileges may have this issue on its agenda at its next meeting.

Senator Doherty spoke of a new announcement on jobs, which would be of interest also to his constituency colleague, the Tánaiste, Deputy Coughlan. I would welcome the House having a debate that might enhance this proposal.

Order of Business agreed to.

Ombudsman Report on the Lost at Sea Scheme: Statements.

An Leas-Chathaoirleach: I welcome the Minister of State, Deputy Killeen.

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): The Ombudsman has submitted a special report to the Dáil and Seanad in accordance with section 6(5) and (7) of the Ombudsman Act 1980. The 1980 Act does not set out a procedure to be adopted by the Oireachtas in dealing with this matter. I am very pleased to have the opportunity to make this statement to the Seanad to set out my position on this matter.

As I have stated on a number of previous occasions, I hold the Ombudsman, her office and the work it does in the highest esteem. I have acknowledged in the Dáil that her investigation into this matter has been painstaking and extensive. I wish to take this further opportunity to record my sympathy with the family in question as well as the many other families who have lost loved ones to the sea.

The lost at sea scheme which is the subject of this report was conducted in 2001, initiated by the Department of Marine and Natural Resources. Responsibility subsequently moved to the Department of Communications, Marine and Natural Resources in 2002. The Department of Agriculture, Fisheries and Food assumed responsibility for sea fisheries related matters only in October 2007.

For the information of the House, I will set out a brief outline of the scheme, the context in which it was promulgated and the outcomes of the applications received and will then explain

why the Department disagrees with the Ombudsman's findings and her recommendation that monetary compensation be paid in this case.

The lost at sea scheme was a limited scheme introduced in June 2001, with a closing date of 31 December 2001, whose objective was to enable qualifying applicants, who were otherwise unable to do so for financial or related reasons, to continue a family tradition of sea-fishing. It was targeted at people who had been employed in fishing and wanted to continue fishing. It was a bounded, time-limited scheme under which replacement capacity, expressed as gross tons and kilowatts, that would otherwise have had to be bought on the tonnage market, was provided free of charge to qualifying applicants. The eligible applicants were those who had lost a fishing vessel between 1980 and the establishment of the sea fishing boat register in 1990, but who had been unable to replace the fishing vessel for verified financial reasons. The scheme was intended to assist families in introducing a replacement for the lost vessel that would be owned and skippered by the applicant or by an immediate relation of the applicant. The objective of the scheme was to allow fishermen or their immediate families to get back to fishing, not to award any monetary benefit. I emphasise that the scheme was not introduced to provide a means for a party, who had, however tragically, lost family members at sea, to obtain payment from the State for this loss.

The terms of the scheme also specified further conditions relating to the use of the capacity once deemed eligible. For the information of the House, "capacity" is a term used to describe the gross tons, GTs, which is a measure of volume, and kilowatts, kW, of power of a fishing vessel. The total capacity of the Irish fishing fleet is limited to 88,700 GTs and 244,834 kW under EU Regulation 1438/2003.

When the new sea fishing boat register was introduced in 1990, all vessels registered at the time were awarded the capacity of their vessels, effectively free of charge. However, any vessel that had previously sunk or had otherwise been destroyed clearly could not be registered. Any such owner looking to return to fishing would have had to buy a replacement vessel and the necessary capacity. In time, despite the fact that it was awarded free of charge, capacity became a valuable commodity because the overall capacity of the Irish fleet was capped under EU fleet management rules, to which I referred. Although the Department had no role in the tonnage market that developed, there were indications that capacity was changing hands for up to IR £4,000 per gross ton at the time the scheme was introduced. By way of illustration, fishing vessels in the polyvalent general fleet segment, which is the largest segment in the Irish fleet, currently range up to over 500 gross tons. The need to source tonnage clearly would have been a significant additional financial burden on families wishing to replace their boats and continue fishing.

Records in the Department, made available to the Ombudsman, show a range of contacts, meetings and correspondence going back to March 1999, to and from interested parties in respect of this issue. These included public representatives, individual vessel owners, fishermen's representatives and producer organisations, POs. It was argued that there were a number of cases where the cost of purchasing replacement capacity was a factor in preventing families from getting back into fishing after losing a vessel. The records also show that there was both support for and opposition to such a scheme from within the industry. It is clear there was a view in some quarters that it would be unfair effectively to award free tonnage to some while by this time others had to pay a high price on the tonnage market. On the other hand, some supported the proposed scheme. The views of officials from the Department of the Marine and Natural Resources on the merits or otherwise of such a scheme and some of its conditions were also clearly recorded. The emphasis, from the administrative perspective, was on the importance of ensuring that any such scheme could be strictly limited to those who met the criteria of the scheme. Once the decision to have a scheme was made, the terms and conditions of the

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scheme that emerged from this process necessarily reflected the views of all the stakeholders as well as public policy considerations and EU and national legal requirements at the time.

Time constraints do not allow me to list all the published conditions of the lost at sea scheme, but I shall highlight two that I believe are central to the issue:

(1) The boat in question is shown, by reference to log sheet returns or other appropriate records, to have been in active and continuous use for a considerable period of years by the person concerned for sea fishing of a category now covered by the replacement policy rules, until its loss at sea.

(2) Applications under the scheme must be received by 31 December 2001.

These conditions were non-discretionary, objective and quite stringent and were intended to ensure that (a) only those who met the criteria in full were successful, (b) only the immediate family could benefit from any capacity awarded, (c) the benefit of the capacity would allow the family to return to fishing and (d) the capacity awarded could not be sold or turned into a monetary amount. The scheme was launched in June 2001 with a closing date of 31 December 2001. It was aimed at people and families who had a tradition in fishing, had been actively fishing and wanted, through the scheme, to return to fishing. Given those objectives, it was advertised widely in the major fishing trade papers in Ireland, the *Marine Times*, *The Irish Skipper* and the *Fishing News*, and the various fishing representative groups, including all of the producer organisations, were asked to assist in publicising the scheme.

The Department had knowledge of some 16 cases at the time where fishing vessels had been lost at sea during the relevant period, and the owners of those vessels received written notification of the new scheme and were invited to apply. Two of these cases were ultimately successful. The advertising was quite successful and the scheme, despite its tight restrictions, was well responded to. Apart from the 16 cited above, a further 37 letters and information issued to persons who contacted the Department directly looking for information after the scheme was publicised. There were 68 applications by the closing date, of which six were successful in meeting all of the conditions of the scheme and were awarded replacement capacity. A number of the 62 unsuccessful applications failed to meet more than one of the qualifying conditions.

I want to emphasize that the scheme did not provide for the purchase of a replacement fishing vessel itself. The capacity given, under the strict terms of the scheme, could not be sold on or otherwise traded or realised as a financial asset in the tonnage market. The scheme was launched in June 2001, ran for six months, and closed on 31 December 2001. The complaint that is the subject of the Ombudsman's special report was made by one additional applicant whose application for the lost at sea scheme was received in January 2003, over a year after the closing date. That application, received on 7 January 2003, was refused on the basis of being over a year outside the closing date of 31 December 2001 and that the lost vessel was not in active continuous service prior to its loss. For the purpose of the administration of the scheme, this was deemed to be two years minimum.

In November 2004, the son of the owner, who had been lost with the vessel, made a complaint to the Ombudsman that the decision to refuse his family's application was unfair on a number of grounds, principally that his family had not been made aware that the scheme existed and that their circumstances were such that they ought to have qualified under the scheme in the first instance. After extensive examination and correspondence between the various parties, the Ombudsman found for the complainant in her first draft report, and decided to award substantial monetary compensation to the family. The Ombudsman concluded that the part-

icular family did not meet at least two of the conditions of the scheme and that it had been adversely affected by the failure of its application.

The Ombudsman's main criticisms of the scheme and her stated reason for recommending monetary compensation to the family involved were, essentially, that no element of discretion had been allowed for in its design and that it had not been adequately advertised. Her criticism of the advertising of the scheme is offered as the basis for disregarding the closing date in this instance. In her investigation report, she states that she has concluded that the way the scheme was advertised was too restrictive and could have been more comprehensive and targeted. This appears somewhat contradictory. The facts are that the scheme was well publicised, particularly within the fishing community which was its target audience. The family in question, although out of fishing for the previous 20 years, was still living in that fishing community. Some 16 known cases were written to and invited to apply for the scheme, of which only two were successful. Advertisements were placed in the three main fishing newspapers and fishermen's representative organisations were asked to help publicise it. Another 37 letters were issued to individuals who made enquiries either by letter or telephone but did not subsequently make an application. There is no certainty that an advertisement in the national newspapers would have been a better way to reach the target audience. While it would, perhaps, have been more comprehensive, it would have been much less targeted than publicity in the fishing journals and communities. I am satisfied, given that the scheme was aimed at people with a family tradition in fishing who had been active in fishing and who expressly wanted to return to fishing, that targeted advertising and using the communication channels most commonly used by the fishing industry and fishing communities were entirely appropriate ways to publicise the scheme. All told, a total of 68 applications were received by the closing date of which six were successful.

The Ombudsman has acknowledged that the family did not meet two of the conditions, but appears to suggest that if an element of discretion had been formally included, it would have been exercised in favour of the family with regard to both conditions. Normal administrative practices involve the exercise of a certain amount of discretion and common sense. Even if some form of discretion had been formally built into the scheme — I am not sure how that could have been done — it could surely not have been expected to be applied to an application received over a year after the closing date. Given that only six applications out of 68 met all of the qualifying conditions, it could equally be argued that all or many of those 62 unsuccessful applicants could have been successful if the application of the conditions was entirely flexible and discretionary.

I and the Department have consistently taken the view that this scheme, once decided upon, was properly and fairly administered by the Department of Communications, Marine and Natural Resources, which had responsibility for the scheme at the time. The Ombudsman has expressly acknowledged that she found no evidence to suggest that once the scheme was launched, it was not applied equitably. In coming to my view on the Ombudsman's report, I considered all relevant aspects and implications, including the legal aspects, and as a matter of course took legal advice which was considered and acted upon. I continue to believe that, in this case, there is no basis for payment in the amount proposed or any amount. In the first instance, the lost at sea scheme did not envisage any monetary awards. The capacity awarded to the successful applicants could not be traded, sold on or otherwise disposed of for financial gain. Furthermore, the successful applicants had to provide a replacement vessel from their own resources and cover for its running costs in order to be able to make use of the capacity awarded. In the case of the family in question, the lost vessel had not been replaced and no immediate family member had continued in fishing in the 20-year period between the accident and the inception of the scheme. That being the case, and given that the scheme was intended

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to allow families to continue a family tradition of sea fishing, the assertion that the family was disadvantaged by the failure of its application some 20 years later is difficult to stand over. In the exchange of correspondence, the Ombudsman contends that while the family had received a substantial insurance payout, this was not relevant to her investigation or to the scheme.

While holding the position that failure to meet both the closing date and another important condition of the scheme must rule out this or any application, I also want to take issue with the basis for the Ombudsman's proposed compensation figure of €245,570. In her special report, the Ombudsman outlines the basis on which she believes that the amount recommended is reasonable. The amount was arrived at by using the methodology and rates used in the 2008 decommissioning scheme, a completely separate and unrelated scheme which involved successful applicants being paid to give up a working active vessel and its capacity voluntarily, to pay to have it dismantled and to lose its future stream of income.

At the Ombudsman's request, the Department provided calculations on the basis of the decommissioning scheme rates and the tonnage of the lost vessel, on the understanding that this was a starting point in her consideration of an appropriate amount of compensation. The Ombudsman cites the average payments to the successful applicants under that scheme as being comparable. I do not believe that the situations are in any way comparable. In the case of the decommissioning scheme, the vessel owners had the expense of purchasing a vessel and maintaining it. The rates payable under that scheme were intended to incentivise and compensate those owners to decommission voluntarily their vessels entirely and forego the income they would get into the future from continuing to operate those vessels. The Ombudsman is not correct that successful applicants under the decommissioning scheme had the option of selling on their vessel. On the contrary, the decommissioned vessel had to be scrapped at the owner's expense and the tonnage could not be sold on or otherwise transferred. I reiterate my view that payment in the case investigated is not warranted in the amount specified or any amount in this case.

The Department remains concerned that the recommendation in this specific case would give rise to major financial liabilities arising from claims from others who were unsuccessful applicants under the scheme. The special report asserts that the recommendation relates to this case only, that the analysis, conclusions and findings flow from the particular circumstances of that case alone and have no implications for other unsuccessful applicants. Following full consideration and on foot of legal advice, I do not accept that this assertion is consistent or logical. The Ombudsman's finding was that the design of the scheme itself and the manner in which it was advertised were "contrary to fair and sound administration" and that the family concerned had been treated unfairly as a consequence. I do not accept this. The scheme as applied to this case was the same scheme as that applied -equitably as the Ombudsman has acknowledged — to all the other applications received. The considered legal advice given to the Minister contends that it is likely the Ombudsman's recommendation with regard to monetary payment may result in other unsuccessful applications for this scheme looking for the same consideration. I am not convinced that some or all of the unsuccessful applicants would not pursue cases if the recommendation was accepted. Furthermore, some of the successful applicants for the scheme, who could not take up the capacity awarded because of the strict conditions, might seek to use the precedent created by any change in the conditions of the scheme as a result of the Ombudsman's recommendations being acceded to. In addition those who contacted the Department in the year after the scheme had closed, of whom there were several, or those who might have applied in that period, could also seek to build a case on the basis of the Ombudsman's recommendation.

At this stage, it is impossible to estimate the financial outlay or potential liability that might be involved with any accuracy, but there is no doubt that it is likely to be substantial and have a serious financial impact at this time. More importantly, there are also implications for the operation of other administrative schemes across Government that have application deadlines. We are all familiar with schemes that operate to strict deadlines that are enforced and have a very direct effect on people's daily lives. Deadlines are a fundamental feature of most schemes and are strictly enforced and adhered to generally in accepting or rejecting applications. Totally discounting the deadline in this scheme and accepting the validity of an application that was over a year late, as the Ombudsman has recommended, could have very wide and probably incalculable financial and other implications for public administration in Ireland.

In summary, I reiterate that the complainants in this case did not apply for the scheme within the timeframe. They were over a year late in applying and they did not meet some of the criteria of the scheme. The Department maintains its position that the scheme was scrupulously and fairly administered, in that each applicant was treated fairly under the scheme within specific terms, rules and conditions. The Ombudsman has acknowledged as much. The scheme was advertised in a targeted way to the target audience — those with a family tradition of fishing and who would return to fishing if successful under the scheme. Administrative schemes must be operated and seen to be operated in an equitable and transparent manner. I suggest to the House that it is a relatively short step from flexible and discretionary to arbitrary. Accusations of the arbitrary application of the scheme and favouritism have been levelled already in regard to some of the successful applicants, suggestions I utterly reject. Accordingly, there is no basis for the award of payments in this case.

As I stated, I have the highest regard for the Ombudsman, her office and team. The issue investigated and reported on by her is a very difficult one. It has taken a lot of time and effort by the Ombudsman's office and the Department to deal with it. I have taken note of the points raised by the Ombudsman about the design of the lost at sea scheme. Relevant points will be taken into account in the design of any future schemes in the Department. I am satisfied that the principles of fair dealing in the design and administration of schemes are and will continue to be core tenets of the Department's customer service plan.

Senator Liam Twomey: I thank the Minister of State. What is interesting is that he makes it clear that those who contacted the Department in the year after the scheme closed to applications were several in number, which means that perhaps it was not advertised as widely as he might have thought. Six months is a short timeframe in which to make an application, particularly when the period began on 1 July and many do not pay attention to such matters in the summer months.

Will the Minister of State explain whether the Ombudsman examined how the successful applicants fitted into the criteria for the scheme and whether she considered the 62 unsuccessful cases? Did she make a comparison between the successful and unsuccessful cases to find out if there was much of a variation between the applicants? Did she examine all 68 cases, particularly the cases of late applicants? I ask this question to ascertain whether there are the continuity and fairness across the criteria to which the Minister of State referred. It would be useful to have an independent view on these applications.

I have raised a specific case with the Minister of State in regard to the payment of compensation in respect of a fishing vessel in County Wexford. A fisherman applied for compensation to an independent review group set up by the Department of Agriculture, Fisheries and Food and headed by a senior counsel. The individual concerned was successful in receiving compensation from the independent review group but the Department did not accept its decision and, in fact, took its own independent review group to the High Court where it did not win. It then

[Senator Liam Twomey.]

applied to have the case taken to the Supreme Court. When I raised the issue, the case was just about to go before the High Court and the Minister of State was able to get away with not saying too much because he was able to claim the matter was *sub judice*. If a person is seeking compensation for decommissioning a fishing vessel and the Department can drag that person through the High Court and the Supreme Court, in effect, it will win because it will break the applicant who does not have the resources available to the Department. In a sense of fairness, I ask the Minister of State to reconsider this case which I hope to take up again at some future point.

I do not accept some of the excuses used by the Minister of State such as that people can retrospectively take the Department to court, although I accept there is a risk of a precedent being set if an applicant is successful, as it would open up a range of other cases. However, the case I dealt with was not similar to any other; it was simply a matter of the Department obstructing this one individual and taking the case all the way through the courts. I am always concerned when the dead hand of government is used to block the rights of citizens. The role of a Minister is to facilitate in the decisions of Government bodies and allowing the average citizen the necessary flexibility.

In response to the Ombudsman's report I hope the Minister of State will not focus solely on the individual applicant dealt with in the report. What he must try to achieve is transparency for the ordinary person reading about the matter, whether in *The Irish Skipper* or one of the other fishing journals. When people read his response, they want to see the level of transparency to which I referred and perhaps him to ask the Ombudsman to review the 68 cases in which applications were made within the timeframe laid down and make comparisons between them to show that fairness and transparency were applied.

There is also a strong political element to this issue, of which the Minister of State is aware. Concerns have been raised that the criteria and their application might have benefitted certain individuals. There is a need to make absolutely certain that such a charge cannot stand up. The Minister of State should reopen the 68 cases to the Ombudsman to enable her to engage in a full and proper review. I also ask the Minister of State to examine the case to which I referred. I am sure he is aware of it and can access the file in the Department. Perhaps he could prevent the individual concerned being dragged through the Supreme Court. If he examines the file, he might do me the courtesy of contacting me to explain how many similar cases there are which would warrant the Department going all the way to the Supreme Court, having been beaten in the High Court and having rejected the recommendations of one of its own independent review bodies with regard to the decommissioning scheme. I accept the decommissioning scheme is completely separate and understand from where the Minister of State is coming in regard to it. However, as I said, there is bad stink about some aspects of the scheme which are being discussed among fishermen and those with an interest in this issue. For the sake of the integrity of the Department, as well as for the political integrity of the Ministers involved, both now and in the past, we should consider giving all of the files to the Ombudsman, to let her give an independent view on these matters and clear them up once and for all.

Senator James Carroll: Gabhaim buíochas as an deis labhairt ar an rún seo sa Seanad. Tá áthas an domhain orm seans a bheith agam ráiteas a dhéanamh ar thuarascáil an Ombudsman. This is my first opportunity to speak in my new role in Seanad Éireann with the Minister of State, Deputy Tony Killeen, present. I look forward to working with him until June 2012.

As Senator Twomey said, we all acknowledge the great work done by the Ombudsman and her office, which is top drawer. The investigation carried out by her and her team into this specific case has been to the highest standard.

As the newly appointed spokesperson on fisheries, I am delighted to contribute to the debate. In recent months I have had the opportunity to meet and work with a number of fishermen in my own county of Louth at Clogherhead's Port Oriel, a great resource for the country, one we should develop further. Clogherhead's prawn festival, for example, is restarting this year after a lapse of 14 years. I look forward to working with those involved.

12 o'clock

I attended the launch of that festival a number of weeks ago by Clogherhead Tourism Council. We should be focusing on the tourism potential of areas like this. Other towns and villages throughout the country have taken on this mantle, including Carlingford in north County Louth which has transformed itself as a tourist hub for customers North and South. It is an example of how people and businesses in the South can appeal to businesses in Northern Ireland and how people in Northern Ireland can do their business North-South as opposed to the current position in terms of all business being South-North. The Government should strategically consider the development of places like Clogherhead.

As the Minister of State, Deputy Killeen, indicated the lost at sea scheme was a limited scheme introduced in June 2001, with a closing date for applications of 31 December 2001. Many people were misled or, sadly, chose to be misled in regard to how the scheme worked. The scheme was specifically targeted at people who had been fishing and wanted to continue fishing. It is important to remember that it was a bounded, time-limited scheme which was intended to assist families obtain a replacement for a lost vessel which would be owned and skippered by the applicant or an immediate relation. The objective of the scheme was to allow fishermen or their immediate family, including women involved in fishing, to return to fishing and not to award any monetary benefit which, as articulated by the Minister of State, is key.

When the new sea fishing boat register was introduced in 1990 all vessels registered at the time were awarded the capacity of their vessels effectively free of charge. However, any vessel that had previously sunk or had otherwise been destroyed clearly could not be registered. Any person or team of people wishing to return to a career in fishing would have had to buy a replacement vessel and have the necessary capacity, which in time would become a valuable commodity because the overall capacity of the Irish fleet was capped under EU management rules.

The Minister of State mentioned earlier that the scheme, when introduced, was opposed and supported within the industry. Opinion was divided, which I can understand. It seemed unfair to be seen to be awarding free tonnage to some while others had to pay a high price for their tonnage. I reiterate the point made in this House and in the Dáil that, from an administrative perspective, it was important to ensure the scheme could be strictly limited to those who met the necessary criteria. Once the decision to have a scheme was made, the terms and conditions that emerged had to reflect the views of all stakeholders, national legislation and any EU rules.

As articulated by the Minister of State, the conditions which were objective and quite difficult to meet were intended to ensure that only those who met the criteria in full were successful, that only the immediate family could benefit from any capacity awarded, that the benefit of capacity for the scheme was to allow the family to return to fishing and that the capacity awarded could not be sold or turned into a monetary amount, as can happen with other schemes. Some 16 fishing vessels were at the time lost at sea, the owners of which received written notification of the new scheme and were invited to apply. The scheme was focused on those who had been in the fishing industry and wanted to continue a family tradition of fishing and where the grant of capacity would enable the applicant or an immediate relation to return to fishing. The advertising was quite successful and the scheme, despite its tight restrictions, was well responded to. As stated by the Minister of State and Senator Twomey, 68 applications were made, of which six were successful.

[Senator James Carroll.]

The scheme was aimed at people and families who had a tradition in fishing and was widely advertised in the major fishing trade, including *The Marine Times*, *Irish Skipper* and *Fishing News*. The 62 unsuccessful applications failed to meet one or more of the qualifying conditions. I want to reiterate the point that the scheme did not provide for the purchase of a replacement fishing vessel.

I noted when reading the report during the past few days that in November 2004 the son of the owner, who had been lost at sea with his vessel, had complained to the Ombudsman on two grounds: his family had not been made aware of the scheme's existence and their circumstances were such that they ought to have qualified under the scheme in the first instance. I recall, as a graduate of law in UCD, being taught on the first day that the most fundamental of legal rules is that ignorance of the law is no defence. Sadly, this same principle applies to this scheme. Following exhaustive examination and correspondence between the various parties, the Ombudsman found in her first report for the complainant. This appears at odds with the views of different Departments which had studied the report. The Ombudsman concluded that the particular family did not meet at least two of the conditions of the scheme and that advertisement of the scheme was not adequate despite it having been advertised in the three major fishing publications in Ireland. Also, the fishermen's representative organisations were notified of its existence and had communicated that information to the 16 known cases, which appeared to me to be the most appropriate approach in the circumstances. There is no 100% assured way of ensuring everybody eligible under a scheme is notified of its existence. We, as public representatives, are well aware of the considerations in terms of hitting one's target audience be it in respect of public meetings or clinics. All considerations, including how, when and where, must be examined fully.

The Ombudsman has expressly acknowledged that she found no evidence to suggest the scheme once launched was not applied fairly and equally. The compensation figure of almost €250,000 recommended by the Ombudsman was, as pointed out by the Minister of State, arrived at using the rates used in the 2008 decommissioning scheme, which is a totally different and separate scheme. I will not reiterate the specifics of that scheme given they have been already articulated by the Minister of State. Suffice to say that I concur with his views on the matter.

The Minister of State set out the Ombudsman's finding, that the design of the scheme and the manner in which it was advertised were "contrary to fair and sound administration". I do not accept this. The Ombudsman's desire for flexibility makes sense. We are all agreed on the need for flexibility in all schemes. However, how flexible is flexible in regard to this matter? Does that mean dropping one, two or three criteria and, if we do so, will any applicant be eligible under this scheme?

Deadlines are a fundamental feature of most schemes and need to be strictly enforced and adhered to when accepting or rejecting applications under schemes. Transparency is key. As stated by Senator Twomey, transparency in regard to deadlines and criteria in specific schemes like this is key for delivering the transparency we all wish to see. Totally discounting deadlines by more than 12 months and accepting as valid an application more than one year late, as has been suggested by the Ombudsman, would have extremely wide and incalculable financial and other implications for all Departments, semi-State agencies and schemes. To what will we be leaving ourselves open if we drop deadlines and accept as valid applications made one year late?

Senator Paul Bradford: I welcome the opportunity to speak on this important report before the House as a result of the decision of the Office of the Ombudsman to present a special

report to the Oireachtas for consideration. As I understand it, this is only the second time since the foundation of the Ombudsman's office that such a report has been placed before the Oireachtas, which illustrates the extent and seriousness of the matter before us for consideration.

The phrase "lost at sea" is emotive. Every time we use that phrase we reflect on the many people, in the main from the fishing community, who have down through the years lost their lives in tragic accidents at sea. On this occasion we must remember with sadness the Byrne, O'Brien, Lafferty and McGovern families, all of whom lost family members in a tragic accident in October 1981. The genesis of this debate, and of the Ombudsman's investigation, is the complaint by the Byrne family that the scheme put in place by the then Minister, Deputy Frank Fahey, was unfair, inappropriate and unbalanced. It is significant that the Ombudsman has raised profoundly serious questions about the scheme.

Yesterday in the Dáil, much time as spent discussing the behaviour of one Minister, but what we are debating is every bit as serious, if not more so. We are asking fundamental questions. Was a scheme designed to suit a predetermined number of people? Was it designed by a Minister basically to provide assistance only to his constituents? I do not wish to be judge and jury in this matter and neither is the Ombudsman's office judge and jury, but serious questions have been asked and they must now be answered.

It has been argued by the Fine Gael Party leader, Deputy Enda Kenny, and our party's agriculture spokesperson in the Dáil, Deputy Michael Creed, that the Ombudsman's report should come before the Joint Committee on Agriculture, Fisheries and Food for deliberation. The presentation of the Ombudsman's report is helpful in summarising chronologically the events that have brought us to this point. We must go further, however, because a one-off debate on the report is simply not sufficient. We have used the words "transparency" and "accountability" so many times in this House and elsewhere, but a much more detailed discussion and analysis of the report will be necessary to provide a proactive response to the concerns of the Byrne family and others. That is why it is so important for the Government to consider having the report debated in full at the relevant Oireachtas committee.

The Ombudsman's findings are pertinent. I respect the point made by the previous speaker that the Office of the Ombudsman does not define or determine facts in a judicial fashion, as a court might do. The Ombudsman's office does, however, carry out investigations, asks questions, consults with the affected parties and makes strong recommendations, which are not legal findings. Important information and significant key findings have been presented by the Ombudsman, Ms O'Reilly's, office in this particular case. Poor administration by the Department has been highlighted as a matter not just to be noted but also, hopefully, to be acted upon through further debate and deliberation.

I may be paraphrasing, but the report stated that the design of the scheme and the manner in which it was advertised was contrary to fair and sound administration, and that there were poor record-keeping practices. That is a serious observation by the Ombudsman's office. The report's findings highlight the opposing views between the Minister and some of his key officials as regards the scheme's genesis, design and operation. The report also notes the Minister's determination to put the scheme in place notwithstanding some problems that had been highlighted by officials. In addition, the report comments on the way the scheme was initially designed and eventually put in place. I am paraphrasing again, but it observes that the actions by the Minister and his officials resulted in a scheme which was too focused on known cases and wrongly excluded some deserving cases. It said the overall design was faulty and left no scope for the exercise of discretion in the event of further deserving cases coming to light. That must be of concern to us.

[Senator Paul Bradford.]

There is strong evidence to suggest that an unfair advantage was applied to a very small number of applicants. The report found that the Byrne family at the centre of the complaint was adversely affected. Meanwhile, some prospective applicants were put in a more advantageous position than others as they were written to directly by the Department and the Minister to inform them about the scheme when it was launched. I stress that I am not the final judge or arbitrator, but that finding paints a grave picture of suspicion that the scheme was designed for only a small number of people and that it was not an open, transparent and fair process.

That is a brief summary of what the Ombudsman said, but we are duty bound to recognise that we cannot simply close this chapter of the report. I appreciate that under the legislation which established the Office of the Ombudsman, the State is not obliged to respond to every finding of that office, or to act on every suggestion that is made by it. It should be noted, however, that the vast majority of recommendations in the Ombudsman's annual report are accepted either in whole or in a modified version by whatever Department is the subject of a complaint. That is how such reports have been acted upon over the past two decades.

The only fair and reasonable step to take now is to have a much wider trawl, if Senators will excuse the pun, of the report, as well as its background and findings, at the Joint Oireachtas Committee on Agriculture, Fisheries and Food. It is the least which the affected families can expect. They have endured not only personal loss, but also financial distress for more than 20 years. If we are talking about trying to build a new political environment of fairness and equity, which generates public confidence, then this type of report must be acted upon in so far as possible. The minimum requirement is to have a lengthier debate to investigate the Ombudsman's findings in this case. The natural vehicle for such work is the Joint Committee. I ask the Minister of State to ensure that his senior colleagues in Government will allow the report to be debated at that forum in the near future.

Senator Ned O'Sullivan: Ba maith liom fáilte a chuir roimh an Aire Stáit, an Teachta Tony Killeen, agus tréaslaím leis as ucht an sár obair atá á dhéanamh aige.

I am conscious at the outset that this debate concerns a tragic loss of life at sea, which should inform all our deliberations. That is more important than any other aspect that will be raised here. Fishing has always been a dangerous occupation. I congratulate the former Minister, Deputy Frank Fahey, on taking the initiative in introducing a scheme which was designed to assist survivors and bereaved families of those who had drowned. It aimed to give them an opportunity to continue in fishing despite the major setback of losing their loved ones. I am glad we are having a very reasoned debate here. I compliment the speakers on the other side. A cursory reading of the Official Report of the debate in the other House shows that it degenerated very quickly into a political boxing match. There was more heat than light in it. Much of the argument on the Opposition side was based on statements issued by Mr. Joe Higgins, MEP, which are proven to have been entirely incorrect and which have never been withdrawn by him in respect of statements he made about the then Minister, Deputy Fahey. It is unfortunate that Mr. Higgins would not even at this stage admit that the statements he made on that occasion were entirely erroneous.

There are two elements in the debate. The first issue is whether the scheme was administered properly or not. The second issue is whether the Ombudsman was correct in proposing to include people retrospectively in a scheme even though they did not comply with all the necessary regulation during the period when the scheme was operational. I wish to deal with the second issue first.

Like every other scheme and every form or support that the State implements, this scheme was conditional. In other words successful applicants needed to be able to tick all the boxes in order to qualify. While the timeframe was quite limited, the Department did its best to disseminate the information in the proper way by targeted advertising in trade publications and fishing magazines and through the fishing organisations. We have all learned from the waste in which we indulged when we had a looser economy. One needs to trim down. There is no great advantage in placing big advertisements in the back of the *Sunday Independent*, which would be read by less than 1% of those affected, when one could target the particular group by placing the advertisements in specific magazines or periodicals that were going to be read by the people with a natural interest in the scheme. There is no doubt in my mind that advertising was the correct way of doing it. There was no hidden agenda and no going behind closed doors. It was pretty well known. I know fishermen as I know farmers. If farmers have any inkling that a grant or some other support might be available for something, they will be onto it before it is even properly promulgated by the Department. They do not need to wait around to see advertisements in the back of the *Sunday Independent* to find out about it. Fishermen are the very same.

I again express my sincere sympathy to the Byrne family over their great loss and naturally we all have a human response to this issue. However, if the exception were to be made for them or any other applicants, it would create a very serious precedent not only in the operation of the lost at sea scheme, but it could also generate a plethora of retrospective applications for support under a myriad of State schemes run by all Departments, including the Departments of Education and Science, Health and Children, and so on. It is necessary to balance the human element with the fact that, like all schemes, it was operated and regulated under rules and a regime that needed to be followed in order to qualify.

Another point was very confused at the time Mr. Higgins, MEP, made his complaints. The scheme was never intended to provide monetary compensation to anybody. There was never a question of financial compensation. It was designed to assist families still in the fishing business at the time the scheme was introduced and to make up for their loss of capacity to fish. They were being offered a limited scheme to grant replacement capacity if they were still involved in the industry. This capacity, or tonnage, could not be sold or traded for gain and suggestions to the contrary are completely wrong. People have suggested to me that it was like a milk quota. This was not the case. A farmer could sell a milk quota, which has a realisable value. This just provided an opportunity to continue fishing. Many of those who took up the offer have since lost money. It was not a money-making or grant-endowing scheme at any stage.

There is no evidence of any wrongdoing or deviation from regulation in the administration of the scheme during the time when Deputy Fahey was Minister or thereafter. It is amazing how the general public was given the impression that a limited number of families were given a bonanza, as was suggested in one newspaper. At the time I believed that people were getting money and that was the idea that was abroad, but it is absolutely erroneous. The regulations were tight and a number of families qualified. It was as simple as that.

I come to the other aspect of the argument, namely, the Ombudsman's position. The Ombudsman has a very important and difficult job. I have the utmost respect for both the position and the present incumbent. It would be part of the job description of Ombudsman to be caring and to look to support those most in need who are suffering the greatest trials and tribulations. That is what one would expect of an Ombudsman. That needs to be weighed up by the Government in the wider context of what is good for the overall wellbeing of the State. The Ombudsman, like anybody else, can be wrong. In this case the Government had no option but to make the decision it made. I do not agree with Senator Bradford, whose contributions I always respect. There is no great value or merit in continuing this type of debate, sending it

[Senator Ned O’Sullivan.]

back into the committee for discussion, having more stewards’ inquiries into it or bringing it back to the Ombudsman. Overall it is a very sad story. It has been exacerbated by mischief making by Mr. Higgins, MEP. We should draw a decent veil over it, in respect for those who have died and move on.

Senator Joe O’Toole: Ba mhaith liom fáilte a chur roimh an Aire Stáit. Is mian liom “go raibh míle maith agat” a rá leis as ucht an jab atá ar siúl aige ar ár son sa Bhruiséil agus áiteanna ar fud na tíre. Go n-éirí leis. Mar is eol don Aire Stáit, I come from a fishing town, Dingle, and when going to school half of my class were from the fishing community. Anybody of my age from a town like Dingle or Killybegs will remember long nights with winds blowing and howling, and waves crashing in on the pier and in through the harbour’s mouth, with families waiting along the harbour wall wondering whether their boats would come back in. There is nothing as devastating as the loss of a fishing vessel and the loss of a life. I saw that many times while growing up and it is never forgotten. It teaches one a considerable amount. Above all else it teaches one enormous respect for the profession of fishing and the great investment and risk that goes with being dependent on fishing as part of a fishing family. I say that because in all these matters I am very biased towards the fishing industry. Two years ago I was a lone voice in the Oireachtas arguing against the Government and the east coast-south Dublin approach to destroy a centuries old tradition of salmon fishing in a manner that was not necessary and could have been done differently.

I have known the Ombudsman for many years. I knew her when she worked as a journalist in this House. I hold her in the highest respect. Before I get into the meat of the Minister of State’s speech, I ask him to take this back even though I know this is not within his remit. The real issue here, if I take politics out of it, is that we do not have any method of dealing with a report from the Ombudsman coming back to the Oireachtas. If this were the first time that happened, there might be some excuse for it, but it is not the first time; we have dealt with this before. I can recall a situation where somebody appealed against a decision of the Revenue Commissioners and the matter came before the finance committee.

There are a number of issues to be considered. It is not our job to second guess the Ombudsman one way or another. Neither is it the case that the Ombudsman is necessarily always right. We should not show bias in our approach. The Ombudsman makes the point that the scheme was well intentioned. The complaint was that it had been arbitrarily applied, The Minister of State has outlined why, in his opinion, that is not so. Both he and the Department are entitled to their opinion. What is interesting is that the Ombudsman found that it had been unfairly applied. Incidentally, it is right that the Department should state its case. I do not have a great need to pick holes in what the Minister of State said in that regard. His job is to defend his Department and say how it did its job. He believes, obviously, that it was done correctly. Having said that, that does not mean he is right; he may well be wrong. It also means that perhaps different standards and benchmarks should apply.

The Ombudsman found it to be unfair and has in favour of the complainant. She made two points. She said the scheme was inadequately advertised and that there was no discretionary element. The Minister of State has proved, by the strength of his argument, that there was no discretionary element, while indicating to the House, in effect, that there should not have been since there were certain immutable and inflexible conditions involved.

There is an interesting element involved and I know from where the Ombudsman is coming. The Minister of State has not dealt with this aspect, although I am not blaming him for not dealing with it. There has been a series of court cases in recent times dealing with judicial reviews, in which the courts have concluded that there was no clear evidence of a discretionary

element being exercised. I am referring to the exercise of discretion in the formation of a judgment. The word “discretion” can give the wrong impression, inferring that people can do as they like, but that is not what is meant in this case. In the Ombudsman’s use of the word, she means there was no indication that discretion had been used in coming to a judgment. The Minister of State can agree or disagree, but this should be brought to the attention of his ministerial colleagues, as it applies to every single scheme and is why we do not have computers instead of Departments. It is why we pay civil servants, Ministers and politicians to make judgment calls. One cannot have schemes that are so hidebound that there is no formation of a judgment or, in the Ombudsman’s words, “discretion”. I emphasise that the use of the word in this case does not mean doing business.

I cannot comment on the challenges posed and allegations made against the previous Minister of State or Minister. I would not even attempt to go there and it is not my business. However, it is my business to examine the arguments made. The Minister of State has said that in coming to her judgment on the quantum of money suggested the Ombudsman based the figure on the decommissioning scheme which, as he rightly pointed out, has no relationship to the other scheme. However, that is not an argument, as she had to use a benchmark. I have read that statement three times and believe it weakens the Minister of State’s argument. If I was in his position, I would not have said it. He was doing fine until he came to that part because if she did not give some indication as to how she had come to that amount of money, we would all have been asking whether she had just plucked the figure out of the air. Therefore, the Ombudsman went for the only figure she could and that was appropriate. I am not saying it is the correct amount of money, but we must recognise that she used certain structures, benchmarks and guidelines in coming to her conclusions, which is significant. The Minister of State has said also that the Ombudsman seemed to base her conclusion on an assumption that if there had been discretion, it would have been granted to the family concerned. I do not know whether that is the case and have not seen it. It is a big step to make.

The Minister of State has made a cogent and plausible case on behalf of his Department, which I am not trying to undermine. However, I want to tell it as I see it. I have not received a briefing on the matter; I am giving my personal response, nothing more. Nonetheless, the Ombudsman has done a good job of work.

I shall conclude with the point with which I began. We put legislation together which deals with all of the various steps taken in the operations of the Ombudsman. The final one is to the effect that if the Ombudsman is unhappy with the way in which his or her proposals are being dealt with by a Department or Government agency, he or she can report the matter to the Oireachtas, but at that point we stopped in a lacuna. The Minister of State and I have been over this ground in another place many times. Surely, where mediation or arbitration is involved, we should always say the matter should be brought to a conclusion and that there should be closure. However, we have left a gap in the legislation that does not result in closure. I do not even mind whether such closure involves a free vote in the House on whether we should accept the Ombudsman’s position, which would be no reflection on anybody. I say to the departmental officials present that if the Ombudsman happens to be right on this occasion, it does not mean the Department has acted dishonourably, unethically or immorally. It just means it made a mistake, in the view of the Ombudsman. It is akin to going to court. Many walk out of court believing they have not received justice. One gets law when one goes to court; when one goes to the Ombudsman, one still gets law. The Department does a very fine job. I complimented the Minister of State on the job it did in Brussels before Christmas, but that is not what we are at in this instance. It is about looking at structures. The problems are more for us as legislators rather than for the Department’s because we should not be here trying to work out who was right and who was wrong. That, in effect, is to ask us to second guess the procedure we initiated.

[Senator Joe O'Toole.]

The final step is that, if the Ombudsman cannot bring closure, as we wish her to, she reports back to us on the matter.

There should be a way to bring closure to a matter, probably by means of a joint Oireachtas committee. The Joint Committee on Finance and the Public Service generally deals with the Ombudsman. Such issues should be dealt with in a way that would obviate the need for us to break down along party lines. Committee members should make an honest judgment, which would not be a reflection on anybody involved. It would simply bring closure. Those of us who have been involved in mediation, arbitration and such methods during the years know that, ultimately, while one might know one is completely in the right, matters might not go in the way one expects. In most of the great arguments in Irish life both sides, while holding opposing viewpoints, are absolutely certain they are completely right and they will always hold that position. In issues before the Ombudsman it is simply about bringing closure, taking everything into account. I ask the Minister of State to take away this most important point, to table a brief amendment to the legislation to allow the final step to be taken to ensure closure.

Senator John Carty: I welcome the Minister of State. He made a very comprehensive speech, with parts of which I wholly agree. I am delighted to note that he holds the Ombudsman in very high esteem. He has complimented her on the investigation she has carried out, which is very important.

I accord my sympathy to the family in question and the many families which have suffered bereavement during the years in tragedies at sea. Such tragedies have affected families in my county and all along the entire coastline. The tragedy we are discussing dates back to 1981. It took a long time — the best part of 20 years — for it to receive official recognition.

There was a closing date to the scheme. Based on my professional experience before entering the Oireachtas, departmental scheme closing dates always cause problems. This family is aggrieved that its application was not in before the closing date and I have every sympathy for those involved. However, closing dates exist for a reason and they must be adhered to, or every scheme would continue for long periods and no end would ever materialise. I am aware that in the case of the Department of Agriculture, Fisheries and Food when closing dates were first mooted problems arose and extensions were given. Eventually a time came when a closing date was set and if one was late, a certain percentage was taken off one's entitlements for every day missed up to a ceiling of 20 days.

That was not the case in this instance and a closing date was stipulated. I find it difficult to understand and I disagree with the Ombudsman's view on the matter of advertising. The scheme was advertised in various fishery bulletins of which the fishery industry, a small knit community, would have been aware. That part of the report is somewhat difficult to understand. As the Minister of State rightly stated, the scheme was advertised in the *Marine Times*, *Irish Skipper*, and *Fishing News*. All the fishing representative groups were aware of the scheme as were the producer organisations. They were all asked to publicise the scheme and I believe they did so. A significant number of applications were received and several were unsuccessful: a figure of 62 was provided by the Minister of State. Such applications failed to meet the criteria. I do not understand the point of view of the Ombudsman in this case. The period of time allocated for the application was adequate. The scheme ran for six months from June 2001 until 31 December of that year. The application submitted by this family did not arrive until January 2003. I feel sorry for the family but I do not know what can be done at this stage.

I listened to my colleague, Senator Bradford, who is always very reasonable. He offered the view that this should be discussed in depth at the Joint Committee on Agriculture, Fisheries and Food but I disagree with him fundamentally in this regard because the sooner closure is

brought to this matter, the better. We should not give false hope to people who may take the view that while the matter is under discussion, they may be entitled to some compensation eventually. Such a measure serves no purpose and prolongs the pain for the people concerned. There is no basis at present for such a suggestion. I compliment the Minister of State and the way in which he has handled the matter today and in the Lower House.

Senator Brendan Ryan: I welcome the Minister of State. I step into the breach for my colleague, Senator Michael McCarthy, who is unavailable and I will speak on behalf of the Labour Party on this matter. It is important to keep the Byrne family to the forefront of our minds on this matter. At issue is the matter of natural justice and whether the Byrne family received due recognition for its complaint or an appropriate response from the agencies of the State was forthcoming. When he was an Opposition Deputy, my constituency colleague, the Minister of State at the Department of Agriculture, Fisheries and Food, Deputy Sargent, filed a complaint concerning the role in this affair of the former Minister for the Marine and Natural Resources, Deputy Frank Fahey, with the Standards in Public Office Commission, SIPO. While SIPO rejected the complaint, the Minister of State's action demonstrates that certain Members now in Government recognised that a problem existed.

The Ombudsman found the scheme to be seriously deficient and flawed and the European Commission was never informed of its existence. The Byrne family has been treated abysmally by the agents of the State, with the notable exception of the Office of the Ombudsman. However, the Department of Agriculture, Fisheries and Food has decided to ensure that the family will not gain redress. For only the second time in the history of the State, we are left with a scenario in which the role of the Office of the Ombudsman has been completely undermined. As a result of its decision to reject the Ombudsman's findings, the Government has undermined the confidence citizens held that they could successfully resolve their complaints and it has severely compromised the independent statutory role vested in that office by the Legislature.

For the Labour Party, this is a case of ensuring that the organs of the State are not undermined or demeaned in any way. We must not neglect the significance of a rejection by the Government of the Ombudsman's report. That the report has been laid before the Houses, presumably as a last resort, speaks volumes about the contempt this Government holds for any independent arbiter whose role is laid out under statute. What hope can the ordinary citizen have that a complaint will be adjudicated upon fairly if a decision can be rejected by the Government of the day for reasons of political expediency? The Byrne family has been subjected to the ignominy of witnessing a report which offers redress and a measure of natural justice rejected for the sake of that political expediency.

It is clear from the correspondence between the Department and the Ombudsman that the Department is engaged in a cost saving exercise and will do anything to abdicate its responsibilities. The Labour Party seeks justice for the Byrne family and an acknowledgement of the Ombudsman's report. It is critical that we afford the Ombudsman an opportunity to present her findings to the Joint Committee on Agriculture, Fisheries and Food. Also, we should have the opportunity to hear from all interested parties to understand the issue fully.

It is important that the following statement from the Ombudsman is read into the record of the House. If this has been done previously I offer some apology, but I intend to include it in my contribution. The Ombudsman stated:

My role as Ombudsman is to ensure that our public administration system deals properly and fairly with members of the public and this is a task which I am committed to fulfilling,

[Senator Brendan Ryan.]

without fear or favour, in line with the statutory authority which has been granted to my Office by the Oireachtas.

My decision to make a special report in this case was not taken lightly. It is my statutory duty under the Ombudsman Act, 1980 to decide what is fair and reasonable in relation to each complaint that comes before me. Where a remedy is warranted I take great care to ensure that my recommendations are both appropriate and proportionate. The credibility of any Ombudsman depends on his or her ability to deliver adequate and appropriate remedies to people who have been treated unfairly. My investigation of the Byrne family's complaint has been painstaking and forensic. However, in this case, despite my best efforts, the Department of Agriculture, Fisheries and Food continues to dispute my findings and recommendations and I have been unable to resolve the impasse. My only option when this arises is to seek the intervention of the Oireachtas. It now has the task of deciding who is right and who is wrong in the context of good administration and fairness to the complainant.

The Labour Party proposes the House should adhere to the recommendations of the Ombudsman. I accept it is not within our gift to apply its findings and deliver some degree of natural justice to the family. It is not for the Minister of State to decide on the motivations of the family or to comment on them in 2010 in the context of a scheme that was in place from 1980 or 1981 to 1989. However, what is at stake is the role of the Ombudsman and the decision and findings of the office. The Ombudsman clearly stated that there was maladministration and that the scheme was not properly advertised. She made a decision to grant redress for the reasons outlined in the report. The issue is whether the Government decides to take on board the views of an independent arbiter which has a statutory function. We should not reject a report of the Ombudsman so easily.

Senator Niall Ó Brolcháin: It is with great sadness I read this report. I understand this is the second time such a report has come before the Houses of the Oireachtas in the histories of the State and the Ombudsman. The facts of the matter are clear. Compensation was awarded to a small number of families during a small period. The title of the scheme, the Lost at Sea scheme, is appropriate. It was not a good scheme. The Ombudsman has stated clearly that "the design of the scheme and the manner in which it was advertised was contrary to fair and sound administration", which is disturbing. We need to reflect on that position.

The scheme has obviously been discontinued and I am glad it has been. My heart goes out to any family that has lost people at sea. There were a number of complaints made to the Ombudsman and one, relating to the Byrne family, was upheld. A recommendation was made by the Ombudsman's office. Roughly 75% of the compensation available at the time was made available in my constituency, Galway West, which is the same as that of then Minister, Deputy Fahey. Irrespective of the position, this does not look good and needs to be justified. I am not sure it can be.

With regard to the scheme's implications for the Byrne family, the Government is making decisions. I urge it to take as much heed of the report as is possible. It should reconsider the report. The Byrne family, in particular, should be compensated, as recommended in the report. Fairness and natural justice should be evident in regard to the matter.

I have had cause to liaise with the Ombudsman in that I have advised many people to bring their cases before her office. The office is a very fair and important one and it exists for a reason. When the Ombudsman goes to such great lengths to produce a report such as the one in question for the Houses of the Oireachtas, we must pay heed to it. I am not being prescriptive

as to how we should pay heed to it. I urge the Minister to take the report very seriously. To have democracy, we need to ensure proper checks and balances are in place. We have to read statements. I fully trust the Ombudsman, Ms Emily O'Reilly, regarding the fact that elements of the scheme were contrary to sound administration. We must take this very seriously and act upon it.

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): I thank all the Senators who participated in the debate for their views on this matter. I sometimes believe it is a lot easier to respond to a debate in the Dáil where debates tend to be extremely political and where it is possible to respond in almost entirely party-political terms. I frequently find in the Seanad, as I do today, that the contributions of Senators are very considered. In so far as possible, they look behind the scenes and raise questions that are actually very difficult to respond to. One can well understand why somebody in government might prefer that there were no Seanad. When I come to the House to consider legislation, Senators, for whatever reason, be it related to interest or time, consider issues deeply and propose amendments. I hardly ever came to the House with legislation without accepting amendments and driving everybody mad elsewhere.

I find myself in disagreement with many of the points Senators made on the lost at sea scheme. However, one fundamental point was made in virtually every contribution, namely, that there is not a prescriptive outcome provided for in the original Ombudsman legislation of 1980 with regard to what happens following the referral of a report to the Houses of the Oireachtas. This is a great weakness and it was outlined in considerable detail by Senator O'Toole and others. Perhaps the Oireachtas will address it at some point.

I will try to address the specific points of individual Senators. Senator Twomey asked about the extent to which the Ombudsman examined all 68 cases. I do not know the answer but certainly agree with the Ombudsman's assessment that her examination of a case and everything relevant thereto is thorough and painstaking. I find it very difficult to imagine that an Oireachtas committee or any other body charged with responsibility in this area would find it possible to do a better job than has been done.

I have tried to set out in my opening contribution the key points on which I disagree with the Ombudsman. The principal one relates to closing dates of schemes, irrespective of what schemes they may be. Every Member in each House understands Senator O'Toole's point on people waiting on the quay wall and praying for the safe return of family members, friends and relations who are on a trawler engaging in one of the most dangerous occupations in the country. He referred to the kind of heartbreak this brings to families.

One difficulty with the lost at sea scheme relates to the entitlement to conclude that an element of what is provided for involves the making available of some kind of compensation to people who have lost families in the tragic circumstances that apply to the Byrne family and many others. A huge part of me would want to find a way to do that for the Byrnes and many other families but other considerations that come into play create difficulties.

The manner in which the Ombudsman went about examining these issues seems extraordinarily thorough and professional but that does not address the point being made. Senator O'Toole said very eloquently that it is possible that the Ombudsman could be as wrong as the Minister. I came into the Department fairly late in the day and examined all the material and reached a conclusion as fairly as I could thereon. With regard to Senator Twomey's question, I do not know the extent to which the Ombudsman considered the other 67 applications.

[Deputy Tony Killeen.]

However, with regard to the one in question, nobody could dispute the thoroughness of her consideration.

Senator Twomey referred to a case concerning the decommissioning scheme. It is entirely inappropriate to this debate and, in any event, it is not sorted at Supreme Court level. Suffice it to say the Senator was making the important point that solving difficulties through the courts is both expensive and, for many reasons, not very desirable. He also made the point there is a political element to this debate that would make it very difficult for the Oireachtas to adjudicate were it its role. It simply is not the role provided for in the legislation.

Senator Carroll outlined the issues that arise in legal terms in a way that explains better than I can what exactly is being dealt with in this instance. My training is not in this area. The Senator's contribution was very helpful in this regard.

Senator Bradford said this is only the second occasion on which the Ombudsman has referred such a report to the Oireachtas. Many will not be aware that in the previous case, which arose during my tenure, although I was not a member of the committee, the resolution was anything but straightforward. One could not say it was resolved in a manner along the lines outlined by the Ombudsman. Perhaps, therefore, the Oireachtas should be considering the next step, which is not clearly provided for.

Many questions arise over the administration of the scheme. What appears clear from the Ombudsman's report is that there is no question about the administration of the scheme which was designed and set up. It is inevitable that a scheme in gestation since early 1999 and which finally came into play two years later would be subject to the input of very many people. Representatives of the fishing industry, in its various guises, had an input and some were opposed and some were in favour of the scheme. Various other interested parties had an input, as did Members of the Oireachtas. The scheme was naturally informed by the input of a series of people, including Department officials, who had views thereon.

The point is often made that a small number of people were written to and informed about the scheme. The records appear to indicate that 16 people were written to and that only two of them were successful. The choice the Department would have had at the time would have been either to write to the people it knew about to let them know about the scheme or not tell those to whom it knew the scheme applied about it. In such circumstances, it is considerably better to tell the people to whom one knows the scheme applies about its existence rather than run the scheme and perhaps run the risk of them not finding out about it. That is a difficulty.

The difficulty points to another shortcoming in the era in question, namely, that there was no real means of having a definitive list of boats lost at sea. The then Minister, Deputy Fahey, addressed this when he set up the operation that deals with this area, which is now under the Department of Transport. One of the issues raised was how families feel they have been left out and disadvantaged by the system, and that there was not even a record of their loss.

Senator Bradford also referred to the Ombudsman legislation and the Oireachtas procedure. No more than anybody in the House, I wish I were in a position to compensate all the families who have lost in this manner.

Any files in the possession of the Department which were requested by the Ombudsman were sent forward. One of the difficulties is at that stage one is dealing with a massive amount of documentation, not all necessarily filed in a manner that makes it easy to do the job that the Ombudsman must do, and it was a very difficult job to do in that regard.

Senator Ned O'Sullivan also mentioned the tragic human circumstances of which we all must be cognisant and the fact that it is a dangerous occupation. He mentioned there was a reasoned debate, although I think he attributed particular views and statements to the wrong MEP. My recollection is that he may have been referring to Mr. Jim Higgins, MEP, rather than Mr. Joe Higgins, MEP, but that is a slip of the tongue that one could easily make. He also made the point about the targeted advertising.

I mentioned already one of the points made by Senator O'Toole on where the legislation hangs and at the end there is not a clear place to go to, and that does seem to be something that needs to be addressed. He made the point quite strongly that the Ombudsman might be right or wrong, or I might be right or wrong, and that is an important point because some kind of resolution in those circumstances would seem to be desirable.

He also mentioned issues in the courts. Unfortunately, in the fishing industry many issues are decided in the courts by injunctions and by all kinds of procedures, and that is probably not a healthy way to do business.

The Senator also made the point, of which I was very cognisant, that the part of my address where I referred to the quantum of the award and took issue with it, weakened the argument. I tried to make the point that the really major consideration was the closing date and the fact that the integrity of schemes depend to such an inordinate extent on the integrity of closing dates, and then went on to deal with other ancillary matters arising from the Ombudsman's report. There are other important points which in the time available I did not manage to address but which require to be addressed. However, the Ombudsman did an extraordinarily good job.

I am informed that I am needed for a Dáil vote. I will make a brief reference to the points made by Senator Carty on the integrity of closing dates, with which I agree.

Senator Ryan made a number of points on the Ombudsman's findings which are important. I want to assure him that there is no intention on my part, or the part of Government, to undermine the Ombudsman. I strongly believe that were this to become a political football in the way that the current proposals would have it, it would do irreparable damage to the Office of the Ombudsman, and that anything that is happening currently certainly does a great deal less damage.

Senator Ó Brocháin mentioned that the Ombudsman believes it is not a good scheme. He also made a point on the compensation in Galway West. It is important to bear in mind that there was no finite amount of compensation and that the outcome depended entirely on the size of the boat, and that is where the capacity came from. It was based on the size of boat rather than any other consideration.

Sitting suspended at 1.05 p.m. and resumed at 2 p.m.

Appointment of An Coimisinéir Teanga: Motion.

Senator Camillus Glynn: I move:

That Seanad Éireann recommends Mr. Seán Ó Cuirreáin for reappointment by the President to be An Coimisinéir Teanga.

Minister for Community, Rural and Gaeltacht Affairs (Deputy Éamon Ó Cuív): Ba mhaith liom buíochas a ghlacadh leis na Seanadóirí agus Teachtaí a ghlac páirt i ndíospóireacht thar a bheith dearfach sa choiste Oireachtais inné. Tacaím go hiomlán leis an méid a dúradh faoi Oifig

[Deputy Éamon Ó Cuív.]

an Choimisinéara Teanga agus faoin gcoimisinéir. Tá ard-obair déanta ag Seán Ó Cuirreáin le sé bliain anuas. Mar is eol don Teach, tá sé molta ag an Rialtas go n-iarraidh an dá Theach ar an Uachtarán an tUasal Ó Cuirreáin a athcheapadh nuair a thagann deireadh lena théarma Dé Luain seo chugainn. Is é sin atá ar bun againn inniu. Mar a dhein mé inné, ba mhaith liom buíochas a ghlacadh leis an tUasal Ó Cuirreáin as ucht na hoibre atá déanta aige. Silim go bhfuil tábhacht ar leith ag baint le Oifig an Choimisinéara Teanga. Má tá gearán ag daoine maidir le seirbhísí trí Ghaeilge, don chéad uair ó bunaíodh an Stáit tá córas ceart ann le déanamh cinnte go gcuirfear na seirbhísí sin ar fáil. Tá bealach ag an bpobal a gcuid gearáin a chur in iúl agus leigheas a fháil orthu. Os rud é go bhfuil an tUasal Ó Cuirreáin coinsiasach faoin a gcuid oibre, ba mhaith liom moladh don Teach seo go nglacfaí faoin rún seo, go gceapfaí an tUasal Ó Cuirreáin mar Choimisinéir Teanga san athuair.

Senator Jerry Buttimer: Cuirim fáilte roimh an Aire. Gabhaim comhghairdeas le Seán Ó Cuirreáin, atá le athcheapadh mar Choimisinéir Teanga. Is léir go bhfuil an-obair á dhéanamh aige agus a oifig chun Acht na dTeangacha Oifigiúla 2003 a chur i bhfeidhm. Mar a dúirt an Aire, bhí díospóireacht an-mhaith ag an coiste inné. On behalf of the Fine Gael Party, I concur with the reappointment of Mr. Seán Ó Cuirreáin and commend him for his work.

Senator Camillus Glynn: Ba mhaith liom aontú go hiomlan leis a moladh go n-athcheapfaí Seán Ó Cuirreáin mar Choimisinéir Teanga. Go n-éirí an t-ádh leis.

Minister for Community, Rural and Gaeltacht Affairs (Deputy Éamon Ó Cuív): Ba mhaith liom buíochas a ghlacadh leis na Seanadóirí. Nílimid ag déanamh beag is fiú don ábhar seo. Pléadh é — it was discussed comprehensively yesterday. In fact, I cannot recall any discussion relating to the Irish language in which as many contributors took part as occurred at the committee yesterday. It was a good idea, therefore, to put the matter to the committee at which both Deputies and Senators could discuss it together. The motion was passed earlier in the Dáil after a very short debate, on the basis that we had had a good innings yesterday. I thank the Senators for their tremendous input into the debate and their support for this appointment.

Question put and agreed to.

An Leas-Chathaoirleach: When is it proposed to sit again?

Senator Camillus Glynn: Ag 2.30 p.m. Dé Máirt seo chugainn.

Adjournment Matters.

Disadvantaged Status.

Senator Dan Boyle: I have just realised the distance to here from the extremities of Agriculture House is about the same as from Trinity College. My Adjournment matter is quite simple. The community of Togher on the south-western side of Cork city is known to be disadvantaged but not uniformly so. It is a community which straddles the city and county boundaries separated by the Tramore river. Some key community facilities such as the church, the youth drop-in centre and, most crucially, Togher boys' national school are on the county side of the river. A decision was made recently to redesignate the school as not being a DEIS

school. I have tabled this Adjournment Matter to seek information on why this decision was made and when and if it can be reconsidered.

The other part of Togher includes a key piece of community infrastructure, namely, St. Finbarr's National Hurling and Football Club, adjacent to which is a very large local authority estate, Deanrock, in which many people experience a lower standard of living and many of the key people availing of important initiatives in terms of poverty alleviation through RAPID programmes and the existence of DEIS schools can be found. Many children from the area attend the school to which I refer. In addition, the school offers tuition to no fewer than 23 nationalities.

An arbitrary decision has been made, on the basis of geography, which takes no account of the sociological make-up of the school and the value of the work it has been doing. While the Minister of State may not be in a position to respond fully to this matter, I hope a process can begin whereby the decision can be reconsidered. There are not many communities or schools in the area in which I live and represent which I would categorise as being in greater need of DEIS designation or support as this community and school. On these grounds, I encourage the Minister of State, if he is not in a position to offer a full response today, to speak to the Minister for Education and Science, Deputy Batt O'Keeffe, who has represented this area in the past to ensure he is aware of the requirement not to compromise the needs of this community and that adequate Government support will continue.

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): I thank the Senator for raising this issue, to which I am responding on behalf of my colleague, the Minister of State with responsibility for lifelong learning, Deputy Seán Haughey.

I am pleased to have the opportunity to address the House on the position at this school. Delivering Equality of Opportunity in Schools, DEIS, is the Department of Education and Science's action plan for educational inclusion. It provides for a standardised system in identifying levels of disadvantage and provides for an integrated school support programme. The process of identifying schools for participation in DEIS was managed by the Educational Research Centre on behalf of the Department and was supported by quality assurance work co-ordinated through the Department's regional offices and the inspectorate. There are 881 schools in DEIS. These comprise 679 primary schools which include 200 urban band 1, 145 urban band 2 and 334 rural as well as 202 second level schools. The school to which the Senator referred is among the schools that were judged by an independent identification process in 2005 not to have a sufficient level of disadvantage among their pupils to warrant their inclusion in DEIS.

A review mechanism was put in place in 2006 to address the concerns of schools that did not thus qualify but which regarded themselves as having a level of disadvantage of a scale sufficient to warrant their inclusion in the programme. The review process operated under the direction of an independent person charged with ensuring all relevant identification processes and procedures were properly followed in the case of schools applying for a review. The review was concluded and the results were notified to schools who applied for the review in August 2006. There was an application for review from Togher boys' national school. The school was unsuccessful in that process.

Since the introduction of DEIS, this school, together with 1,900 other primary schools, retained resources under pre-existing schemes and programmes for addressing educational disadvantage. When DEIS was introduced, a commitment was given as a concessionary measure to these schools that they would retain a level of support for the duration of the DEIS initiative.

[Deputy Tony Killeen.]

As a result of the economic downturn, however, as the Senator will be aware, the Government has had to make a number of difficult and challenging decisions in recent budgets. One of these decisions arising out of the 2009 budget was to advance the withdrawal of these concessionary supports from non-DEIS schools to the beginning of the 2009-2010 school year.

The main focus of social inclusion measures continues to be to retain resources in DEIS schools. There is a need to focus targeted resources on the schools in most need and this approach is in line with the broad thrust of the recommendations of the Comptroller and Auditor General which are set out in his report of 2006 on primary disadvantage which recommended that the Department should focus its educational disadvantage measures on those schools serving the most disadvantaged communities.

In preparation for the next identification process, a departmental steering group, including representatives of the ERC and the inspectorate, was appointed in January of last year. Its purpose is to review the 2005 identification process and to examine potential new variables and data sources which can be deployed in the next identification process. It is not possible to determine when the identification process will be complete as this will largely depend on the outcomes of the planned consultation process. Together with all mainstream schools in the State, Togher boys' national school will be provided with an opportunity to be included in the Department's next educational disadvantage programme should it meet the qualification criteria at that time. I thank Senator Boyle for providing me with the opportunity to address the House on this matter and outline the current position.

Harbours and Piers.

Senator Cecilia Keaveney: I thank the Cathaoirleach for allowing me raise the need for the Minister with responsibility for the marine to explain why moneys are not available this year to progress work on Greencastle Harbour, County Donegal. Work in the harbour has ceased, leaving a potentially dangerous situation. I recognise that as the Minister of State with direct line responsibility, Deputy Killeen has taken a great interest over the years, not only in marine affairs but in Greencastle. I also recognise he is present to answer.

It is almost 14 years since I entered national politics. At that time, the ageing fishing fleet was a significant issue in my by-election. I remember being pulled into a boat by the Opposition Front Bench spokesperson, the then Deputy, Michael Smith. This nearly ended my by-election opportunities because only narrowly did I avoid breaking an arm or leg in the slightly less than ladylike way in which I was dragged into the boat. I am lucky to be here to fight this corner.

My party went into Government the following year and there was a renewal of the whitefish fleet. Greencastle and County Donegal gained significantly from that. It was a thriving port. There were ongoing difficulties in the port at the time and these remained. Work done in an earlier adaption of the harbour had made it dangerous for certain boats to be moored within the harbour. It had created a particular wind that could cause damage to bigger boats. This meant that despite the success of the fleet of the time, some of the bigger boats could not get into Greencastle. There was a move at the time to ensure a new infrastructure or facility was built. The aspiration was great; the cost was in the region of €33 million. Very many negotiations took place with the Minister of State's Department. An overall financial and other evaluation was carried out and the decision was taken to advance the work. Since then there has been a decommissioning of certain boat schemes. There has been other investment and finally there has been an agreement to advance the work.

The first phase was the breakwater. This commenced on the basis that the Department with responsibility for marine resources would fund 75% of the cost and the county council would pay 25%. At the time I was told this would cripple the council and that it was impossible for it to pay. I worked with the Minister of State, Deputy Killeen, and the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, to find some mechanism to lighten the burden on the council. The Minister, Deputy Ó Cuív, saw the change in circumstances regarding marine matters and the manufacturing base in Inishowen and was able to help us by ensuring the council had to pay only 12.5% of the overall cost. He would lift the other 12.5% of the cost of the scheme.

I declare my interest. I do a little bit of rowing, some yachting and a lot of walking along the River Foyle and therefore, directly and indirectly, I see, close up and personal, what goes on. There is a car ferry going in and out of the harbour which is seen as a very busy and active place. Despite the long days spent at sea and the difficulties created thereby for many of our fishermen, I am reliably informed that the fishing co-operatives in the area are maximising their opportunities, are well organised and are very dedicated to their cause.

The bottom line is that a certain amount of activity has taken place already with some €6 million invested in recent years. The breakwater has advanced to a certain level and it is deemed that to stop work now would be extremely dangerous because it is neither high enough nor long enough. I will not go into the technical reasons because I do not have the time. However, there are swirls, tidal and wind issues and the fishermen realise that leaving the work unmanned at this stage could lead to a dangerous situation. It could lead also to a financially difficult situation because the work already carried out might be taken away in a bad storm and money already invested would be wasted.

It has also been brought to my attention that equipment was recently brought into the area. The fishermen are interpreting this to mean that if work stops now, it will not recommence within the next decade. I would find that unacceptable. I do not believe it is in line with what the Minister of State has told me concerning his commitment to the region. The fishermen want answers as to how they can progress this very important resource and piece of infrastructure in our area. As the Minister of State has heard me state on too many occasions, the River Foyle is one of the ways out of our present economic darkness. The Greencastle infrastructure is critical, not only to that but also as a signal of the Government's intention to help us in the north west to help ourselves.

I believe the Minister of State is on our side on this issue. There seem to be conflicting reports as to what might happen to advance matters. I was given the impression by local fishermen and engineers that any sum between €750,000 and €2 million would have been a very important investment this year. I believe the Minister of State may have been given information to the effect that unless much more significant sums of money were invested this year, what was given would be wasted money.

If I had one request for the Minister of State, it would that he sit down with all parties concerned, namely, the county council, the fishing industry, community representatives, me and other public representatives, to seek clarity. At present the feeling is that it is not a matter of the council not having come up with matching funds, rather a matter of the Department having €10 million but none of it is intended for Greencastle.

As far as I am concerned, as a native of the area, I want the innuendo and other difficulties I have mentioned dealt with. I do not want to be seen as in some way not wanting a positive outcome to this project. I want to see that cleared up. Nobody is more interested in my area

[Senator Cecilia Keaveney.]

than I am and that is not me blowing my trumpet. My record stands for itself, particularly with regard to the development of infrastructure for the marine sector. Will the Minister of State meet the relevant parties and clarify what is innuendo and what is fact and let us know what needs to happen to bring this important infrastructure to a happier place than where it is currently?

Deputy Tony Killeen: I am pleased to be given the opportunity to deal with the issues raised by Senator Keaveney relating to the Greencastle project in County Donegal. I want to clarify the position with regard to the responsibilities of the Department of Agriculture Fisheries and Food with regard to the development of fishery harbours. The Department is responsible for the day to day running, maintenance and development of the six fishery harbour centres. These are located at Killybegs, Ros a' Mhíl, Dingle, Castletownbere, Dunmore East and Howth. There are however numerous other fishery harbours throughout the country which are not in the ownership of the Department. These harbours are, in the main, in the ownership of the various local authorities, but the Department has in the past assisted where possible in their development and upgrade. Funding for such developments was provided under the Department's fishery harbours and coastal infrastructure development programme, subject to the availability of Exchequer funding.

Greencastle Harbour falls into this category and is owned by Donegal County Council. That local authority is responsible for the day to day operation of the harbour as well as its maintenance and development. Greencastle Harbour was identified by Donegal County Council as a priority for further development. The recommended development at the harbour is divided into three main phases, which will provide a rock breakwater, fuel and mussel berths and a new deep water berth at the harbour. In recent years, the Department of Agriculture, Fisheries and Food co-funded phase 1 of the development, which as I have mentioned involves the provision of a rock breakwater. The breakwater would, when completed, extend to 290 m in length. The cost of phase 1 was estimated at €16.8 million and this was being jointly funded by the Department of Agriculture, Fisheries and Food, the Department of Community, Rural and Gaeltacht Affairs and Donegal County Council. The agreed funding breakdown was: 75% to be paid by the Department of Agriculture, Fisheries and Food, 12.5% to be paid by the Department of Community, Rural and Gaeltacht Affairs and 12.5% to be paid by Donegal County Council.

In addition, although the harbour is in the ownership of Donegal County Council, agreement was reached whereby the Department's engineering division would project manage the development. This decision was taken because the Department is fortunate in having a highly experienced engineering division with accumulated expertise that would not be readily available within the resources of Donegal County Council. Work commenced in 2007 and considerable progress has been made to date. The spend on the project was €1.537 million in 2007, €5.062 million in 2008 and a further €1.604 million in 2009. While Donegal County Council agreed to the above funding arrangement, it currently owes in excess of €900,000 to the Department for works on Greencastle dating back to 2007.

As Members may recall from a previous Adjournment debate last May, the Department was in correspondence with Donegal County Council with regard to the payment of the arrears outstanding for construction costs on harbour works to date and was seeking an undertaking that future liabilities accrued by this Department on behalf of Donegal County Council would be discharged in a timely fashion. This correspondence is ongoing and little progress has been made to date with Donegal County Council still owing this Department in excess of €900,000

for this project. In addition, matters have arisen with regard to grant aid which the Department provided to Donegal County Council in 2007 for other harbour works. These matters, which are significant, remain the subject of ongoing correspondence with the council and are not resolved.

It is important to note that the harbour development project at Greencastle is designed ultimately to address the health and safety issues already existing at the harbour. The issues are harbour congestion, wave penetration and cross currents at the harbour entrance. The Department's engineers previously advised that it is expected that these problems will continue to feature at Greencastle to a greater or lesser extent as the project advances and can only be fully addressed when the project is completed. I assure all harbour users, however, that appropriate measures are already being taken to address health and safety concerns relating to the project. The measures taken to date include the deployment of navigational markings, diver survey inspections of the constructed breakwater works as well as the issue of a marine notice warning all ship owners, agents, shipmasters, fishermen, yachtsmen and seafarers of the breakwater construction site and the changed tidal current patterns in the Greencastle area. Health and safety is, however, everybody's responsibility and there is an onus on all harbour users to proceed with due diligence and care while navigating in the vicinity of the breakwater and while entering Greencastle Harbour. Donegal County Council will, I am confident, continue to monitor health and safety issues at its harbour in Greencastle and take appropriate action where required.

As Members are no doubt aware, funding for capital projects has, of necessity, been significantly reduced due to the current economic environment. Therefore, the available budget for the 2010 fishery harbours and coastal infrastructure development capital programme has been allocated to meet expenditure that is contractually committed for 2010 and essential safety and maintenance works at the six fishery harbour centres. The amount of funding available for the Greencastle project was limited to €104,000. This amount has been allocated under the programme to enable the Department suspend the project in a safe and acceptable manner and transfer responsibility for the project back to Donegal County Council. The Department will keep the matter under review on an ongoing basis, having regard to expenditure in the Department's fishery harbours and coastal infrastructure capital programme. It is, of course, open to Donegal County Council, as owner of the harbour at Greencastle, to continue works on the breakwater out of its own resources.

I welcome the offer by Senator Keaveney to have the matters of outstanding concern addressed. I look forward to finding an opportunity to take up that offer as soon as Donegal County Council has addressed its obligations in that regard.

Senator Cecilia Keaveney: It is clear from the Minister of State's response that the issue is indeed the lack of co-funding coming from the council. In the interests of everyone, it is very important that the Minister should meet within the next week with council officials, councillors and fishing representatives. There seem to be cross-messages on the issue, but the bigger issue is more important, namely, how we get the work recommenced and brought to finality. The county council does not have the resources to continue the work. The work must be done in partnership, as has been done to date. I urge the Minister of State to try and find a gap in his schedule within the next week to deal with the issue. I will challenge council officials, councillors and the fishing community to get together with him to try and find a solution to this serious issue in my constituency.

Services for People with Disabilities.

Senator Brendan Ryan: I welcome the Minister of State to the House for his second time today. I hope he does not have to depart as quickly as previously.

I am raising this urgent matter on behalf of the 165 service users in the St. Joseph's intellectual disability unit, Portrane, and their very concerned family and friends. For a great many years a campaign has been fought by the residents of St. Joseph's and their families and friends, supported by sections of the media and by my brother, former Deputy, Sean Ryan, which has led to some progress and the construction of the new state of the art facility, known as Knockamann. However, last year concerned local residents of Portrane alerted me to the fact that the new building seemed to be lying idle and was in danger of vandalism, which would be a great shame.

On foot of this, I raised the matter with the Minister for Health and Children and secured a response in July 2009. The reply confirmed that the construction of the new 60-bed residential development was completed and was handed over to the HSE on 9 July 2009. The reply went on to report that the equipping programme was under way and would be complete by mid or late September 2009. I expressed my fears at the time that the opening of this state of the art facility would be delayed due to the Government's moratorium on recruitment in the public service and I called on the Minister to make whatever decisions necessary to ensure the facility did not remain unoccupied and that the residents could be transferred without further delay.

In December 2009, the report of the Inspector of Mental Health Services on St. Joseph's was published, with the main conclusion that the planned completion of the new unit by the year's end would improve living conditions for residents substantially. The report went on to state: "the new service impresses as service user orientated". The report's key recommendation was that the commissioning of the new facility should be progressed and the building opened. In fact the 2009 report cited the recommendations from the 2008 inspector's report, which stated the new facilities were near completion and would be ready for occupancy in September 2009.

At the start of this year, in the knowledge that the new facility had not opened as planned, my colleague, Deputy Joanna Tuffy, tabled a parliamentary question on my behalf. The Minister's reply confirmed that the construction and fit-out was completed as planned, but that the new status was that no opening date was agreed. The reply went on to state that the reason no opening date has been agreed is that additional nursing staff are required to open the development. It added that the HSE had submitted a business case to the Department for the additional nursing staff required. Whatever the reasons for the delay, residents of St. Joseph's and their families are dismayed at this latest delay. It is an absolute scandal.

Since this latest reply from the Minister, the country has been shocked by the "Prime Time" report on the dilapidated state of St. Ita's. I must point out that this referred to the report on the psychiatric service as opposed to the intellectual disability service. However, St. Joseph's residents are in the old building also.

On top of this, the HSE has placed a service for homeless children on the grounds of St. Ita's, Grove Lodge, beside a high support unit for at-risk children, Crannog Nua. Some of the young people concerned are causing serious trouble for residents of St. Ita's and St. Joseph's, as well as for local residents in Portrane. I have received reports on vulnerable service users, many of them elderly, having their cigarettes and spending money stolen.

We have been told time and again that the building of Knockamann "forms a crucial part in progressing national policy in effecting the transfer of clients with intellectual disabilities currently in psychiatric hospitals to more appropriate accommodation". That is all well and good,

but what can we say to the service users who can see the new building and every day ask themselves why can they not move in.

I understand St. Joseph's Association for the Intellectually Disabled, Portrane, an advocacy and support group for service users, is also awaiting a response on the matter. I urge the Minister to respond to the association without further delay and give a date today for the opening of Knockamann. We must have a credible date that can be adhered to, not the end of the year, as suggested. I call for its immediate opening and look forward to the Minister of State's reply.

Deputy Tony Killeen: I am taking this Adjournment matter on behalf of the Minister for Health and Children, Deputy Mary Harney. I thank the Senator for raising it.

I am pleased to take the opportunity to outline the position on St. Joseph's intellectual disability services in Portrane, County Dublin. As the Senator pointed out, the construction and equipping of a new 60-bed residential development, including the provision of day services for clients of St. Joseph's intellectual disability services, are complete and the development was handed over to the HSE in July 2009. The development forms a crucial part in progressing national policy in effecting the transfer of clients with intellectual disabilities currently in psychiatric hospitals to more appropriate accommodation. It is the intention of the HSE to commission the entire development — the residential bungalows, of which there are ten, and the day resource centre — as soon as possible. However, additional staff of various grades will be required to support this.

In order to implement savings measures on public service numbers the Government decided, with effect from 27 March 2009 to the end of 2010, that no post in the public sector, however it arises, may be filled by recruitment, promotion or payment of an allowance for the performance of duties at a higher grade. The decision applies to all grades of permanent and temporary staff, including nursing, notwithstanding a number of specific exemptions. It has been modulated to ensure key services are maintained in so far as is possible in the health service, particularly in respect of children at risk, older people and persons with a disability.

A business case was submitted to the Department of Health and Children in November 2009 by the HSE on the opening of the Knockamann development. As nursing staff are not a derogated grade under the current moratorium on recruitment in public services, specific sanction is required to fill the posts. Having considered the business case, the Department requested some supplementary information, particularly on the skills mix of posts required. It is anticipated that this will be forwarded to the Department shortly.

The Department is working closely with the HSE to endeavour to resolve this matter within the resources available to us at this time. I will convey the Senator's thoughts on the issue to the Minister directly.

Senator Brendan Ryan: I thank the Minister of State. I am conscious that he is delivering the response on behalf of another Minister. We hear many examples of the effect of the recruitment embargo such as libraries in Malahide and Rush not being open. That is not acceptable, given that money has been spent on these facilities. We must not let this affect the delivery of much-needed services to the members of a most vulnerable group in our society, the intellectually disabled. It is a disgrace that we would build a much-awaited unit at great expense and then not open it. While I note the Minister of State's comments, they are not reassuring. It seems this will be an endless process, with the Minister of State referring to the seeking of further information. We must have speedy delivery. It is a shame that the development is lying idle

[Senator Brendan Ryan.]

when so much money has been spent on it and the service users need the service urgently. I urge the Minister of State to progress the issue as swiftly as possible.

Deputy Tony Killeen: I will be happy to raise the matter with the Minister on behalf of the Senator.

The Seanad adjourned at 2.45 p.m. until 2.30 p.m. on Tuesday, 23 February 2010.