

SEANAD ÉIREANN

—
Dé Céadaoin, 27 Aibreán 2005.
Wednesday, 27 April 2005.
 —

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

—
Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for Justice, Equality and Law Reform to intervene in the case of a person (details supplied) in County Roscommon who has been refused permission to remain in the State.

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

The need for the Minister for Education and Science to report on the major capital works application made by St. Brigid's national school, Castleknock.

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

The need for the Minister for Education and Science to indicate when the extension to Scoil Eoin Baiste, Carrigart, County Donegal, which was approved by the Department in 1969, will be started.

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

The need for the Minister for the Environment, Heritage and Local Government to ensure that full and proper deer counts of the sika and native red species are organised, conducted and taken into account before any final decision is taken on a deer cull in Killarney National Park or the vicinity thereof.

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

The need for the Minister for Education and Science to outline the positions in the schools building programme of scoil náisiúnta Binn an Choire, Bennekerry, and scoil náisiúnta Mhuire gan Smál, Green Lane, Carlow.

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

The need for the Minister for Education and Science to report on the steps taken to tackle health and safety issues and class size problems at St. Brigid's national school, Beechpark, Castleknock.

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

The need for the Minister for the Environment, Heritage and Local Government to provide adequate reassurances to the people of Shannon town that the EPA decision to allow Schwartz Pharma to recommence operations will not impact on their health and safety.

I regard the matters raised by Senators Feighan, Morrissey, McHugh, Coghlan, Browne and Terry as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Feighan, Morrissey and McHugh and they will be taken at the conclusion of business. Senators Coghlan, Browne and Terry may give notice of the matters they wish to raise on another day. I regret that I have had to rule out of order the matter raised by Senator Dooley as the Minister for the Environment, Heritage and Local Government has no official responsibility in the matter.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Health and Social Care Professionals Bill 2004 — Report and Final Stages, to be taken on the conclusion of the Order of Business until 1.30 p.m.; No. 2, International Interests in Mobile Equipment (Cape Town Convention) Bill 2005 — Order for Second Stage and Second Stage, to be taken at 2.30 p.m. and to conclude not later than 5 p.m., with the contributions of spokespersons not to exceed 15 minutes and those of other Senators not to exceed ten minutes and the Minister to be called upon to reply not later than ten minutes before the conclusion of Second Stage; and No. 17, motion 13 re road safety, to be taken at 5 p.m. until 7 p.m. There will be a sos from 1.30 p.m. until 2.30 p.m.

Mr. Finucane: The European Court of Justice made a ruling yesterday on Ireland's flouting of laws on waste disposal as a result of 12 complaints to the European Union registered between 1997 and 2000. In 1999 and 2001, Ireland was given warnings on the matter which the Government failed to heed with the result that the court has rapped us on the knuckles. We have lived with a great many complaints over the past few years about landfills in Wicklow and other locations. The Government has up to three months to address the matter and I hope the Minister for the Environment, Heritage and Local Government, Deputy Roche, will take action. While many of the problems involved preceded his ministerial appointment, the Government was aware of them.

[Mr. Finucane.]

That the ruling is significant is evidenced by the fine of €20,000 per day levied on the Greek Government due to an illegal landfill site on Crete, which amounted to €18 million over the two and a half years it took to act. That was just one site, whereas we have complaints about 12 locations. I stress the urgent need to take action to avoid hefty financial consequences.

The Minister for Justice, Equality and Law Reform and his officials have been involved in prolonged discussions with prison officers. These discussions appear to have foundered with the recent rejection of the Minister's terms by the officers. The Minister's extremely aggressive and confrontational remarks on radio this morning to the effect that he would use the Garda and the Army to run the prisons and win indicate that quiet diplomacy has stopped. Prison wardens are carrying out this service at present. I do not know if the Minister thinks this type of belligerent behaviour will work. A far more diplomatic approach should be taken to this problem because that type of attitude will not bear fruit and could lead to the type of action we might long regret.

Mr. O'Toole: I also wish to raise the matter of waste. This issue has been in the news a great deal recently. A large section was devoted to it in *The Irish Times* yesterday, and there was a discussion this morning on "Morning Ireland" regarding the decision of the European Court of Justice.

One aspect of this matter has not been referred to in any publication I have seen in the past week despite all the discussion on it. I do not know if people realise that hundreds and thousands of tonnes of waste are being exported from Ireland and England every week more than half way around the world to China where it is burnt and disposed of to the detriment of the people living in those areas. While we have nice European Union regulations about the disposal of waste and while the Green lobby and others are happy for us not to deal with incineration, landfills or such like, we are washing our hands in a Pontius Pilate fashion, sending our waste to underdeveloped parts of China where ordinary people are choking and suffering from the pollution that goes with getting rid of our waste over there. This is utterly unacceptable.

We require a serious debate on where we stand on incineration and landfill. I accept that we dealt with this matter before. If members of local authorities have neither the possibility nor the political capability of taking decisions on where to put sites, etc., then we should devolve that power to local referenda where people can make a decision on where to locate them from a choice of four or five sites. We had better deal with this matter.

It is utterly unacceptable that we are exporting our filth to clean parts of the world. This is happening at a time when people are writing letters to newspapers all over Europe about the waste of

energy in importing kiwi fruit from New Zealand to Europe. Let us compare that with the amount of energy we are wasting sending our dirt to China to pollute and damage the health of ordinary people there. We should cry "Stop" on this one.

Mr. Ryan: It is hard to add to what has just been said. I am not an authority on this but I know a little about these matters. There is no reason for a rich country to have a waste crisis. There is no reason for a city like Dublin to have a waste water treatment plant which stinks. There is no reason for Senator Dooley to have to raise the matter.

An Cathaoirleach: Senator Dooley did not open his mouth yet.

Mr. Ryan: He attempted to raise the matter on the Adjournment. There is no reason pharmaceutical plants should smell. If they do, it is because they are badly run. If a waste water treatment plant smells, it is because it is badly run. If we are pretending to recycle waste by simply shipping it off to China, that is because we will not do it properly. All of those problems are soluble. There are countries richer than ours that have no waste crisis or no smell crisis. It is our own fault.

If we must have incineration in this country we need leadership. I would be pleased to hear the Minister for the Environment, Heritage and Local Government say he would be happy to have an incinerator in County Wicklow, which is what he has opposed up to now. That is the way to give leadership, not to tell the rest of us what we should do. I hope we have now been forced by the European Union to deal with our waste problem like all the other civilised countries of Europe do.

The problem of the increasing incidence of suicide is continually raised. Last week a report was published in Scotland showing that a multidisciplinary approach had produced a dramatic reduction of about 12% in suicides. I am aware that an interdepartmental body is working on this problem. There is ample evidence of what can be done, not to eliminate but to reduce suicide. It would be a tragedy if resources alone were to prevent us doing what has apparently been done so successfully in Scotland.

I seek a debate at some point on the Gaeltacht. We now have a situation where in parts of Connemara, *Údarás na Gaeltachta* is now referred to as "*Údarás na Galltachta*" because Fianna Fáil has succeeded in having somebody elected to that body who cannot speak Irish. It is time we had a proper debate—

Mr. Leyden: That is not true.

Mr. Mooney: It was the voters' choice. With respect, that is up to the voters. It is nothing to do with any party.

Mr. Ryan: It is absolutely true.

An Cathaoirleach: Order, please.

Mr. Ryan: Tá ball d'Údarás na Gaeltachta nach bhfuil in ann labhairt Gaeilge.

Mr. Dooley: People elected him.

An Cathaoirleach: Senator Ryan should be allowed to speak without interruption.

Mr. Ryan: Ba chóir go mbeadh náire ar Fhíanna Fáil go ndéanfadh sé a leithéid. Tá an ceart ar phobal Chonamara nuair a thugann siad Údarás na Gaeltachta air nuair atá duine ina bhall ar an údarás sin nach bhfuil in ann comhrá a dhéanamh as Gaeilge.

Mr. Leyden: Níl sé cheart.

Mr. Dooley: People voted for the candidates. It does not say much for the opposition that was put up.

Mr. Ryan: This would be a much poorer country without Senator Maurice Hayes. Every week he appears to take over some body to try and help us to sort out another matter.

An Cathaoirleach: I do not know what that has to do with the Order of Business.

Mr. Ryan: I congratulate him on his most recent appointment.

Mr. Leyden: I too wish our colleague, Senator Maurice Hayes, every success in his new appointment. It is in order that his contribution to the Patten inquiry and other issues in Northern Ireland should be recognised. I commend the Minister for Justice, Equality and Law Reform for recognising his work and his contribution to the Garda Síochána Bill in this House where very solid views were put forward. His appointment is also a recognition of the calibre of the membership of this House. I have no doubt he will be a friend to the Government and the Garda in his work because he is very fair and even handed in his approach to everything. I know he will be a success. It is only fair that I say this. I thank the Cathaoirleach for allowing me to say it.

An Cathaoirleach: I have been very generous.

Mr. Leyden: Will the Leader consider arranging a debate in the near future on our current energy policy? The official opening takes place today of a wind farm in Meentycat, County Donegal — Senator McHugh probably knows the exact location — of a significant development by Dr. Eddie O'Connor and Airtricity.

Mr. Feighan: He is from Roscommon.

Mr. Leyden: It is a great success story which is supplying power to 45,000 houses and will save on the release of 200,000 tonnes of carbon monoxide. Dr. O'Connor made the point on "Morning Ireland" that it will not be economic to develop wind farms or other alternative energy sources in the future because in the UK, Wales, Scotland and Northern Ireland—

Mr. O'Toole: We have made that point regularly here in recent years.

Mr. Leyden: —a subsidy is given by the Government.

An Cathaoirleach: Is Senator Leyden seeking a debate?

Mr. Leyden: I am seeking a debate. Last Thursday, the Minister for Finance, Deputy Cowen, opened a major peat burning power station in Lanesboro which was approved under great pressure by the Leader of this House, Senator O'Rourke, when she was Minister.

An Cathaoirleach: We know that.

Mr. Leyden: Without her involvement, the European Union would not have approved both Shannonbridge and Lanesboro. We should recognise that fact.

An Cathaoirleach: Order please.

Senators: Hear, hear.

Mr. Leyden: It would be a good opportunity to have a debate.

Regarding the development of the Tynagh power station, it should be noted that Gama Construction has 80% ownership of—

An Cathaoirleach: All those matters can be discussed in the debate when we have it.

Mr. Leyden: They can, but they are rather urgent.

An Cathaoirleach: Senator Leyden is inclined to indulge in a debate on the issues.

Mr. Leyden: My final point is that Gama Construction owns 80% of Tynagh which provides the Government with leverage on the company to ensure it gives a fair payment to its workers. We should veto taking energy from Tynagh if the Gama Construction workers do not get a fair payment.

Mr. Bannon: I would appreciate if Senator Leyden would come clean and tell us if he wants a change of Government.

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

Mr. Bannon: He should declare that we need a change of Government because the Government has neglected several areas to which he referred.

An Cathaoirleach: We cannot have a debate on it here. I informed Senator Leyden of that fact.

Mr. Leyden: Senator Bannon was in Roscommon last Thursday and he was mad to get into the photograph.

Mr. Bannon: I support Senator Finucane's point on the Government's neglect of the environment. We face hefty fines in the coming months if the Government does not act quickly. Those fines would be far better spent in improving the health service, especially accident and emergency services, which have been greatly neglected by the Government.

Mr. Leyden: We must pay for power stations also.

Mr. Bannon: Fine Gael is the party that stands for——

Ms O'Rourke: The party that stands for what?

Mr. Bannon: Fine Gael is the party that stands for law and order.

Dr. Mansergh: That is why we have a Minister for Justice, Equality and Law Reform. This is a party political broadcast.

An Cathaoirleach: Senator Bannon must raise an issue relevant to the Order of Business.

Mr. Bannon: I call on the Minister for Justice, Equality and Law Reform to stop posturing and to debate the issue of crime in this House. Crime is widespread on our streets and in the countryside. Not a day goes by but we turn on the television or radio or open a newspaper and see evidence of crime such as break-ins or killings throughout the country. This is due to neglect by the Government. It is time for the citizens of this country to get an opportunity to give this Government its walking papers.

Labhrás Ó Murchú: Maidir le Údarás na Gaeltachta, is toghchán daonlathach a bhí ann dar ndóigh. Caithfimid glacadh leis na torthaí; tá sé chomh simplí le sin. Ag an am chéanna, aontaím le Seanadóir Ó Riain go mb'fhéidir gur chóir díospóireacht leathan a bheith againn maidir le cursaí gaeltachta i gcoitinne.

Very soon a multi-billion euro treasure chest will be opened up to the economy. I refer to the special savings scheme, an inspired project to encourage thrift and focus people on the idea of saving what they can. More important, it rewards them generously for having done so. Young people today by and large are not focused on saving for a rainy day or for opportunities that might become available.

I am concerned that the culture of saving established by this scheme may come to a dead end. It would be well worthwhile for the Government to consider giving savers another incentive and I would like to debate some suggestions as to how that might be done.

I welcome the commission of investigation into the Dublin and Monaghan bombings, particularly the appointment of such an eminent chairman as Mr. Paddy MacEntee. It is 31 years since this terrible atrocity occurred and surviving victims and their families still do not have closure. After 31 years most people accept that many of the players and many of those who should be investigated have now died. There is only a six-month period available to the commission and none of that time should be lost. The victims and their families who have suffered so much should get full legal representation at that commission and that should be decided in a matter of days, not weeks. I compliment the Taoiseach and the Government on the establishment of this commission to investigate this terrible tragedy, which should help the families to have closure.

Mr. Coghlan: I support the remarks of Senator Finucane on the decision of the European Court of Justice on illegal landfill sites, particularly the point he made on the three months notice the Government has to act in order to save the State vast amounts of money. Perhaps the Leader finds this topic suitable for debate.

The Leader reminded me of a matter near and dear to her heart this morning, namely, the Great Southern Hotel Group. The Leader treated them like pet rabbits when she was Minister. Has she heard the Government intentions regarding the group? Will there be a sell-off of the entire group or just the loss-makers? I look forward to her reply.

I wish our colleague, Senator Maurice Hayes, well. He is a man with vast experience and I am sure he will do an excellent job.

Ms White: I call on the Government to set up a missing persons unit. Jo Jo Dollard has been missing without trace for ten years, Trevor Deely has also been missing for a number of years as has Annie McCarrick.

Mr. Bannon: It could not have been funded.

Ms White: Other countries such as Britain and the United States have technology to simulate what people would look like today. We do not have a system for doing so here and I call on the Government to set one up immediately. We see frequently on the television what a missing person would look like today.

I draw the attention of the Taoiseach — I apologise I should have said the Cathaoirleach, it was a Freudian slip — to today's *The Irish Times*. I am trying to drive change in child care and a major issue is that women should have more flexible working hours. Last week, Jessica Starmer,

a short-haul British Airways pilot won a major achievement when British Airways had to concede that she would be allowed to work half the number of normal hours in order to allow her to mind her baby. Her union, the British Airline Pilots Association, supported her.

The UK has legislation to allow women to apply for flexible working hours. We do not have any such legislation here and I call on the Government to introduce legislation to allow women to apply for flexible working hours as part of the child care initiative. There is no reason a woman cannot go home from work at 3.30 p.m. if her child is finished school at that time, as she could work through lunch time. This is a significant problem as the greatest costs are after-school costs.

Mr. Dooley: I join with other colleagues in asking the Leader to arrange a debate on the environment as soon as possible. It would be useful for Minister for the Environment, Heritage and Local Government, Deputy Roche to come here to outline the steps he has taken since his appointment to the Department. He has made a welcome input to many policy areas and I have no doubt we will see that come to fruition in time. There are a number of difficult issues in the environment, particularly regarding landfill sites. The issue of thermal treatment is one with which this country has recently attempted to grapple and we also have a “not in my back yard” approach.

The emissions from some pharmaceutical companies cause great concern to local people, who find it difficult to convince themselves the pungent odours are not harmful to their health. It would be useful if the Department took greater responsibility for ensuring that information is brought to the attention of the public. The EPA tends to hide behind a veil, holding the view that as a State agency it does not interact to any extent with the public, but is concerned with regulatory and licensing issues. It is not good enough that citizens and residents in areas affected by these emissions do not have the full facts available to them. I would like the opportunity to ask the Minister in the course of an open debate to address that issue and to establish who has responsibility for this matter.

Mr. Feighan: I agree with Senator White on the serious issue of child care. We should seek more flexible working hours, but in the age of equality it should be for parents and not mothers. The Government needs to address this issue. It is not just an issue in Dublin South-East, but in every constituency in the country.

Dr. M. Hayes: I will not trespass on the Cathaoirleach’s patience by responding to congratulations he thinks should not have been offered in the first place. I reflect on an American friend who said, “Lord let me live in your vineyard but in a consultative capacity”.

I support the remarks of Senator Ó Murchú on the inquiry into the Dublin and Monaghan bombings. Mr. MacEntee is an outstanding man of significant integrity and great ability. I hope the families have the confidence in him to allow the inquiry to progress, but they need to be involved and the question of providing their legal fees and expenses should be considered.

On the question of the environment and waste management I ask the Leader if the Minister for Environment, Heritage and Local Government could be asked to consider the ramifications of this on Northern Ireland and what co-operation might exist with authorities there. There is a real problem of people fly dumping across the Border, which involves criminality. Much of the waste material is not actually going to China, it is going to counties Tyrone and Fermanagh. The Northern Ireland version of the Criminal Assets Bureau is currently pursuing some people for the profits they made from fly dumping and that might be another instrument the State could use in dealing with that problem.

An Cathaoirleach: I ask the Leader to reply.

Mr. Mooney: I would like to raise an issue, through the Chair.

An Cathaoirleach: Did the Senator indicate that?

Mr. Mooney: I did. I thought the Chair had seen me.

An Cathaoirleach: My apologies, I did not see the Senator’s indication.

Mr. Mooney: I have a very brief intervention—

An Cathaoirleach: It might be better than my sight.

Ms O’Rourke: None of the Chair’s senses are failing him.

Mr. Mooney: As most Senators will be aware, I have more than a passing interest in sport. A decision was taken earlier this week to appoint a development team to refurbish Lansdowne Road. The plan — which is totally inadequate given our rising population, estimated to be 5 million by 2020 — is to increase the seating capacity at the stadium by 1,000. I have no doubt that our successors will come into this House in ten years time—

An Cathaoirleach: There is an appropriate item on the Order Paper.

Mr. Mooney: I have a question for the Leader.

An Cathaoirleach: The Senator can speak on the issue when it is comes up for discussion.

Mr. Mooney: I appreciate that the Chair's antenna is acutely attuned to any reference to sport, but this has nothing to do with Croke Park —

Ms O'Rourke: Or with Limerick.

Mr. Mooney: It has nothing to do with Limerick or with officials. The Department of Arts, Sport and Tourism has released statistics on the number of applications for capital sports grants. Given the massive amounts of money poured into sport since 1997, when the Government appointed a Minister to Cabinet with responsibility for sport, one would have expected that there would be a decrease in the number of grant applications. In fact, the number of applications has increased. Last year there were 1,300 applications for a fund of €65 million. This year that number of applications has been exceeded but the funding has not increased proportionately. The question arises, therefore—

An Cathaoirleach: Is the Senator seeking a debate?

Mr. Mooney: The question arises as to why there is a continuous increase in requests for sporting facilities. In that context, I ask the Leader—

An Cathaoirleach: That is appropriate under No. 13 on the Order Paper.

Mr. Mooney: Does the Leader agree that the Minister for Arts, Sport and Tourism, Deputy O'Donoghue, should be invited to the House to debate the question of the delivery of sporting facilities?

An Cathaoirleach: I have already stated that there is an item on the Order Paper dealing with sporting facilities. I ask the Leader to reply.

Ms O'Rourke: Senator Finucane raised the matter of the EU waste directive and the fact that the European Court of Justice has found against Ireland. The court has given us three months to tidy up our dumping facilities.

There is a great deal of hypocrisy surrounding this issue, though I am not referring to Senator Finucane specifically. The waste debate is hypocritical. I cannot see how we can continue to put our waste in holes in the ground and assume that is the end of it. This cannot be done. The waste pollutes the water and the atmosphere. We think we are virtuous if we have a green bin or if we use recycling facilities, that we have done our good deed for the day, but we may have only gotten rid of some bottles and papers. How can we continue to dig holes in the ground and dump sludge and dirt into them? How can we do that and think it will not smell? Everybody's waste smells. We must have a comprehensive debate and not allow room for people to say "Not in my back yard". If a proper site is found it must be

used, whether it belongs to a Minister or to the Taoiseach — although it will not be the Taoiseach because he has a modest house and a modest garden.

Different methods of waste disposal are needed. A dump opened in Athlone 15 years ago, which is now coming to the end of its life. Five local authorities are dumping there at the moment. We do not want to face up to this problem. I agree with Senator Finucane that a debate on this would be useful, but I would urge Members to talk honestly about the issue. It is not useful to skirt around it. We must accept that we cannot simply make the holes in the ground bigger, allow the waste to increase and everything will be fine.

Senator Finucane also raised the issue of prison wardens and stated that the Minister for Justice, Equality and Law Reform was adopting an aggressive tone. Perhaps the Minister simply wants the issue to be settled. I understand that negotiations have been going on for quite some time, quietly and successfully. We must await further developments on foot of those negotiations.

Senator O'Toole stated that our waste is being transported to undeveloped areas of China and Senator Maurice Hayes added that it is also being transported to parts of Fermanagh and Tyrone. Senator O'Toole also called for local referenda on the waste issue but county councils would not agree to that proposal. County managers now have the responsibility for decisions on waste disposal and there were bitter recriminations when that was introduced. We would be waiting forever if local politicians, or indeed national politicians, were charged with making such decisions. The suggestion that local people should have a say, through local referenda, will not work. People do not want waste facilities in their local areas.

Mr. O'Toole: Somebody wins, somebody loses and that is the end of the story.

Ms O'Rourke: Local people simply will not agree.

Mr. Mooney: Senator O'Toole is engaged in a flight of fancy.

Ms O'Rourke: Senator Ryan stated that the waste debacle is our own fault. I agree with him and the EU has fully exposed the problem. The Senator also raised the issue of suicide. There was a brief discussion on the matter in the House yesterday, on the Order of Business. I agree that a multi-disciplinary approach to the problem must be adopted. A Scottish suicide prevention programme has resulted in the reduction of the suicide rate in that country. A major suicide prevention initiative will be launched by the former President of the United States, Mr. Clinton, in Dublin next month. I do not know the full details but I have received notification of the launch in the

middle of May. I too would welcome a full debate on the issue.

Senator Ryan also asked for a debate on the Gaeltacht. He stated that *Údarás na Gaeltachta* has become known as “*Údarás na Galltachta*”, but the Government did not force people to take part in the elections. Certain individuals registered their names as candidates and then the people in the Gaeltacht areas voted for their preferred candidate. There is no other way of obtaining a position on the board of *Údarás na Gaeltachta*, except perhaps as a ministerial nominee. The voting process is transparent.

Mr. Ryan: The Government selected candidates.

Ms O'Rourke: Senator Leyden seconded the congratulations extended by Senator Ryan to Senator Maurice Hayes and we all agree with those sentiments. Senator Leyden also referred to energy policy, but I fail to see why Airtricity should be given a Government subsidy. The wind is free and energy generation costs nothing if there is a high wind.

Mr. O'Toole: Airtricity is receiving a subsidy in Britain.

Ms O'Rourke: I know that, and it is also subsidised in Scotland and Wales. Perhaps it is not as windy there as it is here.

(Interruptions).

Mr. O'Toole: The generation of energy from wind will save money that would otherwise have to be spent on carbon energy.

(Interruptions).

An Cathaoirleach: The Leader, without interruption please.

Ms O'Rourke: I agree with Senator Leyden's points on Gama Construction.

Senator Bannon referred to the issue of the environment and I agree with the points he raised. I hope he will speak with sense during the debate. In fact, I know he will.

Mr. Bannon: Is the Senator making an accusation?

(Interruptions).

Ms O'Rourke: I said that I know Senator Bannon will speak sensibly during the debate. He should pay no attention to the other Senators. I am quite sure the Senator will speak sound Longford sense.

Mr. Bannon: Midlands sense. Longford-Westmeath sense, in actual fact.

Mr. Coghlan: Westmeath cannot be left out.

An Cathaoirleach: The Leader, without interruptions please.

Ms O'Rourke: The Minister for Justice——

Mr. Mooney: This is the Athlone pact, taking over from the Mullingar accord.

Ms O'Rourke: Senator Bannon also called for a debate on crime, which I support.

Senator Ó Murchú called for a debate on the Gaeltacht and argued that members of *Údarás na Gaeltachta* were elected democratically. He welcomed the report from the commission investigating the Dublin and Monaghan bombings and the appointment of Mr. MacEntee as the Chair. However, the Senator stated that relatives of the victims should be given legal representation.

Senator Coghlan referred to the EU and the three months notice the Government has been given to put its house in order. He asked again about the Great Southern Hotels Group. It is quite clear that the Taoiseach, the Minister for Arts, Sport and Tourism, Deputy O'Donoghue, and the Minister for Transport, Deputy Cullen, are in favour of the retention of the Great Southern Hotels. Each of the three has said this. The Senator may tell his constituents there is great warmth for them in Government, or that section, at any rate.

Senator White raised the question of a missing persons unit. We had an interesting debate on that yesterday and it would be a good idea. She talked about women and flexible hours and the pilot, Jessica Starmer, the British Airways pilot. It would be somewhat difficult if her flexible hours came up in mid-flight. However, I take the Senator's point. Senator Feighan made an important point when he said both parents should be able to avail of flexible hours. The Parental Leave (Amendment) Bill 2004 was discussed in this House with the Minister of State at the Department of Justice, Equality and Law Reform, Deputy Fahey. Flexible hours would be delightful if we could all get them.

Ms White: I also raised the issue of child care.

Ms O'Rourke: The Senator is relentless in her pursuit of the child care issue. Senator Dooley raised the environment and argued that the whole area of landfill, thermal incineration etc. must be examined, as well as waste generated by the pharmaceutical companies. We had a case of that in Athlone. It went to the High Court and the residents won an enormous amount of money, just two weeks ago. He also asked for a debate on the Environmental Protection Agency, much of whose activities appear to be clouded in mystery. However, I am sure it is an excellent body.

Senator Maurice Hayes supported Senator Ó Murchú's stance on the inquiry into the Dublin and Monaghan bombings and praised the fine person who has been put in charge of it. He said that when the House was discussing waste policy

[Ms O'Rourke.]

with the Minister for the Environment, Heritage and Local Government, Deputy Roche, the ramifications for Northern Ireland could be explored as well.

Senator Mooney spoke about the development at Lansdowne Road and the vast number of applications for lottery funds. The amount of money has not increased, but great improvements have been made. People want the best for their locality and local community and that is good. No. 13 on the Order Paper, on statements on the provision of national sporting facilities, was referred to by the Cathaoirleach and he is right in saying there is an ongoing debate. I intend to pounce on the Minister for Arts, Sport and Tourism, Deputy O'Donoghue, when the races are over.

Order of Business agreed to.

Health and Social Care Professionals Bill 2004: Report and Final Stages.

An Cathaoirleach: Before we commence, I remind the House that a Senator may speak only once on Report Stage, except the proposer of an amendment who may reply to a discussion thereon. Each amendment must be seconded on Report Stage.

Amendments Nos. 1, 9 and 36 are cognate and will be taken together by agreement. Is that agreed? Agreed.

Dr. Henry: I move amendment No. 1:

In page 9, line 3, to delete "chiroprapist" and substitute "podiatrist".

I welcome the Minister of State at the Department of Health and Children, Deputy Seán Power, to the House to discuss this important Bill. The reason I want the word "podiatrist" substituted for "chiroprapist" is that the professionals referred to in the Bill are required to have degrees in podiatry, not in chiroprapy. My understand is that "podiatrist" is the word considered to be more explicit. Apparently, chiroprapy has more to do with both the hands and the feet than podiatry. Podiatry therefore becomes a more important issue in the medical field, as the correct word to use. I would be grateful if the Minister of State would accept these amendments, just from the point of view of clarity and in terms of modern usage of the words. It is no more complicated than that.

Mr. Browne: I second the amendment.

Minister of State at the Department of Health and Children (Mr. S. Power): The amendments tabled by Senators Henry and Quinn reflect the current debate within the relevant profession on the most appropriate title. The title "chiroprapist"

is used in the Bill because that reflects the current more common title by which the profession is known to the public in this country. I appreciate that it is different in other countries.

However, I am aware of the discussion within the profession on the title and the different views held by various groups within the profession. As Senators will recall, on Committee Stage of the Bill my Department undertook to contact the four professional bodies representing chiroprapists in Ireland to ascertain their formal views as to which word, "chiroprapist" or "podiatrist", should be used as the primary title in the legislation. Two of the professional bodies expressed a preference for "podiatrist", while two wanted to retain "chiroprapist" as the primary title.

One of the bodies which wishes to retain the title "chiroprapist" claims it represents over 70% of chiroprapists and podiatrists in Ireland. The Department's position is to encourage all stakeholders involved to develop an agreed solution to the issue of protection of title, and this is the best way forward. The Department has therefore asked the four professional bodies to revert to an agreed position as to which word should be used as a primary title. The outcome of this request is still awaited.

I hope the Senator will appreciate that in the circumstances I do not propose to accept these amendments.

Dr. Henry: I regret this very much because I do not believe that the 70% of chiroprapists, represented by the body mentioned by the Minister of State, are those with university qualifications in podiatry. As the Minister of State knows, we are enthusiastic supporters of the Bologna process, which tries to ensure reciprocity of degrees across Europe. Some 40 countries now subscribe to this and Ireland was one of the earliest signatories. From the viewpoint of transparency and accuracy, it would be much better to use the internationally known name. "Chiroprapy" may be more commonly used in Ireland at the moment but the degrees we are looking for are in podiatry. In fact the Minister of State is taking advice from people who, while no doubt worthy, are not those who will be among the wave of people looking after foot care in Ireland in the future.

As the Minister of State knows, with the rise of diabetes, this is becoming more and more important. I regret very much he has not taken these very simple amendments on board because the Bologna process is one of the most excellent processes we have been involved in for many years. I wish that had been the framework, rather than consulting with people who will not be determining the future of this discipline in Ireland.

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

The Seanad divided: Tá, 26; Níl, 12.

Tá

Brady, Cyprian.
 Brennan, Michael.
 Cox, Margaret.
 Dardis, John.
 Dooley, Timmy.
 Feeney, Geraldine.
 Glynn, Camillus.
 Kenneally, Brendan.
 Kett, Tony.
 Leyden, Terry.
 Lydon, Donal J.
 MacSharry, Marc.
 Mansergh, Martin.

Minihan, John.
 Mooney, Paschal C.
 Morrissey, Tom.
 Moylan, Pat.
 Ó Murchú, Labhrás.
 O'Brien, Francis.
 O'Rourke, Mary.
 Phelan, Kieran.
 Scanlon, Eamon.
 Walsh, Jim.
 Walsh, Kate.
 White, Mary M.
 Wilson, Diarmuid.

Níl

Browne, Fergal.
 Burke, Ulick.
 Coghlan, Paul.
 Cummins, Maurice.
 Feighan, Frank.
 Finucane, Michael.

Hayes, Brian.
 Hayes, Maurice.
 Henry, Mary.
 O'Toole, Joe.
 Ryan, Brendan.
 Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Browne and Henry.

Question declared carried.

Amendment declared lost.

An Cathaoirleach: Amendment No. 32 is consequential on amendment No. 2 and they will be taken together by agreement. Is that agreed? Agreed.

Mr. Ryan: I move amendment No. 2:

In page 9, to delete line 9 and substitute the following:

“(g) physiotherapist or physical therapist”.

I am not sure amendment No. 32 is consequential as the amendments are variations on the same thing. Senator Browne's amendment is a more precise expression of what I intended to achieve with amendment No. 2. We have been intensively lobbied since Committee Stage by the college which provides training in what is described as physical therapy. I have no way of adjudicating on the matter, but I am considerably unhappy with terms being used, for whatever reason, that to an inattentive observer sound like the same thing. If we attempt to regulate physiotherapy and leave something called physical therapy unregulated, we are in grave danger of confusing people.

We have ample evidence that poorly used language causes confusion and it is unforgivable in legislation. It is impossible to believe that two separate professions of physiotherapy and physical therapy can operate jointly without great public confusion. The objective of my amendment was to state that the occupations of physiotherapist and physical therapist should be defined as meaning the same and should be regulated

according to the regulations in this Bill as amended. However, I believe that is better expressed in Senator Browne's amendment.

I moved the amendment because I wish to hear the Minister of State's reply. I will then consider my position.

Dr. Henry: I second the amendment. Like Senator Ryan, I feel Senator Browne's amendment is more precise and that it would be the better amendment for us to accept.

I return to the Bologna process. What consultation has the Minister had with the officials of the Department of Education and Science about that process and its implications on this Bill? The situation is serious. The document that issued from the meeting of Ministers in Prague on 19 May 2001 describes further actions following on the six objectives of the Bologna process.

An Cathaoirleach: Is this relevant to the amendment?

Dr. Henry: It is very relevant because it is to do with comparability of degrees and the fact that confusion can be caused if we are not careful in the matter. This is the problem here because one qualification involves a university degree whereas the other does not appear to be linked to any third level institution in this country.

On the adoption of a system of easily readable and comparable degrees, the document states:

Ministers strongly encouraged universities and other higher education institutions to take full advantage of existing national legislation and European tools aimed at facilitating academic and professional recognition of course units, degrees and other awards, so that

[Dr. Henry.]

citizens can effectively use their qualifications, competencies and skills throughout the European higher education area.

It is clear that this is not just so that they can move between educational institutions but in order that their employability will be the same. If we allow any confusion in this area, the situation will be serious.

The document went on to state with regard to the promotion of mobility that people should be able to move between different educational institutions and become involved in employment because their degrees are considered comparable. Will the Minister of State in his reply state what involvement he has had with the Department of Education and Science with regard to the Bologna process and the fact that we have done our utmost to ensure there is comparability of qualifications? We want a situation where this is achieved.

I cannot see the situation being helped by the sort of fuzziness being introduced in this Bill. Both professions are highly paid, but they have different entry standards. The physiotherapy degree is one of the most difficult to gain admittance to in our universities, but the entry requirements to get into physical therapy here are much lower. I suggest we make a clear distinction between the two professions. I am not implying there is anything wrong with physical therapists, but they should have a section of their own. The words "physical therapist" should apply only to those with the qualifications of physiotherapist to avoid confusion until we have a situation where we have a special section for physical therapists as qualifying in this country.

Ms Feeney: I support Senator Henry. On Second Stage we had a wide-ranging debate on this issue when we all put our views to the Minister of State at the Department of Health and Children, Deputy Tim O'Malley, who was here that day. Some 94 countries refer to physiotherapists as physical therapists, including in Northern Ireland. These Northern Ireland physical therapists come south and continue to operate as physical therapists. They probably do not refer to themselves as physiotherapists.

There is a danger the public will be confused. While no harm may be done, confusion leaves the gate open for a less safe practice to be introduced. As Senator Henry said, different standards of education are required for entry into both disciplines but it is important that the term "physical therapist" should be preserved and only used by physiotherapists. I spoke to a physiotherapist who stated her colleagues would welcome an opportunity to work hand in hand with physical therapists. Physiotherapists fail to see a reason they should not work together and, in some cases, they work alongside each other.

However, this issue must be examined. The term "physical therapist" should be reserved only for the use of physiotherapists so that these pro-

fessionals can be known as physiotherapists/physical therapists. I sat on the Medical Council for five years. If the council approved herbalists as medical practitioners, there would be major consternation because anybody examining the medical register would not know whether a person was a medical practitioner or a herbalist. This will come back to haunt us and provision should be made to differentiate between both disciplines.

Mr. O'Toole: While I do not wish to oppose Senator Ryan's amendment, it fails to reflect my thinking. However, Senator Feeney's comments closely reflect my view. Confusion is being allowed to reign and we will pay the price. What we are doing is completely wrong. As Senator Feeney correctly pointed out, physiotherapists are referred to in some countries as physical therapists. Both terms are used in Ireland to describe different disciplines, hence the difficulty.

The legislation is concerned with regulation and quality. That cannot be diluted in any scenario. I agree very much with Senator Henry that the qualification of physiotherapist is precious and we should hold it in the highest regard and make sure it is protected in legislation. On the other hand, physical therapists do a different job. I asked that physical therapists should be regulated, perhaps under a different title, but I was informed there was no way this would be accepted. We are inheriting a problem and creating a greater one.

When a patient makes an appointment, he or she needs to know precisely the qualifications of person with whom he or she makes the appointment. There have been problems in recent times with alternative practitioners. Those problems arose because of a lack of understanding about the practitioners patients were attending. This does not mirror the physical therapist issue because that would imply physical therapists are in some way dangerous. I have the height of respect for physical therapists as they fulfil an important function and, as Senator Henry said, there is no reason they cannot work in a complementary fashion with physiotherapists. We need to distinguish between both disciplines and we need to establish that they should be regulated.

I examined all the literature and submissions I received on this legislation from various groups. We should regulate physiotherapy using the current qualification standard. The Minister should then avail of the provision in the legislation which allows him or her to define other groups and those who are engaged as physical therapists could be renamed within that group. I called the representatives of physical therapists to find out whether they could come up with a name but nobody could come up with one with which I was satisfied because physical therapist is a global term for physiotherapists and that needs to be protected.

Amendment No. 32 provides that one can only use the titles of physiotherapists and physical therapists if one has achieved the appropriate

qualification, which in Ireland is a degree in physiotherapy. That is not provided for in the legislation. A gate is being left open, which is unfair to physiotherapists. They are worried not because they are anti-physical therapists, but because they want to protect what they have built up. Reputation is hugely important to medical professionals given that it provides the basis on which patients attend their clinics.

Both titles are interchangeable around the world and Senator Browne proposes that they should be protected at a particular level. The legislation should outline the function of physiotherapists, the entry requirements and academic qualifications and the way in which they will be regulated. Anybody, therefore, who wants to call himself or herself a physical therapists must get over the same bar. In other words, the title does not matter as long as patients know what they are doing and how they achieved their qualifications. A difficulty will be created by not doing so and it will come back to haunt us.

If the Minister of State is not of a mind to accept our thinking, we will have to come back to the House to address the difficulty in time. Nobody will win. Hassle will be created between different physical therapists and physiotherapists and confusion will be created for Irish physiotherapists who travel abroad. More thought needs to go into this. The issue will build up and the arguments about what we must do in this regard are highly persuasive. Will the Minister of State, at least, concede the merit of the argument on this issue?

Mr. Browne: I support Senator O'Toole's contribution. He is correct that we inherited a problem and that we may create a greater problem. The major difficulty is that physical therapists are considered the equivalent of physiotherapists in a number of countries. Physical therapists first achieved qualifications in Ireland 14 years ago. The purpose of the legislation is to protect the patient so that if one calls a physical therapist, one will be treated by a physical therapist and likewise with physiotherapists. The Bill also protects those who provide these services. That is why amendment No. 32 has been tabled. I was not aware of the term "physical therapist" until the Bill was introduced. Physical therapists are involved with many intercounty Gaelic football teams. For example, the Kildare football team probably has a physical therapist, even though the players might do better with a psychologist to help them win an All-Ireland title. That is a different day's discussion.

Mr. S. Power: That statement is by a man from Carlow.

Mr. Browne: After our great win in Offaly lately, we can talk loudly.

Mr. S. Power: One swallow does not make a summer.

Mr. Browne: Degree status was only awarded to physiotherapy programmes in the late 1980s while physical therapists can now undertake masters degree programmes. We do not want to disadvantage either of the two existing professions of physiotherapists and physical therapists. We should not introduce legislation that would do that but allow the two to coexist and recognise that they provide similar but distinct services drawing on different expertise. That is the purpose of my amendment, and I hope that the Minister accepts it. If he does not, he will create an awful mess for himself and the Department. Now is the time to act, before the legislation reaches the Dáil.

We debated this matter at length on Committee Stage and the Minister of State, Deputy Tim O'Malley, gave a clear commitment that he would speak to the two groups involved and try to produce a suitable form of words. That is what we seek at this point. I hope that the Minister of State will be able to accept my amendment, which has been tabled in good faith.

Mr. S. Power: I thank the Senators for their contributions. We can agree on one thing, that it is confusing.

As debated on Committee Stage, the proposed amendments have significant implications for an important general principle underlying the design of the regulatory system set out in the Bill. The Department has been advised by the Office of the Parliamentary Counsel that there is scope for only one primary title to be designated under section 4, and variants of that primary title will be prescribed under the procedure outlined in section 94(3). A resolution of the issue surrounding the protection of the title "physical therapist" is therefore not appropriate in the context of the primary legislation but would be dealt with by means of regulations made under section 94(3) in future.

As requested by the House on Committee Stage, the Department has met representatives of both the Irish Society of Chartered Physiotherapists and the Irish Association of Physical Therapists to encourage the two organisations to develop an agreed solution to the issue of protection of title that takes account of the complex legal, competition and public interest issues involved.

Additional information has been sought from the Irish Association of Physical Therapists on some of the statements made in the position paper that it submitted and that information is awaited. That will be useful in adding to our knowledge of the work and training of physical therapists. I wish to clarify a comment made on Committee Stage by my colleague, the Minister of State, Deputy Tim O'Malley, regarding the current employment of physical therapists. The Minister of State was referring to the employment of physical therapists in the wider health sector rather than by health boards; physical

[Mr. S. Power.]

therapists are not employed by the Health Service Executive.

As I said, the provision of information by the Irish Association of Physical Therapists that the Department has requested will add to our knowledge and I reiterate that it will continue to seek an agreed resolution to a process of engagement and focused consultation in partnership with the professional bodies concerned. We have made our request for information from the Irish Association of Physical Therapists, but we have not yet received it. It is not clear what are the criteria for qualification as a physical therapist.

Dr. Henry: That is right. It is one of the problems.

Mr. S. Power: The course is accredited, but there are many question marks over the body, and until those are addressed, there will be confusion. If physical therapists as a group are to be regulated under the Bill, they would have to meet the same criteria as the other professions, and currently they do not do so. It is therefore impossible to regulate them under the Bill as it stands and with the information that we currently have. I am thus unable to accept the Senator's amendments.

Mr. Ryan: If I were rewriting my speech, I would be quite happy to take the Minister of State's script, since he made the case that there is a profession called "physical therapy" and admits that the Department of Health and Children does not understand it. He says that five or six months after Committee Stage, it has not replied to requests from his Department for further information. It has a title that, in many other countries, means the same as "physiotherapy" and is, at the very least, capable of being confused with it, yet he proposes not to regulate it.

I must be careful here. If a profession is left unregulated it saves it a great deal of money. There is confusion in the public mind and, in addition, the profession or group is not subject to the same degree of quality assurance as physiotherapists. I will not say a bad word about the profession of physical therapy. However, if it was requested to supply information by the Department of Health and Children six months ago and have not yet done so, that raises a question mark about the quality of the professional body in question. During that time, it found time to lobby every Member of this House intensively about the profession, yet it did not find the time to answer questions posed by the responsible Department. This raises questions that public well-being demands should be answered.

The solution, of course, to reassure the public and perhaps focus the minds of those responsible for physical therapy, would be to accept Senator Browne's amendment rather than my own, which would state that the definition of both "physical therapy" and "physiotherapy" should essentially

be that which currently applies to the latter. Those who are physical therapists should be allowed to focus on the fact that they have left the Government and politicians confused about the precise details of their profession.

Senator Henry regularly raises an extremely important matter in this debate that seems to have gone over the head of the Minister of State, since he has not mentioned it, namely, the Bologna process of standardising qualifications across the entire European Union. Although it is legal, we cannot in practical terms go off at a tangent that defies usage in other countries. That is the second argument for standardisation. The solution is to accept Senator Browne's amendment and invite the independent representative body for physical therapists, if there is one, to clarify its position and attempt to find an agreed solution, which might, as Senator O'Toole said, involve physical therapy, with a name not liable to be confused with physiotherapy, being recognised as a separate profession and protected as such. However, I remain unconvinced by the arguments of the Minister of State and the physical therapists. The solution is to accept that they are so similar in title internationally as to be identical.

Dr. Henry: On a point of information, the Minister of State did not answer my question and say whether the Department of Health and Children had discussed the Bologna process with the Department of Education and Science when it was introducing this legislation.

Amendment, by leave, withdrawn.

Mr. Ryan: I move amendment No. 3:

In page 9, line 17, after "*subsection (1),*" insert "and in particular shall, within the period of 12 months from the passing of this Act, so designate the profession of counsellor or therapist,".

The biggest and potentially most dangerous unregulated profession in the area of social and health care of which I am aware consists of the myriad counsellors and therapists of various kinds. Both formally and informally, the Minister said that the problem was that none of those groups of counsellors and therapists could agree on a common set of qualifications. That there are people in this country with a six-month diploma who can put up a plaque saying that they are psychotherapists or counsellors and, perhaps with no more than one manual at their disposal, probe into people's conscious and subconscious and explore their emotions makes this profoundly dangerous territory. That they do not prescribe pills does not make it any less dangerous. It can create dependency and do harm. It can upset people by making their emotional conditions worse. We are not regulating this area because those practising in this field cannot agree. Amendment No. 3 recommends that within 12

months of the passing of this legislation, the profession of counsellor or therapist should be designated, either by agreement of the representatives of the various practitioners or by a definition that is imposed by the State. Such designation is necessary to protect vulnerable people from what I consider to be nothing less than manipulation in some instances.

Dr. Henry: I second the amendment. I am glad Senator Glynn is present because he has a great deal of experience in the psychiatric area. He understands that the damage done to people who are treated by unregulated practitioners is often not just physical. Serious emotional and psychological damage can also be done in such circumstances. That the various groups, many of which have contacted Senators, cannot reach agreement about the qualifications which should be designated does not mean that the Department of Health and Children should not take the initiative in this regard. It should decide which qualifications will be accepted. Other qualifications can be added as the Department sees fit.

Mr. S. Power: As we made clear on Committee Stage, the provision of counselling and psychotherapy services in the public health service has increased in recent years, in line with the significant growth in the provision of such services in the private sector. At the request of the Department of Health and Children, the former group of health board CEOs formed a working group to examine the role of psychotherapy in the health service and assess future requirements. The working group's report, which will contain advice about how to make progress in respect of many issues, including the development of psychotherapy and counselling services on a national basis, is being finalised by the Health Service Executive. When the report has been completed, an action plan will need to put in place if we are to make progress with our consideration of the role of psychotherapy and counselling in the health service. The action plan will have to include a further exploration of issues relating to the development of an appropriate model of service.

The outcome of the work being proposed by the HSE will form an integral part of the formal process that will be required under this Bill. That process will involve determining whether statutory registration is warranted and appropriate in line with section 4, which relates to the designation of further professions. It is not appropriate, in that context, to specify at this stage that certain professions should be under the aegis of the proposed health and social care professionals council. Similarly, it would not be appropriate to specify in the Bill the timeframe for the inclusion of such professions. Therefore, I do not propose to accept amendment No. 3.

12 o'clock

Mr. Ryan: I have never been speechless in my life, but I am heading in that direction. One sometimes receives answers which tempt one to become speechless. The list of professions in section 4 of the Bill includes psychologists. There are good reasons for clearly defining in law the qualifications which should be required if one wishes to be registered as a psychologist. Such reasons relate to public well-being, public health and quality assurance, for example. We allow "quacks" — I use the term advisedly — to put up plates throughout the country, on which they claim to be that which they are not. I should put on the record that my wife is a psychiatrist. I assure those who may suggest that I am defending the profession that I am not doing so.

Those who undergo proper training to become counsellors and therapists should not be gazumped by people who have completed a six-month night diploma. I am horrified by the number of people doing night, part-time and correspondence courses in counselling or various forms of therapy. I am sure some of them become very good counsellors and therapists, but they and the public are entitled to know that a basic standard of qualification is in place. The standard should be regulated by an impartial regulatory body so that one can reasonably expect that people who call themselves counsellors and therapists know what they are doing. If they do not know what they are doing, they will do harm. Thousands of vulnerable people in this country will be open to manipulative exploitation if we have to wait for the HSE, which is swamped with work as it stands, to make a proposal that might lead to some action. It is a great pity the Minister of State will not accept this amendment.

Amendment put and declared lost.

Acting Chairman (Mr. J. Walsh): As amendments Nos. 4 and 5 are related, they may be discussed together, by agreement.

Dr. Henry: I move amendment No. 4:

In page 12, line 21, to delete "not".

It is foolish to dictate that "a registrant is not eligible to be appointed chairperson", as a registrant may transpire to be the best person for the job. We are always ruling people out of jobs. In this instance, we are deciding that a registrant may not be considered for the role of chairperson. I have proposed this amendment because it may be the case that a registrant is the best person for the job.

Mr. Browne: I second the amendment.

Mr. Ryan: I am not sure why the Labour Party's amendment No. 5 has been grouped with amendment No. 4, but it is not a critical matter. Section 9(4) states that "the Minister may consult with any organisations that he or she considers appropriate" when he or she is appointing a chairperson or an ordinary person under this Bill. The mind boggles at the suggestion that the Minister could make such appointments without consulting anybody. Amendment No. 5 proposes to

[Mr. Ryan.]

amend section 9(4) to ensure that the Minister “shall” consult any organisations which he or she considers appropriate.

I am always intrigued by the capacity of the Office of the Chief Parliamentary Counsel to include in legislation multiple layers of discretion to ensure a Minister is not compelled to do anything. The phrase “he or she considers appropriate” gives the Minister substantial discretion to reduce or increase the number of organisations he or she consults. Not only does the Bill provide that the Minister does not have to consult a large number of organisations, but it also provides that he or she “may” consult them, rather than “shall” consult them. Therefore, the Minister can make appointments in the manner outlined in section 9(4) without consulting anybody, if he or she wishes to do so. I do not like to tie the hands of Ministers too tightly, but surely the Minister in this instance should be obliged to engage in some consultation.

Mr. S. Power: As Senators may be aware, the Department of Health and Children engaged in a process of consultation with the relevant professional bodies in 2000. The document that was agreed on foot of that process, which sets out how the system of statutory registration should operate, forms the basis of the legislative proposals under discussion. It recommends that the chairperson of the health and social care professionals council should be independent.

I wish to speak about amendment No. 4. It is not considered appropriate that the chairperson of the council should be a registered practitioner, as the amendment would facilitate, because the independence of the chairperson is considered essential to the council’s effective operation. If

the chairperson were a registered practitioner, he or she could be perceived as representing the interests of a particular profession to a greater extent than the interests of other professions. The chairperson will be entitled to vote on issues at a meeting and will have a casting vote when a vote is tied. If the chairperson is a member of a particular profession, it could be construed that the profession has an unfair advantage over the other professions which will have just one vote.

I would now like to speak about amendment No. 5. The Bill, as currently drafted, provides that when the Minister appoints the members of the health and social care professionals council, he or she will consult a wide range of organisations, as he or she considers appropriate. As I mentioned on Committee Stage, this section of the Bill would be overly prescriptive if the word “may” were to be replaced by the word “shall”.

On this basis I consider it more appropriate to leave this section as it stands because this subsection of the Bill provides for the Minister to consult with any organisation considered appropriate. Therefore, I do not propose to accept the Senator’s amendments.

Dr. Henry: I never suggested putting forward a registrant with a spine like a begonia. I think it is a pity to rule out people in this way. One might find just the right person for the job and he or she could be ruled out because of this stipulation.

Amendment, by leave, withdrawn.

Mr. Ryan: I move amendment No. 5:

In page 13, line 1, to delete “may” and substitute “shall”.

Question put: “That the word proposed to be deleted stand.”

The Seanad divided: Tá, 27; Níl, 15.

Tá

Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Dardis, John.
Dooley, Timmy.
Feeny, Geraldine.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.

Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O’Brien, Francis.
O’Rourke, Mary.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Níl

Browne, Fergal.
Burke, Paddy.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.

Hayes, Brian.
Henry, Mary.
McHugh, Joe.
O’Meara, Kathleen.
Phelan, John.
Ryan, Brendan.
Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Henry and Ryan.

Question declared carried.

Amendment declared lost.

Acting Chairman: As amendment No. 6 is consequential on amendment No. 7, these amendments may be discussed together by agreement.

Government amendment No. 6:

In page 18, line 27 after “may”, to insert “, subject to *subsections (3) to (5)*”.

Mr. S. Power: In keeping with the emphasis placed by Senators during Committee Stage on transparency and appropriate competition, these amendments are designed to strengthen and augment existing provisions in the Bill with regard to the way in which the council carries out its functions. Amendment No. 6 is technical in nature and is required because of amendment No. 7.

Amendment No. 7 deals with the publication of rules and draft rules by the council. Providing for the publication of rules by the council in draft form represents a further step in ensuring its openness and transparency. This proposed amendment, which is based on the amendment tabled by Senator Browne on Committee Stage, provides that before making a rule the council must publish the draft rule and invite comments from the general public. This should ensure that members of the public, professional bodies and other interested parties will have an opportunity to contribute to the content of rules made by the council. In addition, this amendment provides that as soon as possible after a rule is made the council must publish it in the manner it considers appropriate. This provision is intended to enhance the openness and transparency of the council. I hope Senators will support these amendments.

Amendment agreed to.

Government amendment No. 7:

In page 19, between lines 9 and 10, to insert the following:

“(3) The Council shall ensure that—

(a) a draft of any rule that is proposed to make is published in such manner as the Council may determine, and

(b) with the draft is published an invitation to members of the public, any organisation and any other body to comment on the draft before a date specified by the Council in the invitation.

(4) After considering any comments received before the date specified in the invitation, the Council may—

(a) make the rule in the form of the draft as published or with such changes as the Council may determine, or

(b) decide not to make the rule.

(5) *Subsections (3) and (4)* apply also in relation to a proposed amendment or revocation of a rule.

(6) The Council shall ensure that as soon as practicable after a rule is made it is published in such manner as the Council may determine.”.

Amendment agreed to.

Acting Chairman: Amendments Nos. 8, 20 and 28 are related and may be discussed together by agreement.

Government amendment No. 8:

In page 19, between lines 22 and 23, to insert the following:

“(3) In making appointments under *subsection (2)* to a committee, the Council shall have regard to the necessity of including as members of the committee an appropriate number of persons representative of the interest of the general public.”.

Mr. S. Power: As outlined in the debate on an amendment tabled by Senator Browne on Committee Stage, it is accepted that the public interest should be specifically identified as a distinct constituent of the committee of the council including disciplinary committees. These amendments therefore propose that the council and registration boards should have regard to the requirement for appropriate representation of the public interest when establishing committees, including disciplinary committees. However, rather than be overly prescriptive it is more appropriate that the council should have the power to exercise discretion on the size of the committee as different issues would call for different sized committees. I appreciate the thinking behind Senator Browne’s amendment and the amendments I have put forward meet his general concerns. Senators may wish to note that a typographical error exists in amendment No. 20, and therefore I am making a verbal amendment to correct this error by inserting the word “under” between “appointments” and “subsection”.

Amendment agreed to.

Amendment No. 9 not moved.

Dr. Henry: I move amendment No. 10:

In page 20, line 38 to delete “fostering” and substitute “assuring”.

As I said when tabling a similar amendment on Committee Stage, we must do more than foster high standards. Registration boards must ensure high standards. The word “fostering” does not place a sufficient onus on them to do so.

Mr. Ryan: I second the amendment. Senator Henry makes a valid point. Standards should be achieved, not aspired to. Quality assurance involves being as good as the standard that is set. It cannot be merely fostered. People must be assured that standards are met.

Mr. S. Power: In instances where complaints are made against a registered practitioner it is a matter for the council to establish a disciplinary committee to investigate the complaint. The role of each registration board in the disciplinary process is, following the completion of a fitness to practice hearing, to recommend a sanction to be imposed on a registered practitioner. A registration board has therefore no role in assuring high standards of professional conduct. As set out in section 27(3), its function in this regard include giving guidance to registrants concerning ethical conduct and giving guidance and support to registrants concerning the practice of the designated professional. This will be achieved primarily through the formation of by-laws governing codes of professional conduct and ethics. The Bill is intended to protect the public but if, for instance, a person decided against making a complaint they cannot be guaranteed full protection. The word “fostering” is the appropriate word. I am not in a position to accept the Senator’s amendment.

Dr. Henry: I do not accept the Minister for State’s explanation. This section refers to the object, function and powers of the registration boards. It is stated that the objective is to protect the public, which should require more than fostering high standards of professional conduct and professional education, training and competence among the registrants. That is insufficient assurance for the general public.

Amendment put and declared lost.

Dr. Henry: I move amendment No. 11:

In page 22, lines 22 and 23, to delete “who are engaged in the practice of the designated profession” and substitute “who hold the qualification as indicated in *Schedule 3* of the relevant profession”.

The wording as it stands is too loose. It implies that no professional qualifications might be required. It is not specified that a person must possess professional qualifications. That is the reason for my amendment. The Minister for State is saying through this wording that it is sufficient to be engaged in practice but professional qualifications should be necessary. It means I could in the morning begin to practise as a councillor, chiropodist, podiatrist or other profession. If this legislation is allowed to go forward, nothing could be done about my lack of qualifications.

Mr. Ryan: I second the amendment.

Mr. S. Power: Schedule 3 sets out the qualifications required by existing practitioners to enter

their professions. I appreciate the general purpose of the Senators in amendment No. 11 but restricting the membership outlined in Schedule 3 would have the effect of excluding all those practitioners. Restricting the members of the first registration board of each profession to those who hold the qualifications listed in Schedule 3 would be inappropriate as this would exclude all those practitioners who have been in competent practice for some time and who would gain registration through the grandparenting arrangements but would not hold a qualification listed in Schedule 3. Restricting the members of the first registration board of each profession to those who hold the qualifications listed in Schedule 3 would also exclude those practitioners holding a letter of validation under the process set out in the EU directives on the recognition of professional qualifications. I have no doubt, however, that in appointing members to the first registration boards the Minister will endeavour to ensure that such members are appropriately qualified and competent to perform the functions expected of them as members of a registration board and, therefore, I do not propose to accept the Senators’ amendment.

Amendment, by leave, withdrawn.

Dr. Henry: I move amendment No. 12:

In page 22, line 28, after “profession” to insert “or where there is no such institution in the State, a person engaged in the education and training of persons with respect to the practice of the designated profession in another Member State of the European Union”.

It is important that the Minister examine this amendment because there is no training institution in this country in respect of some of the professions already described in the Bill, for example, podiatrists. I had hoped we could include such an amendment in the Bill because it is very important to have someone who is involved in education on these boards. If we do not have such a person from an institution in the State, and this goes back to the Bologna process, we should get someone from another European country who has the necessary training to assist us until we have institutions as are required.

Mr. Ryan: I second the amendment, which makes eminent sense.

Mr. S. Power: It is not considered appropriate that a member of a registration board under the aegis of the health and social care professionals council should be based outside the State. I am conscious that, in more general terms, expertise from abroad may sometimes be helpful. If the expertise of an education representative from outside the State is considered necessary, such a person could be invited to sit in a committee of a registration board in accordance with section 32 or under section 12, which provides that the council can make and carry out arrangements

with any person or body to assist it, a registration board or a committee of the council in performing their functions or exercising their powers under the Act.

On the school of podiatry, we have been making much progress in that regard. We have had a number of meetings with the HEA, the HSE and the Department of Education and Science and we hope that position will be rectified in the near future. I am not in a position to accept the Senator's amendment.

Dr. Henry: I am very disappointed because it would appear it is better to have no representation from education than to have someone from a country which is aspiring to have the same academic qualifications in that discipline. Again, I go back to the Bologna process and ask if the Department of Education and Science was consulted about this legislation because it has a major bearing on it. We are concerned, as the Minister of State is aware, about mobility of labour and these are the sort of issues that are important. Where will we be if we are told that because we do not have someone from an educational institution on a board, that will not be considered as adequate under the Bologna process?

Amendment, by leave, withdrawn.

Acting Chairman: Amendment No. 13 is a Government amendment, which is consequential on amendment No. 19. Amendments Nos. 14 to 18, inclusive, are related to amendment No. 19. Is it agreed to discuss amendments Nos. 13 to 19, inclusive, together? Agreed.

Government amendment No. 13:

In page 23, line 22 after "may", to insert " , subject to *section 32*,".

Mr. S. Power: These Government amendments are intended to meet the purpose of the amendments put forward by Senator Browne and Senator Hayes and also to build on the Committee Stage discussion. As the Senators may recall, during the Committee Stage debate my Department undertook to meet with the Competition Authority to discuss the most appropriate means of making provision in the Bill that draft by-laws relating to the code of professional conduct and ethics be competition proofed by the Competition Authority in advance of becoming binding on registrants.

Amendment No. 19 proposes a new section dealing with publication and other requirements relating to draft and other by-laws. This proposed amendment, which was drafted with the assistance of the Competition Authority, provides that before making a by-law a registration board must publish the draft by-law and invite comments from the general public. This will ensure that members of the public, professional bodies and other interested parties will have an opportunity to contribute to the content of by-laws made by

a registration board. After the date for receipt of comments and the passing of a draft by-law of the registration board, the proposed amendment provides that a registration board must consider any comments received and may amend the draft by-law if considered appropriate.

If the by-law relates to the adoption or revision of a code of professional conduct or ethics, the registration board is then obliged to submit the draft of the by-law to the Competition Authority for its opinion as to whether any provision of the draft by-law would be likely to result in competition being prevented, restricted or distorted.

A registration board will set down a timeframe within which the Competition Authority should submit its opinion. If, within the timeframe set down, a registration board receives an opinion from the Competition Authority that competition is likely to be prevented, restricted or distorted if the by-law were made, the board can either accept that opinion and change the by-law accordingly before submitting to the council for approval or otherwise submit the draft by-law unchanged to the council with its written reasons as to why it has not taken the opinion of the Competition Authority into account. It would clearly not be appropriate to oblige a registration board to amend a draft by-law in light of the opinion of the Competition Authority. In each case it is appropriate to give a registration board discretion to balance the public interest with competition considerations as necessary.

In addition, this amendment provides for a second step in the development of by-laws of a registration board as soon as possible after a by-law is made. The amendment obliges a registration board to publish it in the manner it considers appropriate. This provision is intended to enhance the openness and transparency of the boards.

I should add that amendments Nos. 13 and 15 to 18, inclusive, are technical drafting amendments. Amendment No. 13 is intended to reinforce the publication and other requirements imposed upon a registration board under amendment No. 19. This meets the purpose the Senators have in mind and I do not propose, therefore, to accept amendment No. 14.

Mr. Browne: I welcome the Government amendment. To be fair to the Minister of State, Deputy Tim O'Malley, he did say on Committee Stage that he would bring forward an amendment. He has brought forward a comprehensive amendment and, as a result, I do not intend to move amendment No. 14. The purpose of my amendment was to ensure that the professions would not become closed shops, as some have, and that this Bill would not over-regulate and lead to a reduction of competition, which would be to the disadvantage of everyone concerned.

Mr. Ryan: I have no problems with the amendments as drafted. I am glad, however, that the registration board or the council may ignore the

[Mr. Ryan.]

Competition Authority if they see fit because some of the more daft utterances from the Competition Authority from time to time would make one very nervous. It believes competition would give us a better health service and appears to be oblivious to the fact that the most competitive health service market in the world is also the most expensive and the least effective in terms of life expectancy and mortality, namely, the United States. The Competition Authority is an important body and it serves a purpose but I would not like it to have a veto over issues to do with ethics, quality of care and so on, which, given its belief in its own internal wisdom, it would be liable to do. I welcome the amendments as drafted.

Amendment agreed to.

Amendment No. 14 not moved.

Government amendment No. 15:

In page 24, lines 12 and 13, to delete “or a proposed amendment of a bye-law under either paragraph”.

Amendment agreed to.

Government amendment No. 16:

In page 24, line 14, to delete “or amendment”.

Amendment agreed to.

Government amendment No. 17:

In page 24, lines 15 and 16, to delete “or amendment”.

Amendment agreed to.

Government amendment No. 18:

In page 24, between lines 18 and 19, to insert the following:

“(6) *Subsection (5)* applies also in relation to a proposed amendment or revocation of a bye-law under *paragraph (c)* or *(h)* of *subsection (1)*.”.

Mr. Ryan: Amendment agreed to.

Government amendment No. 19:

In page 24, between lines 20 and 21, to insert the following:

32.—(1) A registration board shall ensure that—

(a) a draft of any bye-law that it proposes to make is, before the draft is submitted to the Council for approval, published in such manner as the board may determine, and

(b) with the draft is published an invitation to the public, any organisation and any other body to comment on the draft before a date specified by the board in the invitation.

(2) After considering any comments received before the date specified in the invitation, the registration board may—

(a) subject to *subsections (3) to (5)*, submit to the Council for approval the draft bye-law either in the form in which it was published or with such changes as the board may determine, or

(b) decide not to proceed further with the draft bye-law.

(3) If a draft bye-law that a registration board proposes to submit to the Council under *subsection (2)(a)* relates to the adoption or revision of a code of professional conduct and ethics, the board shall—

(a) before submitting the draft bye-law to the Council, submit it to the Competition Authority for its opinion as to whether any provision of the draft bye-law would, if the bye-law were made, be likely to result in competition being prevented, restricted or distorted, and

(b) request that the opinion be given in writing to the board before the date specified in the request.

(4) If, before the date specified in the request, the registration board receives from the Competition Authority a written opinion that a provision of the draft bye-law would, if the bye-law were made, be likely to result in competition being prevented, restricted or distorted, the board shall—

(a) take that opinion into account and change the draft bye-law accordingly before submitting it to the Council for approval, or

(b) without making any changes to the draft bye-law, submit it to the Council for approval and supply the Council with a copy of the Authority’s opinion together with the board’s written reasons for not taking the opinion into account.

(5) *Subsections (2) to (4)* apply also in relation to a proposed amendment or revocation of a bye-law.

(6) A registration board shall ensure that as soon as practicable after a bye-law of the board is made the bye-law is published in such manner as the board may determine.”.

Amendment agreed to.

Government amendment No. 20:

In page 24, between lines 29 and 30, to insert the following:

“(3) In making appointments under *subsection (2)* to a committee, a registration board shall have regard to the necessity of including as members of the committee an appropriate number of persons representative of the interest of the general public.”.

Amendment agreed to.

Acting Chairman: Amendments Nos. 22 and 23 are alternatives to amendment No. 21 and cannot be moved if it is accepted. The amendments may be discussed together, by agreement.

Government amendment No. 21:

In page 30, to delete lines 23 and 24 and substitute the following:

“(b) publish, by electronic means or otherwise, its register at intervals of not more than 12 months from the date of the establishment of the register or the last publication of the register.”.

Mr. S. Power: The maintenance of a comprehensive, accurate and up-to-date register of practitioners which is accessible to the general public is crucial to the effective discharge of the role of each registration board. Amendment No. 21 takes account of the proposals by Senators McCarthy and Henry on Committee Stage that the Bill should provide for access to the register on the Internet and for its publication on an annual basis. The amendment also address the proposals set out in Report Stage amendments which Senators have tabled.

Amendment No. 21 is broad in providing that the register can be published by electronic or other means. It will be open to a registration board to publish its register on the Internet and not to restrict it to this medium alone. In addition, by providing that a registration board must publish its register at intervals not greater than 12 months, the amendment ensures a register must be published at least once a year and can, if appropriate, be published at a shorter interval. I do not, therefore, propose to accept amendments Nos. 22 and 23.

Dr. Henry: Amendment No. 21 deals with the proposals set out in my amendment. I could barely believe the provisions set out in the original Bill whereby a register could be published at the times and in the manner a registration board considered appropriate. The most important point with a professional register is to ensure that those who should be off it are taken off it while those who should be on it are included. The general public can then find out who is on the register. The only appropriate approach is to publish the register every 12 months at the latest.

Mr. Ryan: While I welcome the amendment broadly, I quibble with the wording “published

by electronic means or otherwise”. The Internet is an additional method of publication rather than a substitute. A board should be required to maintain and publish a printed register also. My amendment seeks to include the wording “on the Internet and otherwise”. The Internet is not a substitute for books, newspapers or printed registers. This is a quibble and I welcome the provision to ensure annual publication at least. Publication could take place more often, however, especially if an electronic register is maintained, which it would require little effort to keep up to date.

Amendment agreed to.

Amendments Nos. 22 and 23 not moved.

Acting Chairman: Amendments Nos. 24 to 27, inclusive, are related and may be discussed together, by agreement.

Government amendment No. 24:

In page 33, line 26, to delete “The members of each committee shall be appointed” and substitute “Each committee is to consist of the chairperson and such other members of the committee as are appointed”.

Mr. S. Power: The Government amendments are of a technical, drafting nature. On foot of the debate on an amendment tabled by Senator Browne on Committee Stage, it is accepted that the public interest should be identified as a distinct constituent of a committee of the council, including disciplinary committees. While I understand fully the thinking behind the Senators’ amendments, I consider amendments Nos. 8 and 28, which amend section 23 on committees of council and section 50 on disciplinary committees, respectively, deal with the issues raised.

Amendment No. 8 proposes that in making appointments to a committee under subsection (2), the council shall have regard to the need to include an appropriate number of persons representative of the interests of the general public. Amendment No. 28 proposes that in page 33, line 33, after “registrants” to insert “, at least one of whom shall be representative of the interest of the general public”. I do not, therefore, propose to accept amendments Nos. 25 and 27.

Mr. Browne: I thank the Minister of State for accepting the concept informing the Fine Gael amendment moved on Committee Stage which sought to serve the public interest. The danger is that if a clear majority of committee members are registrants, it might be difficult to ensure fair decisions are made. I welcome the Government amendment.

Senator O’Toole spoke on Committee Stage of the exclusion of politicians from appointments to boards. Such disgraceful provisions are made in every Bill. One would think it was a crime to be a politician.

Mr. Ryan: Criminals, bankrupts and politicians are excluded.

Mr. Browne: The exclusion should be challenged. I would love to see someone take a court action under equality legislation. If a Senator, Deputy or local authority member wishes to be a member of a board to which he or she has a contribution to make, he or she should be allowed to be appointed. Public representatives should not be disbarred because they are Members of the Oireachtas. While it is not an issue to discuss further today, it is one worth bearing in mind for later. I am not sure what group of people has an agenda which is against politicians, but I feel more and more that it is considered a crime to be one. If a person is willing to bring experience as an individual and public representative to bear in a committee, he or she should be allowed to do so. The Minister of State should consider the exclusion in the Bill of politicians from any committee or board.

Mr. Ryan: I support Senator Browne's comments. There are many bodies from which I am legally excluded, some of which have to do with education and for some of which I am qualified to be a member, due to my membership of the Oireachtas. It seems to be fine to appoint the public relations adviser of the Minister for Transport to the Higher Education Authority but not to appoint a Member of the Oireachtas who is otherwise qualified. I do not speak about the general principle as it relates to the Health Service Executive, but to the suggestion that an elected representative in the Oireachtas of university graduates who happens to be, as was often the case in the past, an eminent academic, should be excluded from a body in an area in which he or she has considerable expertise. It is not only offensive, but daft.

Amendment agreed to.

Amendment No. 25 not moved.

Government amendment No. 26:

In page 33, line 32, to delete "and at least" and substitute ". At least".

Amendment agreed to.

Amendment No. 27 not moved.

Government amendment No. 28:

In page 33, line 33 after "registrants", to insert ", at least one of whom shall be representative of the interest of the general public".

Amendment agreed to.

Acting Chairman: As amendment No. 30 is an alternative to amendment No. 29, it cannot be moved if amendment No. 29 is agreed to. The

amendments may be discussed together, by agreement.

Government amendment No. 29:

In page 37, to delete lines 33 to 35 and substitute the following:

"(3) A hearing before a health committee shall be held otherwise than in public, unless—

(a) the registrant or the complainant requests that all or part of the hearing be held in public, and

(b) the committee is satisfied that it would be appropriate in the circumstances to hold the hearing or part of the hearing in public.".

Mr. S. Power: Amendment No. 29 arises on foot of an amendment proposed by Senator Browne on Committee Stage. He has had a significant influence on the Bill. As indicated during the debate on the proposed amendment, it is accepted that as it is proposed in the case of an inquiry carried out before a professional conduct committee, it is appropriate that there would be some checks and balances on a registrant's right to reverse the general principles set out in the Bill, particularly where sensitive personal matters relating to a complaint may be the subject of examination. It was indicated that the content of Senator Browne's proposed amendment was acceptable, subject to drafting changes required by the Parliamentary Counsel. This amendment now incorporates those drafting changes and takes account of the content of the amendment now proposed by Senator Browne and Senator Brian Hayes.

Senators will note that the Government amendment also provides for the complainant to request that all, or part, of a hearing be held in public. This is considered to be in line with fair practice. The committee must be satisfied as to the appropriateness of holding the hearing, or part of it, in public. I do not propose to accept amendment No. 30.

Mr. Browne: I thank the Minister for accepting the main thrust of our amendment. I will withdraw amendment No. 30 in light of Government amendment No. 29. This is a most awkward issue on which we have to achieve a balance between the complainant's right to privacy because he or she might not want his or her medical history divulged in public, and the right of the person complained against to have due process.

This amendment arose from a comment made by Senator Henry on Second Stage so I am afraid I cannot take all the credit for it. A person making a complaint should not be put off by the threat of having a hearing in public with the consequent airing of private medical history. A balancing act is required which will respect that. I welcome the Government amendment which I hope will ensure people get fair play.

Dr. Henry: As Senator Browne said, this addresses the concern I expressed on Second Stage. Sometimes complainants do not realise how much information will come out in public. They have to be given the opportunity to have their complaint brought forward in private. People should not be put off by the fact that there may be publicity. I welcome the Government amendment.

Amendment agreed to.

Amendment No. 30 not moved.

Mr. Ryan: I move amendment No. 31:

In page 38, lines 40 and 41, to delete all words from “a video” in line 40, down to and including “transmission” in line 41 and substitute “or any other mode of transmission, provided that where cross-examination is sought by a party to the inquiry, the mode of transmission must permit of such cross-examination”.

We could argue all day about the precise wording but our concern here is that under section 58, a committee of inquiry has all the powers, rights and privileges that are vested in the court. Nobody would disagree with that. A committee of inquiry may receive evidence given, including by means of a live video link, a video recording, a sound recording or any other mode of transmission. The problem with a video recording is that one cannot cross-examine because, by definition, it is something that has already taken place. The same is true of a sound recording. Our amendment suggests that where cross-examination is sought by a party to the inquiry the mode of transmission must permit such cross-examination.

As I suggested to the Minister, the assertion that people would have the rights and privileges of a witness in a court case means that if one does not comply with that, people will resort to the High Court to vindicate their right to cross-examination. As it stands, the Bill does not guarantee that right.

Dr. Henry: I second the amendment. I am sure Senator Ryan is right, in that it would be challenged and that we would all end up in the High Court with this.

Mr. S. Power: I understand the importance of cross-examination where appropriate and the need to ensure that this facility is available where necessary. Section 57(4)(c) provides that at a hearing before a committee of inquiry into a registrar’s fitness to practice there shall be a full right to cross-examine witnesses.

Section 58(4) expands on this provision by enabling a committee of inquiry to receive evidence given orally, by affidavit, or as otherwise allowed, including by means of a live video link, a video recording, a sound recording or any other mode of transmission. However, it is important to

note that a committee may only receive evidence in these ways subject to any rules enforced under section 22 and to the necessity of observing fair procedures. The proposed amendment relates to paragraph (c).

It is important to note that paragraph (c) only comes into operation if rules are made under section 22 which authorises the council to make rules specifying the form in which, and the means by which, evidence of submissions may be received by committees of inquiry. The rules may also specify the conditions subject to which evidence of submissions may be received by means of a live video link, a video recording etc. Therefore, the means by which a committee of inquiry may receive evidence given orally, by affidavit, or as otherwise allowed, including by means of a live video link, a video recording, a sound recording or any other mode of transmission, is subject to the conditions set out in the rules as well as the necessity of observing fair procedures.

Moreover, the paragraph must be read in the context of the Act as a whole, including section 57(4)(c), which provides that there shall be a full right to cross-examine witnesses. Although non-live videos do not allow for immediate cross-examination, evidence given by this means may be sufficient in certain circumstances. It would be in those circumstances that a video recording would be used, not in circumstances that require cross-examination of a witness. In some cases there would not be any requirement for cross-examination with regard to video or sound recording evidence.

My Department sought the view of the Office of the Attorney General in this regard and the advice is reflected here. It is therefore not proposed to accept the Senator’s amendment.

Mr. Ryan: Given the number of legislative measures the Supreme Court has thrown out after the advice of the Attorney General that they were constitutional, I would not get too carried away with that if I were the Minister. It is an extraordinarily roundabout way of doing something very simple. An affidavit is something which the courts have defined in a very precise way so as to ensure that what is in an affidavit is what somebody said. One is walking in to all manner of dangerous territory if one starts getting involved with video and sound recordings. I do not believe one can give a guarantee of integrity to a video or sound recording of the kind that is given in an affidavit. That is why the amendment provides that “any other mode of transmission” should include the ability to cross-examine. If a sound or video link is not live, it gives rise to all kinds of issues.

I cannot see the point of video or sound recordings unless they involve technical judgments, in which case they are better off written down. Our amendment satisfactorily encompasses what is in the Government proposal but leaves open the possibility of cross-examination. As it

1 o'clock

[Mr. Ryan.]
has been clear since we commenced this debate that it was the Government's intention not to accept any amendment, I do not propose to pursue this matter further.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Mr. Browne: I move amendment No. 32:

In page 47, between lines 16 and 17, to insert the following:

"(6) (a) In this Act, the title 'physical therapist' shall be deemed equivalent to the title 'physiotherapist' and its use restricted exclusively to those professionals who are registered as physiotherapists.

(b) Anyone contravening paragraph (a) is guilty of an offence."

Amendment put.

The Seanad divided: Tá, 13; Níl, 25.

Tá

Browne, Fergal.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Feighan, Frank.
Finucane, Michael.
Hayes, Brian.

Henry, Mary.
McHugh, Joe.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.

Níl

Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Glynn, Camillus.
Kenneally, Brendan.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.

Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.
Phelan, Kieran.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Browne and Henry; Níl, Senators Minihan and Moylan.

Amendment declared lost.

An Leas-Chathaoirleach: Amendment No. 33 is a Government amendment. It was also tabled by Senator Browne.

Dr. Henry: Amendment No. 33 was tabled by Senator Quinn and myself.

An Leas-Chathaoirleach: My apologies. Amendment No. 33 is a Government amendment, which was also tabled by Senator Quinn and Senator Henry. Amendment No. 34 is consequential on amendment No. 33, therefore, amendments Nos. 33 and 34 will be discussed together, by agreement.

Government amendment No. 33:

In page 47, lines 42, to delete "€2,500" and substitute "€3,000".

Dr. Henry: Joy will be unconfined when Senator Quinn discovers that this amendment has been accepted. However, of all the amendments that we tabled, which were of great importance to the Bill, this was probably the one about which

we were least concerned. However, we must be grateful for small mercies as that is all we have been getting in this debate.

Mr. S. Power: This amendment arose on Committee Stage, when concern was expressed that the size of the fine for a person guilty of an offence under section 79 was too small. As was indicated at the time of the Committee Stage debate, an increase in the size of the fine was accepted in principle, subject to further discussions with the office of the Attorney General. Those discussions have taken place and I am pleased to accept amendment No. 33. However, the Government does not accept the related amendment tabled by Senators Browne and Hayes, which attempts to ensure that the fine is increased in line with inflation. This is a broader policy issue that is more appropriate for consideration by the Office of the Attorney General. If this approach is adopted, it should be adopted across all legislation and not just for this Bill. Therefore, the Government does not accept amendment No. 34.

Mr. Browne: I welcome amendment No. 33. I am not surprised by the Minister's response to

amendment No. 34 and I appreciate that it would have wide-ranging implications for all legislation. However, it is something that should be examined. One can take the example of the current legislation regulating the sale and use of fireworks. The maximum fine for a person in possession of fireworks is €5, which proves how outdated legislation can become, though admittedly that is an extreme case.

It would make sense when framing legislation to index-link fines. This would enable more reasonable penalties to be imposed on those who break the law. I appreciate why the Minister of State cannot agree to that for this Bill, but it is an issue he should take up with the Attorney General and the Government. All legislation should include a provision that monetary fines will increase with inflation to avoid becoming obsolete and irrelevant.

Mr. S. Power: I take on board what the Senator has said and I will bring the matter to the attention of the Attorney General.

Amendment agreed to.

Amendment No. 34 not moved.

Dr. Henry: I move amendment No. 35:

In page 50, line 35, after “profession” to insert “for a minimum period of three years full-time practice”.

I am aware of the difficulties in dealing with existing practitioners. Grandfather or grandmother clauses are extremely important because we do not wish to see people who, because of the form of training they underwent in the past, are ruled out of practising in their profession. However, the Bill is rather loose in stating that an individual can be registered if he or she has been engaged in the practice of a profession at any time during a period of five years, ending on a relevant date. An individual should be engaged in his or her profession for a substantial amount of time in the previous five years, not just the occasional weekend, which section 90 could be construed as meaning. It is essential to have a minimum period and I have proposed three years, full-time, but I am not rigid on this. However, we need a better description than that contained in the Bill at present.

Mr. Ryan: I second the amendment. It makes perfectly reasonable sense. The wording “at any time during the period of 5 years ending on the relevant date,” is incredibly loose.

I could write the Minister of State’s response. It will be to the effect that the Government has no desire to make the Bill excessively prescriptive, etc. The truth is that there ought to be some evidence that people are competent professionals who have been working in the area for a reasonable period of time, such as Senator Henry. It matters not to me whether it is two or three years, but it ought to be a reasonable period of continu-

ous time. If people have practised only for a short period, say, five years ago, it is not reassuring for the public that they may not be up to speed with developments.

Mr. S. Power: This amendment refers to section 90, which provides for the registration of existing practitioners. Applicants must either hold the relevant qualification under Schedule 3 or completed an assessment of successful competency set by the registration board in accordance with any guidelines issued by the council. In addition, each registration board will have to satisfy itself that each practitioner applying for registration under section 90 is a fit and proper person to engage in the practice of that profession and it is appropriate to give a registration board discretion in this regard. It would not be appropriate to restrict eligibility to those who have been in full-time practice for a minimum period of three years in the five years ending on the date the register for a particular profession opens. Once a practitioner is registered with a registration board, he or she will be subject to the fitness to practise procedures set out in Part 6. The Health and Social Care Professionals Council will be able to ensure the competence of a registered practitioner through the making of by-laws, etc. If a person is not registered with the council, it will have no role in ensuring that practitioner’s competence. It is, therefore, not proposed to accept the Senator’s amendment.

Amendment, by leave, withdrawn.

Dr. Henry: I move amendment No. 36:

In page 61, line 5, in the second column, to delete “Chiropractors” and substitute “Podiatrists”.

Mr. Browne: I second the amendment.

Amendment put and declared lost.

Bill, as amended, received for final consideration.

Question proposed: “That the Bill do now pass.”

Dr. Henry: I am sorry that many of the amendments we tabled were not accepted. I am particularly concerned about the Bologna process. I went to Trinity College and got the relevant documents. Before this Bill goes into the Dáil someone needs to look at it very carefully as regards the Bologna process and to consult with both the Department of Education and Science and the universities as well as the other institutes of higher education involved with these professions. Parts of this Bill will be in conflict with the Bologna process, which Ireland has so strongly supported. No Department is totally independent in so far as the legislation it enacts does not affect any other. I respectfully request

[Dr. Henry.]

that someone looks at the legislation from that perspective before it goes into the Lower House.

Mr. Browne: I thank the Minister and his officials on behalf of myself and my colleagues. This is an interesting Bill. I did not know about words such as “podiatrist” and “physical therapist” before it was introduced. I am somewhat wiser now. I am not so sure that I know all the answers, but I am clearer in my own mind about certain issues.

I thank the Minister of State and his colleague, the Minister of State at the Department of Health and Children, Deputy Tim O'Malley, for accepting the Fine Gael amendments on Committee Stage and for bringing them forward on Report Stage. That is the way politics should be, and it justifies our existence in the House. I have one main problem with the Bill, however, namely, the definition of “physical therapist” and the awarding of title. This is going to be a problem area.

The Minister of State said that he has been awaiting word from the physical therapists for the last six months. During one of the divisions I made a telephone call to ascertain the position. There appears to be some confusion. As far as they are concerned they received a letter from the Department, with seven points for clarification. They replied to the Department seeking clarification and they are awaiting word from the education body concerned as well. The education body had advised that their position was safe and they had a right to use the title. They have requested meetings with the Minister of State's Department. Perhaps he might investigate that situation again, to see what is happening. It would be amazing if the physical therapists, who came across to me as being members of a very professional body, which is effective in terms of lobbying, would allow six months to elapse without anything being done. Perhaps the Minister of State might indicate whether they have sought meetings with the Department, acknowledged receipt of the letter and the role played by the educational body.

Mr. Ryan: I thank the Minister of State and the officials. It is a pity that, in a variation of a trend that has developed here, many matters were not accepted on the basis of arguments which were not persuasive. I firmly and vigorously support what Senator Henry said about the Bologna process. It is, perhaps, the central guiding principle for future recognition of third level qualifications. If we were to set off in an opposite direction because the Department of Health and Children had not properly worked out how these proposals fit in to the structure of the process, it would be a terrible setback for Irish third level education in general, probably one we would have to revisit later, at great cost.

While I understand from the Minister of State that his Bill was a product of consensus among

the professions that are listed here, the fact that some of them cannot agree among themselves should not mean that we cannot regulate them, particularly where there is perceived public need to have standards in place. The Minister of State at this stage ought to vigorously inform a number of other professions, psychotherapy and counselling included, that if they cannot come up with an agreed position, we will provide them with one.

Mr. Glynn: I strongly support the Bill. It is long overdue. Coming from a profession, I am aware as are most Members, that it is imperative to protect members of different professions. That is why this Bill is so important. It is also important that other groups may be taken on board since this is enabling legislation. That is very significant.

I had discussions with the physical therapists. They want to be a stand alone profession. It is important to appreciate what has been sought by the Department. I take on board what Senator Browne said about clarification being sought. I believe that in time the merits of this legislation will be borne out. The timing of the Bill is good. It has received great attention from all sides of the House. All the contributors gave it serious consideration, not just on Report Stage, but also on Committee and Second Stages. It is one of the most important Bills to come before the Seanad since I became a Member. I look forward to the Bill's enactment.

It is outrageous that people may put up plaques claiming to be something they are not. There is the horrendous situation pertaining to the Killoe clinic and with people practising alternative medicine. That is a matter for another day and something in which I have an abiding interest on behalf of the public. This is really a consumer issue that exists due to a legislative void. I exhort all sides of the House to ensure that corrective action is taken sooner rather than later.

Minister of State at the Department of Health and Children (Mr. S. Power): I thank Members for their contributions and officials from the Department for their assistance with this Bill. There was widespread consultation with the different groups before the Bill was drafted, so we achieved consensus on a number of issues. There is still a certain misunderstanding from some quarters. Regarding the matter raised by Senator Browne, I did not say that we were waiting for a response for six months. To the best of my knowledge, a meeting with the group to which the Senator refers took place in March. Following the meeting, a letter was issued by the Department to the group, seeking clarification on a number of issues. We are still awaiting a response to that letter. If the position is any different, I will inform the Senator.

Members made a number of suggestions at different Stages of the Bill and we have taken some of them on board and incorporated them with the amendments made today. If groups are

prepared to suggest other changes that will improve the legislation on this area, we will be happy to take them on board.

Question put and agreed to.

Sitting suspended at 1.35 p.m. and resumed at 2.30 p.m.

**International Interests in Mobile Equipment
(Cape Town Convention) Bill 2005: Order for
Second Stage.**

Bill entitled an Act to give effect to the Convention on International Interests in Mobile Equipment, and to the protocol to that convention on matters specific to aircraft equipment, opened for signature at Cape Town on 16 November 2001; to provide for related matters; and to amend the Air Navigation and Transport (International Conventions) Act 2004.

Mr. Dooley: I move: "That Second Stage be taken now."

Question put and agreed to.

**International Interests in Mobile Equipment
(Cape Town Convention) Bill 2005: Second
Stage.**

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

Minister for Transport (Mr. Cullen): The purpose of the Cape Town Convention is simple; it is to make it easier to finance the purchase of aircraft. Senators will be aware from reading the Bill that the Schedules contain the text of the convention and protocol relating to aircraft objects. For convenience, when I mention the convention, I will be referring to the two documents together.

As everyone in this House will be aware, aircraft are expensive items, even when bought second-hand. It is a rare occasion when an airline can afford to acquire additional aircraft without borrowing. However, because aircraft move between countries, it is not as easy to borrow for an aircraft as it is for a piece of industrial or commercial property. In the case of buildings and land the lending institutions will always know where the property is situated and what law applies in connection with a lease or mortgage on the property.

The purpose of the Cape Town Convention is to create a uniform international legal framework for loans and leases for aircraft so that the aircraft itself can be the asset securing the loan. This framework will provide lending institutions with stability and certainty about their ability to repossess aircraft that are subject to loans or leases if the borrower fails to make the contractual payments. If at the time of the default on the loan payments the aircraft concerned is in any of the

countries that have ratified the convention, the courts of that country will apply the rules of the convention to determine who may take possession of the aircraft. By reducing the risk for the lending institutions, the convention will enable lending rates to be reduced. This will have benefits for airlines and, ultimately, passengers. For example, the United States Government's export-import bank has offered reduced interest rates in respect of loans to airlines in countries that have ratified the convention.

An important part of the convention is the creation of what is known as the international registry. The purpose of this registry is to record the existence of loans and leases which are covered by the convention and to establish priority between them on a first come first served basis. The registry will operate over the Internet on a 24-hour, seven day a week basis. In order to gain the protection of the convention a loan or lease must be recorded in the registry. If there are two or more loans for the same aircraft, which is quite common, the loan registered first will have priority over later registrations. Members of the public, as well as those in the aviation and financing industries will be able to search the registry to discover if there are loans recorded for any particular aircraft. However, only appropriately authorised users will be able to add or change information in the registry.

A substantial number of the world's aircraft leasing and financing companies are located in Ireland. In addition to the direct employment in those firms, their location in Ireland has resulted in a considerable volume of high-profile work for Irish legal and accounting firms.

With this in mind my Department participated extensively in the preparatory work leading up to the diplomatic conference in Cape Town in November 2001 where the convention was adopted. We made it clear at an early stage that we were anxious to have the registry located in Ireland to underscore our long-standing commitment to international aviation and to support the aircraft financing activity in Ireland. The Department, with the valuable assistance of senior Land Registry officials, contributed to the work of the international registry task force established to define the role and operation of the registry. One of the meetings of the task force was held in Dublin Castle in January 2000.

It was decided at an early stage that a competition would be held to select the operator of the registry in order to ensure an efficient operation. That competition was held by the ICAO in the first half of 2004 and I was delighted when the Irish company Aviareto was unanimously selected as the winner at an international conference in Montreal in May last year. The other bids came from Canada, Singapore and Spain.

Aviareto is a small PPP project between my Department and SITA. SITA is a major international company owned by over 700 aviation companies worldwide. It is the world's leading provider of global information and telecom-

[Mr. Cullen.]

munications solutions to the air transport and related industries. It has offices in Letterkenny and Dublin employing 60 people in Ireland. The company has recently announced the expansion of its activities in Letterkenny which will involve the employment of a further 123 staff. Aviareto will be a small employer with probably fewer than ten staff and will be based at SITA's Dún Laoghaire offices.

The convention will come into force when it has been ratified or acceded to by eight countries. So far there have been six ratifications and accessions, namely, Panama, Ethiopia, Nigeria, the United States, Pakistan and Oman. Due to Ireland's long-standing support for this project and, in particular, because Aviareto was selected to operate the registry, it is my ambition for Ireland to be one of the first eight ratifying countries. I am sure this House will support me in this objective.

I would like to make it clear that the registry will not take over the role of the Irish Aviation Authority with regard to registering the nationality of Irish aircraft or regulating aviation safety. The registry will only be concerned with recording the existence of leases and loans for aircraft. It will do so for aircraft throughout the world, not just for Irish aircraft.

When considering the Bill it is also important to note that there is no obligation to use the registry, or take advantage of the convention. Due to the fact that aircraft financing involves large sums of money, all of the parties to a loan or lease will have professional legal and financial advisors. Consequently we can be satisfied that all users of the registry and the convention will do so on the basis of carefully considered decision. The convention will not affect the status of financial interests where the parties choose not to register them or where the financial interest was created before the convention comes into force in the relevant country, even if the interest is subsequently included in the registry.

I would like to give a brief overview of the content of the Bill. It is a short Bill and most of the text is in the Schedules which contain the convention and protocol.

Sections 1 to 3 contain standard provisions in legislation, namely, the Short Title, purpose of the Bill and interpretations. Section 4 provides that the convention and protocol will have the force of law in Ireland. As I said earlier, the convention and protocol will only apply where people have chosen to take advantage of it.

Section 5 empowers the Government to make various declarations that are permitted under the convention and protocol. These allow a certain amount of tailoring to take account of national circumstances. Section 6 contains standard provisions in connection with making orders, such as the inclusion of consequential provisions and specification of when an order takes effect.

Section 7 specifies that the High Court is the appropriate court for disputes. Under the conven-

tion, disputes involving the registry must be heard in the Irish courts because the registry is based here. Section 8 requires courts to take notice of the convention and protocol.

Section 9 requires that proceedings for damages must take account of compliance with the relevant articles of the convention. Due to the fact that the registry will be a computer-based system, it is important for users to comply with its requirements if they wish to have its protection. It was never intended that the registry would have responsibility for checking the quality or accuracy of the information placed in the database. That is the responsibility of the users. The registry will be responsible to ensure that no errors are introduced while the data is stored in the database.

Section 10 empowers the Minister to subscribe for shares in the registry company to an amount not exceeding €40,000. The Minister's shareholding will be an important indication of Irish support for the convention and protocol and the registry company.

Section 11 prohibits a court from making an order that would prevent the registry from providing the services prescribed by the convention and protocol. This will be important to ensure a dispute with one party cannot affect the operation of the registry for the benefit of others. Sections 12 to 14, inclusive, are standard provisions relating to orders, including the laying of orders before the Oireachtas and the usual opportunity for either House to pass a resolution to annul an order. Section 15 is a standard provision relating to the Minister's expenses under the Act.

Section 16 inserts, into the Act that implements the Montreal Convention, standard provisions relating to the making of orders under that Act. These include the laying of orders relating to the Montreal Convention before the Oireachtas and providing for annulment by either House. It was not possible to include these amendments in the legislation before it was enacted because of a deadline to enact it before the expansion of the European Union on 1 May 2004.

The convention represents an important and welcome step forward in the legal framework connected with aviation finance and the location of the international registry in Ireland is a great achievement. I commend the Bill to the House.

Mr. P. Burke: I welcome the Minister to the House. I also welcome the legislation, the passage of which I will not delay.

The convention arises from the need to acquire and use mobile equipment of high value or economic significance and to facilitate the financing of the acquisition and use of such equipment in an efficient manner. It recognises the advantages of asset-based financing and leasing for this purpose and will facilitate such transactions by establishing clear rules to govern them. The convention is born of the need to ensure interests in such equipment are recognised and protected internationally. It is desirable to provide broad and

mutual economic benefits for all interested parties and this is also recognised by the convention. Such rules must reflect the principles underlying asset-based financing and leasing and encourage the autonomy of the parties necessary in such aviation transactions.

The convention seeks to establish a legal framework for international interests in such equipment and attempts to create an international registration system for their protection. It provides for the constitution and effects of an international interest in certain categories of mobile equipment and associated rights in the aviation sector, which is a progressive and much desirable advance in international aviation measures, and I welcome its enactment.

The convention adopts the asset-based financing practices widely used in the United States and weaves them into an international agreement. Specifically, the convention establishes an "international interest", which is a secured credit or leasing interest with defined rights in a piece of equipment. These rights consist primarily of the ability to repossess, sell or lease the equipment in case of default and the holding of a transparent finance priority in the equipment.

Priority will be established when a creditor files, on a first-in-time basis, a notice of its security interest, in a new high-technology international registry. Once an international interest has been filed by a creditor and becomes searchable at the international registry, that creditor's interest will have priority over all subsequent registered interests and all unregistered interests, with a few exceptions. The international registry will be searchable on a 24 hour, seven day a week basis. Fees will be charged for filing a security interest in the international registry and for other services connected to use of the registry.

The rights and enforceable remedies created by the convention and aircraft protocol are designed to reduce the risk assumed by creditors in financing transactions in many parts of the world. In many countries, the risk factor is significant because local laws do not protect lenders in the event of default or bankruptcy or are highly unpredictable. This uncertainty is compounded because aircraft can and do move readily between countries and this drives up the cost of aircraft financing in many countries, which is reflected in the interest rate the financier charges. Measures that reduce the interest rate will reduce the cost of aircraft and, ultimately, the cost of travel, which will be welcome.

The convention seeks to reduce this risk in a number of ways. For example, it provides financiers with a number of key rights with respect to an aircraft financed to an airline of a country that has ratified this convention and protocol. These include the right, upon default of a debtor, to deregister the aircraft and procure its export; to take possession or control of the aircraft, or sell or grant a lease in the aircraft; and to collect or receive income or profits arising from the management or use of the aircraft.

The extent of these rights and the speed with which they can be exercised will be a function of the declarations a country files at the time it deposits its instrument of ratification. These declarations set out which remedies that state will allow and the means by which the remedies can be implemented. It can be expected that the greater the remedies a state chooses to recognize in its declarations, the greater will be its benefits.

These benefits will take the form of lower financing charges and fresh sources of capital for aircraft financing. This will particularly benefit developing countries whose carriers have had to pay high interest rates or who have been unable to access the commercial credit markets at all because of their credit risk. The ability of countries, which have historically financed aircraft acquisitions through sovereign guarantees, to make use of asset-based financing will allow them to use such guarantees for other domestic purposes.

The International Civil Aviation Organisation will supervise the international registry, which will be based at Shannon. I welcome the decision by ICAO to select the Irish company Aviareto to operate the international registry of financial interests in aircraft under the convention. A number of years ago we lobbied for the location of the Irish Aviation Authority at Shannon but we were not successful. The Government decided it should be located in Dublin. I am pleased this body will be located at Shannon.

Aviareto fought off stiff competition from Canada, Singapore and Spain to win this contract. It is good news for the aviation industry. Ireland has a high profile and good reputation in aviation with major maintenance, repair and overhaul and aircraft leasing companies based here, particularly in Shannon. The location of the international registry will add to that reputation and it will allow Ireland to play a more central part in the international aircraft financing business. It is also good news for Shannon, which, unfortunately, could face its own concerns over the future viability of its aviation sector, particularly with the advent of the open skies policy in the near future.

This convention, as an international agreement, could result in significant economic benefits to Ireland and other countries and could help facilitate the modernisation of airline fleets around the world. The convention is likely to help aircraft manufacturers to increase exports. For countries that manufacture aircraft there will likely be increased exports as the number of aircraft orders increases. Increased exports also could mean more jobs for exporter countries such as the Ireland. It also could help developing countries to upgrade their fleets at reduced financing costs. The treaty and airline protocol provide financiers with several key rights concerning an aircraft purchased by a country that has ratified the convention, including the right to seize the aircraft or sell a lease in it. Those guarantees are likely to

[Mr. P. Burke.]
lead to lower financing charges and the opening of fresh capital sources.

I welcome this convention and I am glad that it will pass swiftly. It will do much to improve the international aviation sector. I hope there will be speedy decisions on the construction of a new terminal at Dublin Airport and on the Aer Lingus question because these issues have been ongoing for too long. The Government is not given a high enough priority to both those issues. I urge the Minister to make speedy decisions.

I refer to helicopters, which we can all see is very much a growing industry. That their number is on the increase is causing problems regarding landing and planning permission, and I ask the Minister to set policy in that regard. There are two types of helicopter, those owned by private individuals and those run by people who provide a hiring or leasing service to companies and individuals. The issue of where they may land and take off is causing concern in some communities. It is certainly worrying those who own such helicopters. I would like the Minister to arrange a debate on this issue at some stage or draw up guidelines regarding how the area proceeds in future. I welcome the Bill and wish it a speedy passage.

Mr. Dooley: I join my colleague, Senator Paddy Burke, in welcoming the Minister for Transport, Deputy Cullen, to the House for what appears to be a relatively straightforward Bill allowing Ireland to ratify the Convention on International Interests in Mobile Equipment, known as the Cape Town Convention, together with its protocol, and to adopt them into Irish law.

This creates an international legal framework to facilitate the asset-based financing of aircraft, their engines and helicopters. The convention and legislation are very welcome since, while they appear rather obscure, their positive effect will be to continue to reduce costs in the aviation sector, in particular the cost of aircraft, something one hopes will result in lower air fares. The dropping of charges across the aviation sector generally has led to lower fares. I suppose it comes at a very welcome time, since oil prices are increasing. I know some airlines have been hedging in that regard. However, they are now reaching the point where they will have to purchase oil on the open market, and one hopes this legislation will have the knock-on effect of ensuring air fares remain at their present relatively low level. We must obviously be mindful of that, since oil prices have the capacity to increase fares.

The lending institutions have signalled their welcome for the convention and stated their willingness to reduce lending rates when it is adopted. I understand it will enter into force when eight countries have signed up, and six have already done so. It is to be hoped that Ireland will be the seventh. Anything we in this House can do to speed the Bill's passage is good. It will

afford protection to lending institutions regarding asset recovery in the event of airlines or owners of aircraft defaulting.

In the fares war that has developed between airlines, it is delightful to see that they have taken a different approach to reducing costs rather than focusing, as they have recently, on airports. Unfortunately, heretofore, the entire focus of reducing or eliminating costs for airlines has been on airports. It is now common practice that landing charges are reduced to unsatisfactorily low levels and in some cases to nothing. There seems to have been an effort on the part of certain low-cost carriers to create a race to the bottom in service delivery and payments for airport services. That must be examined.

Forcing down landing and ground handling charges is creating severe difficulties for the airports' capacity to deliver services in line with customer demands. Low-cost carriers do not want to pay for services, but they jump up and down when they are not delivered to their expectations. That must obviously be addressed. There is now an expectation among some low-cost carriers that the taxpayer should carry the cost of airport infrastructure, and that is totally unacceptable. It is a little like the little piggy who stayed at home paying for the little piggy that went on holiday. We would not want to see that situation evolve.

This is having a serious impact on individual airports, particularly in the light of recent, very welcome change following the State Airports Act 2004, which separated the three airports and allowed them to manage their own business effectively and efficiently. At the same time, it is still creating some level of difficulty for them, since they must now recover the costs associated with the airlines through charging higher prices for car parking, cups of tea, coffee and whatever else is sold in the airport. That price transfer issue is causing difficulties for the airports' operation, a case in point being Shannon Airport, with which I am fairly familiar from a home perspective. The new chair, board and management are finding things difficult in the new environment of low-cost carriers.

There must be balance, particularly where airports must stand firm while offering good value. There can be no return to the old days of their having a very high cost base and expecting the airlines to pay for it. That day is gone, something accepted across the board. However, there is also a need for balance to ensure there is no downward spiral of cutting costs to such a level that the airport cannot provide the service without stretching matters in some other peripheral area. Ultimately, that must have a negative effect. One can only charge so much for parking or a cup of coffee before one reaches the point where people will refuse to purchase anything at the airport and find another means of getting there. Then one is back to the question of who pays to provide the service to the airline. There must be balance in the discussion.

In the case of Shannon, there is a proposal to outsource the entire catering section. For some time, this has been a very profitable division in the airport. It has loyal staff and a very dedicated team that has worked hard over the years in an efficient, open and frank way to get the work done. The nature of their work is such that, particularly in providing services to some of the military aircraft that go through late at night or early in the morning, they have adopted specific work practices. It is now unfortunate that their work has not been enough and that the outsourcing of their service is required to cater for the greed of those airlines that are creating an impossible situation. Morale among the workers is low as a result, something that must be addressed.

The management seems to have been forced into a situation where it is offering no alternative to outsourcing. Through the Minister for Transport, Deputy Cullen, I call on the chairman of the management team at Shannon to engage in meaningful dialogue with the staff, particularly those in the sections to be outsourced. It is important to recognise that the State Airports Act 2004, through the Department of Transport and the actions of the Minister's predecessor, Deputy Brennan, provided full protection to employees regarding pay and conditions, something the present Minister has also supported. It also stipulates that there may be no compulsory redundancies. That must be taken into account in any relevant discussions.

Dialogue and an openminded approach to the debate are needed, as is a recognition that workers who have very much been part of the airport's success must have their concerns taken into consideration. All concerned, including workers not only in Shannon but in the three main airports and their regional counterparts, recognise change is needed. There has been a great deal of change right across the international aviation sector. At the same time, while the airports have obviously been unbundled, a process the importance of which we all accepted, there is still a need for them to stick together against the aggression of the profiteers in some of the low-cost carriers to ensure that there be no diminution of service to the point that one is faced with an overcrowded cattle shed. That would not be welcome from anyone's perspective, certainly not with regard to any of the proposals for new terminals, whether in Dublin or Cork.

There have been references to some airports being "gold-plated". That term has been used too liberally and does not reflect the approach taken by those designing the terminals. Obviously, some of the low-cost carriers would desire to have facilities at such a minuscule level that their costs would cease to exist. At the same time, one expects airports to provide an efficient service to consumers. If that continues, the airlines will get great credit for offering low fares and the airports, which are struggling to offer a service to facilitate airlines, will be seen as nasty for having

to charge exorbitant rates for car parking, teas and coffees. The queues at many airports are very long because airports do not have the resources they need to handle increased passenger numbers. There is a need for control and balance in this debate. I ask the Minister to ensure that low-cost travel does not lead to the travelling public receiving a poorer service on the ground.

The positive outcomes which will accrue to Ireland as a consequence of the Cape Town Convention do not just involve lower fares. The Minister mentioned that an Irish company has been awarded the contract to manage the international registry, which is a key aspect of the infrastructure being put in place to implement the convention. It is great that the Department of Transport has entered into a public private partnership to ensure that the registry is based here. As the Minister said, the importance of the contract does not relate to the ten or 12 jobs which will be located here, but to the international prestige that will accrue. It demonstrates that the capacities, skills and ICT expertise needed to manage a registry of this nature are available in Ireland. The value of the equipment and facilities which will be managed in Ireland indicates that this is a high-worth area. The Minister mentioned that accountancy companies and legal practitioners in this country will do the work associated with these companies. Although the direct employment will be relatively small, the overall impact of the registry being located here will benefit this country significantly.

I welcome the Bill. Given that the registry is to be located here, it is particularly important that Ireland will be one of the first countries to adopt the Cape Town Convention. It is important that this Bill is passed without delay. The significant increases in the price of oil in recent years, which are causing difficulties in the low-fares sector, might start to affect the cost of fares. Airlines have started to take a broader approach to the process of reducing costs. Rather than continuing to try to reduce airport costs, they should examine the financing of their aircraft and some of the other facilities and services they provide. They have not examined the possibility of trying to reduce the quality of aircraft, for example, although we would all be concerned if they did so. They seem to think they can reduce the quality of the service given to people in airports. That needs to be examined.

Mr. Ryan: I am tempted to speak about Cork Airport at the beginning of my contribution, rather than at the end, so that I can stay in tune with Senator Dooley. I will not resist the temptation to say some things about policy, however. This Parliament has a peculiar role in assessing this legislation because 43 of the Bill's 53 pages consist of an international convention that Members do not have the power to amend. I am not complaining, but simply stating that the power of Members to scrutinise the Bill is restric-

[Mr. Ryan.]
ted. I will ask a few questions about the Bill in a moment.

No rational person could do anything other than welcome this Bill. All Irish people should compliment those involved in winning the contract to run the international registry. As I was reading the explanatory memorandum and as the Minister listed the countries which competed with Ireland to win the contract, I realised that it was not an accident that an Irish company won it. It happened as a consequence of the good decision, which was taken by a Government I did not support, to attract various forms of financial services to this country and to assemble people with a considerable range of skills in one location.

Those who advance development theories about clusters, etc., are heavily validated when one considers that jobs are being created in the aircraft leasing sector, which is far removed from banking. The aircraft leasing services in this country which did not succeed were useful in that they helped a large number of individuals and professions to develop skills in this area. People say that the tradition of making barrels in County Louth led to the development of the furniture industry in County Monaghan and one can draw a similar parallel in this regard. This country's achievement in this area is to be welcomed.

If one were to accept the opinions of some of our more pessimistic economists, one would think that this country's current level of economic achievement is a blip and that it is inevitable that we will revert to our past status at some future time. There is no such thing as an optimistic economist, as they seem to deal in degrees of pessimism. There is ample evidence on many levels to suggest that we have moved to a different level of economic performance in many areas. I am not trying to make life simple or be complacent. Some world competitiveness bodies have suggested that some areas of government and public service have not adjusted to the new realities of how this country does business. Some of them have complained about the Government's lack of speed, flexibility and responsiveness when confronted with new situations. This country's success in winning the contract for the international registry is to be welcomed in that context.

I have read the Cape Town Convention, but I would be exceeding my capacity for overstating things if I were to pretend that I understand all its contents. I challenge the Minister to state that he understands everything in it. I do not expect him to comment on the matter, at least not on the public record. I am sceptical about it. I understand the bones of the convention, however. The Bill's explanatory memorandum is quite clear, as these things go. The Minister's speech was also quite easy to follow. Any questions I have about the matter are being asked simply for the purposes of clarification.

I understand that participation in the registry by a leasing company, financing institution or purchasing body will be voluntary. Such organis-

ations will not be compelled to participate in the registry. The registry's appeal is that it will lead to a decrease in the rate of interest to be paid by those who borrow money. We must assume that companies which purchase aircraft will believe that the reductions in interest rates will be worthwhile, given the increased likelihood that such assets will be seized or at least be accessible. In that context, we need to assume that most aircraft purchasers do not get involved in dodgy business, even though a great deal of dodgy business takes place in the world.

I look forward to learning of the degree to which the register is used by some of the thrusting and competitive low-cost airlines with which we are familiar. Perhaps they will choose to pay higher interest rates rather than using the register. They might not disclose some of the under-the-counter sweeteners being used. I refer to the imposition of low costs, rather than corruption. As a casual observer of the airline industry, I am aware that the official price that is cited for new aircraft often bears little relationship to the price offered to a major purchaser.

There is also the issue of explicit or implicit government subsidies. I believe European support for Airbus is unfairly criticised because there is no explicit similar support in the US. Much of the subsidy for innovation in that area comes from the US military budget. Although this support filters into civilian aircraft it is not classified as a subsidy. This leads to the ridiculous situation we currently have in the World Trade Organisation, WTO. There could be major implications for the European aerospace industry on the day the new Airbus is being tested. I think it has landed by now so I need not worry about the superstitious implications of welcoming it before it lands.

This is a huge achievement for Europe. The US had world dominance ten or 15 years ago in this area and the United Kingdom was a brief contributor before it pulled out. Boeing became an effective world monopoly when it amalgamated with McDonald Douglas. That Airbus became the dominant aircraft manufacturer in the world is a significant European achievement. This comes at a time when we tend to flagellate Europe for its lack of competitiveness.

One can make all the aircraft one wants but this counts for nothing unless they are sold. The scale of financing this is enormous. Even our most famous low-cost airline cannot finance the purchase of a new fleet from its own assets. Either it finances the deal from the manufacturer through delayed payments or it borrows the funds. The situation will be better for everyone, including the consumer, if the financial system is regulated. I agree with Senator Dooley that it would be best if airlines competed on the real cost of air travel rather than the companies' ability to extract subsidies from the taxpayer.

I was intrigued by the reference to aircraft, engines and helicopters. The protocol also mentions railways and space assets. The overlap

between military and civil in space is less clearcut than in other areas. Where does the necessity for inclusion of space assets arise in this convention? I am intrigued by the introduction of space assets into what is a complex piece of international accounting, or a registry of deeds.

There is no explicit reference to the EU. Is there no single EU position or code of law on this? It seems extraordinary that every single country in the EU would deal with this in a different way. We might find ourselves in a situation where Ireland would be a signatory to this protocol and Germany, France and the UK would not. I am not sure of the implications of that, but at the international level of the WTO the EU negotiates on our behalf. The dispute between Boeing and Airbus is being carried out by the EU and the US rather than Britain, France, Germany and Spain and the US. I am surprised this convention is being dealt with in a different way.

I am also intrigued by the countries that have ratified this. They are a motley crew. I am glad the US, a major player in the world economy, is a signatory. It has not participated much in recent years but it does have a financial interest here. The other five — Panama, Ethiopia, Nigeria, Pakistan and Oman — are not from the dynamic part of the world economy, neither are these countries noted for their aircraft manufacturing. If some of these countries are involved in the funding of aircraft leasing I would like to know the source of the money. With the exception of the US it is a strange collection of countries. Diplomatic convention precludes the Minister from saying the kind of things I am allowed to say. Nevertheless perhaps he could make some comment on these countries using diplomatic language.

As I understand, the purchaser or leaser and the supplier will agree in which country's court they will settle the case. I would not like to depend on the court in Ethiopia to sort out the €250,000 I might have loaned to Ethiopian Airlines. Pakistan is a dictatorship and I would like further explanation on the significance of the countries that have ratified this convention. When will other countries ratify it? What about Britain, Germany, France, Canada, Australia, South Africa or other developed or developing countries?

The discussion on aircraft leasing invites some extraneous comments. Although I do not always agree with the present Minister I see him as someone who likes to make things work. I believe that the current emphasis on low fares is in danger of leaving us with one large international airport in Dublin and a number of less accessible airports. This large airport is overcrowded and under-resourced. There are fewer and fewer opportunities to link into the international air service from Cork Airport. The number of destinations one can fly to from Cork, without having to collect luggage at Dublin, has decreased dramatically. This has happened since Aer Lingus rediscovered itself.

An international businessman who is interested in investing in Cork will have to collect his baggage in Dublin, clear customs, and check in again. There is no way to send luggage via Aer Arann to Cork or Shannon. That may sound like a minor inconvenience but serious travel by international investors is incompatible with provincial airports where luggage cannot be transferred and tickets cannot be changed. Recently, I was in stuck in Amsterdam on political business and intended to return to Cork via an Aer Arann flight from Dublin. KLM went to enormous lengths to fly me to Dublin but could do nothing about the remainder of my journey because Aer Arann lay outside the loop. My inconvenience was minor but this situation could negatively influence perceptions of competitiveness and attractiveness.

The IDA informed me that street litter is as significant as costs in deterring potential investors. Investors may be discouraged if, upon exiting airports, they see that their surroundings have not been looked after properly. My experience of travelling from Amsterdam to Cork might also have a negative effect on investors' perceptions. Now that it has returned to an even keel the Minister should discuss with Aer Lingus the restoration of ease in international travel through Dublin to the two major regional airports. When the airline provided a regular service between Dublin and Cork there was efficiency of movement and ease for people in rearranging flights.

Mr. Wilson: I welcome the Minister to the House. He has had a long day here. When I saw this Bill on the Order of Business, I wondered whether this topic should be the responsibility of the Department of Communications, Marine and Natural Resources. However, after reading the Bill I am satisfied that it is being dealt with by the correct Department.

The Bill will allow Ireland to ratify the Convention on International Interests in Mobile Equipment and Protocol on Matters Specific to Aircraft Equipment which was opened for signature at Cape Town on 16 November 2001. Enactment will give the convention and protocol the force of law in Ireland. The purpose of the convention and its associated protocol is to create an international legal framework to facilitate asset based financing of aircraft, aircraft engines and helicopters. Asset based financing means leasing and loans where the principal asset securing the debt is the aircraft involved. As aircraft regularly move between countries and international legal frameworks, it is necessary to assure lenders that they may recover control of the aircraft if the borrower defaults on the lease or loan repayments while the aircraft is in another country. By reducing the risk to lenders, the convention will benefit airlines through costs and finance. It will also benefit consumers in the form of lower fares. I agree with the hope expressed by Senator Dooley that reductions in fare do not come at the expense of service or standards at airports.

[Mr. Wilson.]

The incorporation of the convention into Irish law will only impact on large scale financing contracts between debtors and creditors who choose to take advantage of the protection of the convention. Persons and firms involved in such large scale finance will be professionally advised on all aspects of their financing contracts. To gain the protection of the convention, financial interests in aircraft must be recorded in the international registry which is defined in the convention. The international registry will be entirely computerised, operating over the Internet 24 hours per day and seven days per week. It will be self-financing through user fees and will be regulated by the International Civil Aviation Organisation.

The Department of Transport participated in the preliminary work for the design of the international registry system, which included hosting a working group in Dublin. The registry is separate from the role of the Irish Aviation Authority in recording aircraft on the register under the 1944 Chicago Convention for the purpose of safety supervision. The international registry is solely concerned with recording financial interests in aircraft and has no role in aircraft safety. The ICAO held a competition in 2004 to select a company to operate the international registry for its first five years. The proposal submitted by an Irish company was unanimously selected, as has been noted by a number of speakers. I welcome that this company, which succeeded against companies from Canada, Singapore and Spain will be based in Shannon.

I support Senator Dooley's interest in the future of Shannon Airport. I also welcome the support for the airport from Fine Gael in this matter. Members of that party have often been unsupportive in the past. It has sponsored motions which could have jeopardised jobs in the region.

The convention and protocol will enter force after ratification by eight countries. In view of Ireland's support for the project and the location of the international registry company in Ireland, it is hoped that Ireland will one of these countries. To date, six countries have ratified the convention. I support this Bill and wish it a speedy passage through the house. The legislation will not incur a charge on the Exchequer beyond a sum of €40,000 for the purchase of shares in the company.

Dr. Mansergh: I welcome the Minister, his officials and this Bill, which was initiated in this House. The convention serves an important practical purpose because aircraft leasing is an integral element in the operation of air companies of every type and size. Ireland has a track record in this area through, for example, the operations of Guinness Peat Aviation during the 1980s. As has been mentioned, this area is a tailor made addition to the international financial services in which we have been successful over the last 16 years. The success of the Minister and his Depart-

ment in attracting this operation to Ireland against international competition was a considerable coup. We should also credit the Minister's predecessors, the Minister for Social and Family Affairs, Deputy Brennan, and Senator O'Rourke, who is now the Leader of this House. Upon our ratification of the convention, only one more signature will be needed for it to enter force.

I wish to use this opportunity to discuss related areas of air transport policy with which the Government is currently grappling. Leasing is relevant to the issues of ownership and acquisition of aircraft. The Government faces the issue of financing and securing the expansion of Aer Lingus. This decision will require detailed study and expertise. I have faith in the Minister, his advisers and the Government to come to the right decision.

I would make two or three points that I have made previously in this House on interests that must be safeguarded in regard to Aer Lingus because there is no doubt that Aer Lingus is a very valuable national asset with much goodwill and a track record. It also has the wider transatlantic connections that are vital to this country from an economic, social, cultural and tourism point of view.

One danger to be guarded against is that Aer Lingus, if it were to be privatised, would be swallowed up by a much larger airline which would subsume its interests. That does not necessarily have to be the case. I recall, for example, that there was much concern about Irish Distillers, which was a private company. It was taken over by Pernod Ricard some years ago without any obvious ill-effects in terms of the products used. We live in close proximity to British Airways and I would not like to see Aer Lingus become a satellite of its larger neighbour, even if it will, for the time being, be under an expert chief executive, Mr. Willie Walsh.

The second interest to be safeguarded is our transatlantic connections, not only from Dublin but also from Shannon. If it is possible for Cork to run transatlantic services I have no objection to that but it is essential to keep what we have; it does not have to be precisely on the existing basis. That may not be tenable in the medium to long term but it is essential that there is a certain minimum transatlantic traffic. I am aware there is some ambiguity about the ownership of the slots at Heathrow but the third interest is to ensure that Aer Lingus keeps those slots and that it keeps its name and identity because that, in a sense, is a marketing tool for Ireland.

The other aspect which is perhaps even more controversial is the question of ownership, operation and competition in airports. I take the point Senator Dooley made earlier about a race to the bottom, which we do not want. If one thinks of Shannon, in particular, where tourism traffic is a very important element, there must be a proper welcome, as there is currently, rather than something terribly basic.

One of the decisions the Government took last year was to separate the airports in terms of management. That is a more credible form of competition than what is sometimes talked of in regard to Dublin Airport. When people talk about competition between two airport terminals at Dublin, I wonder do they mean the sort of competition that there is, say, between the Bank of Ireland and AIB. The reality is that the terminals, whether conjointly or separately owned, are confined to one location. I see no possibility of locating an airport somewhere else in Dublin simply because the objections would be too great.

Many airports around the world have two terminals including Zurich, Delhi, etc. One terminal usually deals with domestic traffic and the neighbouring country and the other deals with traffic much further afield. Alternatively, it is divided up by airlines. Some airlines use terminal 1 and others use terminal 2 for all their flights. I do not agree with the notion that an airline like Ryanair, for the sake of argument, will be able to suddenly switch to another terminal because it has a minor row with the owners or that the managers of terminal 1 will be able to switch to terminal 2. That could not happen because of the level of disruption that would be involved.

The debate on this issue has become far too ideological. One must be realistic about the degree of competition. Efficiency and service to the public are what matters, not some mantra of an ideal competition that will only work to a limited extent in regard to airports. To the extent that there is competition between airports it is far more likely to be between Shannon, Cork and Dublin than between two terminals side by side.

There is also on occasion an anti-union undertone to some of the discussion, which I do not like. We ought to remind ourselves that this country's current prosperity to a level few of us expected to see 20 years ago is based to a substantial extent on social partnership. I do not hold with the idea that we can simply kick that overboard although, to be fair, I do not believe anybody in Government believes that. Social partnership has been maintained without break by all Governments over the past 20 years but the Minister would do a service were he to continue his efforts to inject some common sense and reality into the debate about two terminals. I am sure he has been doing that for a long time but we must get away from the artificial contradiction between competition on the one hand, which is good, and a State run operation on the other, which is bad.

Labhrás Ó Murchú: Fáiltím roimh an Aire agus na hoifigigh freisin. I agree with much of what Senator Mansergh said. He moved away from the debate slightly but spoke a good deal of sense. I could identify with many of the sentiments he expressed, something to which I will return shortly.

This legislation is both important and relevant for Ireland. That is underlined by the near unanimity with which it has been greeted in the

House today. For the past years the aviation industry has been experiencing severe challenges to the point where major airlines have gone to the wall and where we have seen the merger of other airlines and partnerships between airlines. Those of us who have had the opportunity to travel appreciate the major progress made by the aviation industry and the streamlining that can take place but we still have to contend with the old bugbear, namely, the cancellation of flights. In the past few weeks, friends of mine experienced problems with three different flights in the USA, one of which was cancelled while the others were delayed for several hours. It is an issue which must be confronted.

Among the great difficulties in Ireland are the restrictions on subventions with which we are now faced. It is a question of an airline being viable in its own right. Aer Lingus has proved it is possible to come back from the rails and be competitive. I have chosen to fly with Aer Lingus rather than with Ryanair or other low-cost carriers because I have a special respect and regard for the airline which has provided a quality service over the years. The service impacted in many ways on our image and economy. As the aviation industry is one of the tools of tourism, it is important that Irish airlines can access capital when it is required. As a small country, Ireland has a smaller chance of accessing capital than larger countries. Banks will provide one with a loan to purchase a house or some land as they know the house or land will remain in position, but an aircraft is a different matter. An aircraft can travel outside the jurisdiction which raises questions for banks on how they can be sure they will be able to recoup any loans.

While it is important to make the provisions outlined to reassure lenders, we should not ignore the advantages for the aviation industry itself as they are paramount in the current climate. A great deal of hype and codology is published in the media by people setting out stalls though not as transparently as they pretend. Most of the people in question are not in the position, given their current assets, to buy the type of fleet to which they refer. One wonders if we can return to reality.

I do not seek to patronise the Minister when I say he is an absolute breath of fresh air in his focus and decisiveness. Whenever he says anything decisive and focused, however, somebody will want to take a swipe at him. The swipe which has been taken in this instance has nothing to do with the welfare of the aviation industry in Ireland. If an extra terminal is required in Dublin, it should be a question of providing what is best. I return to what Senator Mansergh said about competitiveness. We throw such terms around like confetti at a wedding, but nobody ever defines what they mean. Speaking in this way is often an excuse for a lack of action and in place of ideas and vision. The debate is put off the rails and we lose opportunities and focus. We would

[Labhrás Ó Murchú.]

do a great service if we were focused on what was required and approached the matter practically.

I remember a famous debate on the “Late Late Show” in which Monsignor Horan spoke about establishing an airport at Knock. Many bright people in politics at the time who could not identify with rural or provincial Ireland spoke of a boggy, soggy piece of land and asked how an airport could be made to work there. I can still remember Monsignor Horan’s response that his airport would cost no more than one DART carriage provided and maintained for Dublin. If one looks at the cost of putting infrastructure in place, one will see that he was quite right. Monsignor Horan’s vision has worked not only to provide an airport but to regenerate an entire region. The people of Britain can fly from Luton to Ireland every weekend and be part of the nation. It has given them the opportunity to spend their money here and help the economy. It is exactly the spirit we require in approaching the larger picture of Dublin Airport and the Irish aviation industry. There is no difficulty in securing consensus in the House on legislation like the Bill before us because smaller, peripheral issues are not being allowed to distract us from our main focus. I wish we could adopt the same approach in discussions of the national interest.

I am not against private ownership and, indeed, would probably be a communist if I were. However, there are times when the national interest is best protected by public ownership. I will not spell the principle out in great detail, but it is one of the reasons Aer Lingus gave us the best service it could. While I am not against low-cost airlines, I hope we are not moving toward a scenario in which all carriers operate in that way. The nature of the services on board low-cost airlines in a climate of affluence will create problems. One is hardly on board some of the aircraft involved before one finds oneself buying a ticket, bottle of orange or soggy sandwich. Soon one will have to pay for oxygen if one must use it. While I accept the need for low-cost airlines, they should not lead to the elimination of quality services which people want and can afford. Without the Bill, competitors will not be able to approach the market to secure the money required to put a new fleet into the air and sustain their businesses.

Senator Ryan spoke to the reference in the protocol to space assets. It caught my attention also and I am sure the Minister will refer to it in his closing statement. I am a little paranoid at times about some of these issues, including the war in Iraq. When I looked at the Cape Town Convention first, I did so positively. I am happy it is good for Ireland and delighted it is being incorporated today. I seek always, however, to establish what the small print says. While I do not think the international registry will mean we are dominated, the reference to space assets worried me slightly. I would like it to be spelt out whether we are dulling the line between the commercial and the military. It would not be good for the

aviation industry or smaller countries like Ireland if we were to do so.

I do not see any difficulty with the type and number of countries involved. If some of them are developing nations, I would like to be in partnership with them. I have seen that most countries which have moved beyond the initial problems of development are full of energy, enthusiasm and vision like Ireland was in the 1950s and 1960s. Developing countries are prepared to work hard to make their economies a success. Our standing and expertise, which is evident in the way we won the competition to secure the site for the international registry, can help those countries.

The Minister is on the right track and I wish him well. We are lucky to have him. We have had one debate in the House on the domestic aviation industry and I hope we can return to the matter as things develop.

Mr. Leyden: I welcome the Minister for Transport and his senior civil servants who are here to advise him on the Bill. I thank him for bringing this important legislation to the Seanad in the first instance. While the title, the International Interests in Mobile Equipment (Cape Town Convention) Bill, does not grab one as especially significant, a reading of its details reveal its great importance. The Bill has major implications for the aviation industry. The Department of Transport, in which I served as a Minister of State in 1982, is very progressive. It has many issues to deal with at present. It was deeply involved in securing the international registry for the State. Sixty people will be employed in Ireland. The company recently announced the expansion of its activities in Letterkenny which will involve the employment of a further 123 staff. Aviareto will be a small employer with fewer than ten staff based at SITA’s office in Dublin. It is most encouraging that we could secure this deal through our diplomatic service and the work of the Department and that we were successful in beating off stiff competition from Canada, Singapore and Spain which are all most progressive countries. Singapore is not a large country but it is very advanced in aviation terms. It is a great success for the Department.

I am delighted the Land Registry was involved in the registering process. As the Minister is aware, it is due to relocate to Roscommon so there is a local link between the Bill and decentralisation to Roscommon. As far as I can see the Land Registry had an input into the preparation of this registry. I welcome the Bill.

This is an exciting time in aviation with the successful take-off and landing of the Airbus A380. I welcome its successful test flight. This aeroplane can cater for up to 800 people on one flight which has certain risks involved. It will be a major competitor for the jumbo jet. Will the Minister confirm if the landing aprons at Dublin Airport can cater for the Airbus A380? That is the direction in which the future of aviation is going.

We constantly hear about the difficult situation in Dublin Airport. Having used the airport in many different capacities over the years, I must say I did not find its management to be the greatest. It has neglected a great asset. I could never understand why one had to drive up to five miles to park one's car. It was disgraceful that one had to wait for a bus to turn up on coming back from a holiday at 3 a.m. or 4 a.m. in the morning. The management at Dublin Airport deserves to be replaced by an authority which will be far more progressive than it has been heretofore.

This is an important period in the development of Dublin Airport and the Minister, Deputy Cullen, is fortunate to be Minister for Transport on the eve of important decisions for Aer Lingus, the Dublin Airport Authority and the other airports. The Minister appears to have an open mind on these matters. The duty of the Government is to ensure the decision taken is in the best interests of Ireland Incorporated. That is the fundamental purpose of the Minister in this matter.

Ulick McEvaddy's presentation of his concept for the airport in last Sunday's newspaper article sounds very exciting, as does the proposal by Bernard McNamara. Neither of these people has approached me and I have no involvement in the matter, good, bad or indifferent. My only interest is from the point of view of the best possible decision being taken for Dublin Airport. Bernard McNamara has also acquired land adjoining Dublin Airport. He is a former county council colleague from Clare County Council and a former candidate for Dáil Éireann. He has also put forward very exciting plans for his concept. I am not sure if the Minister will have one, two or three new terminals in Dublin Airport. There are certainly great options available.

I very much resent the recent advertisement by Michael O'Leary. I cannot understand why he does it. The headline reads: "Habemus chaos at Dublin Airport." Depicting the Taoiseach as Benedict XVI is a very serious matter. I cannot understand why an individual running a successful airline would do this. We should remember that he did not found the company. It was created a long time ago by the Ryan family whom I compliment. They do not appear to get much recognition for what was achieved in setting up Ryanair. Michael O'Leary might like it but I do not think the public is very impressed by that type of advertisement. The travelling public is paying for them.

I am more concerned about the cutbacks in Ryanair where staff in headquarters are not allowed to charge their telephones. That is rather petty. As Senator Ó Murchú said, we will probably be charged for the oxygen in aeroplanes if the opportunity arises in future. That said, I know nothing about Mr. O'Leary but he is probably delighted that he gets mentioned in the House and that he is recognised. I do not think any individual will browbeat the Taoiseach or the Minister, Deputy Cullen, as far as making the right decision is concerned.

The right decision will be made by the Government when it looks at all the options, their effects, the speed with which they can be implemented, who will manage this situation and if there will be competition within the airport. The Minister already said he wants competition with airports abroad not internally, which would result in chaos ensuing.

I heard an expert on the matter speaking recently on the radio. He explained that one overall management should be put in place to control the situation, but the internal details of who runs what was not relevant. The taking off and landing of aeroplanes must be controlled by one agency so as to avoid chaos. I endorse the work the Government has been doing for a considerable time in this regard. It is close to decision time. I wish the Government well in its decision. I have a completely open mind as far as the proposals are concerned but I am attracted by individuals who can put up a case to supply a terminal building to the State and lease it to the airport authority. That kind of initiative should be encouraged. I commend those individuals and hope they can all be taken on board in this exciting development.

From my experience of Baldonnel Aerodrome, which is out of the city, there is potential for its development for the use of small aircraft. The Minister has probably been briefed in this regard. The Air Corps is based there. Most European airports have a military aspect. It is worth looking at this matter. Senator Ó Murchú referred to Knock Airport which was a tremendous success for Monsignor Horan, the Fianna Fáil Administration and Charles Haughey. I was on the Front Bench when the invitation came in from Monsignor Horan to the Leader of the Opposition who at that time said he would yield to nobody but the Pope regarding the invitation. If the Pope was going to open it I think Charles Haughey would have stepped aside, which brings me back to the aforementioned newspaper advertisement. I was very proud to be there when Knock Airport was opened by Charles Haughey, then Leader of the Opposition.

It is a pity the registry was not in place when another Government spiked Irish Shipping. It was the greatest scandal in the history of the State that the plug was pulled on it. I will not refer to the Minister who was responsible because he is deceased but Garret FitzGerald's Government pulled the plug on that industry. I hope the Minister will be able to do something for those men and women who were badly treated because I think they have a case against the Department.

Minister for Transport (Mr. Cullen): I thank the Senators for their contributions which were most positive. This is important legislation which provides a uniform international legal framework for aircraft financing. It will greatly assist the growth of air travel and continuing safety improvements through the use of newer aircraft with the most modern systems. I join with others

[Mr. Cullen.]

in congratulating those who were successful in bringing the international registry here. It shows the depth and experience and the quality of the people available here that this was the right location. The use of helicopters was mentioned by Senator Paddy Burke. Where helicopters may land is a matter for the planning authorities and not my Department, and regulations on the safe operation of helicopters come under the remit of the Irish Aviation Authority.

Senator Paddy Burke and others referred to the fact that Aviareto will be based at Shannon. As there seems to be some confusion on the matter I wish to clarify that as I stated in my speech, Aviareto will be based in Dún Laoghaire at SITA's existing offices. The confusion may arise because there are proposals to base the Irish Aviation Authority at Shannon. The principles of what Senators stated regarding regional development and the relocation of company assets throughout the country to create economic activity are still valid.

Senator Ryan concentrated on the nations that have ratified the Cape Town Convention and Protocol. The list of those countries attempting to get on the international registry illustrates its worth as those are probably the countries that would have the greatest difficulty in making it attractive to finance aircraft. I would not read anything into the fact that other European countries have not as yet ratified the convention, as I presume they are, similar to us, in the process of moving it through the system. The competition faced by this country to base the registry here was significant, which also indicates its importance. The benefits of ratification for Irish airlines will be significant and immediate.

The point was raised that the convention also deals with space assets. This is intended to facilitate the commercial operation of communications satellites as opposed to any military operations and while that is in the protocol, it is not in this legislation as it has not yet been agreed at European level. It will follow on from the convention and we will deal with it when it does.

I do not have to hand the information required to answer the question on the Airbus A380 but I can assure Senator Leyden that the developments happening at our airports make it essential for them to be able to deal with aircraft of this size and capacity. These new aircraft will be more environmentally friendly than current models as they will be fuel efficient and, as they are able to carry a greater number of passengers, will reduce the number of aircraft flying. These aircraft will provide a range of economic, social and environmental benefits and we must be able to cater for them. Not to do so would exclude us from a significant part of the airline business.

Growth opportunities for airlines operating out of Ireland, particularly for Aer Lingus, in long-haul flights are tantalising close, and for that reason I welcome the many positive comments of

Senators on issues other than those contained in the Bill. In particular I welcome the balanced and succinct comments of Senator Mansergh and I agree wholeheartedly with him.

I assure the House and my colleagues that what exercises my mind is finding the best outcomes for Irish aviation, the travelling public and Ireland, in order to ensure we have the best fixed asset and mobile facilities. I echo the call here today for good cost-efficient airlines. Cost-efficiency and quality are not mutually exclusive, and I bear that in mind when dealing with these issues. These measures represent significant opportunities for this country and I assure colleagues that the Government is determined to deal with them in Ireland's best interests. I thank Senators for their support for the Bill.

Question put and agreed to.

Committee Stage ordered for Wednesday, 4 May 2005.

Sitting suspended at 4.05 p.m. and resumed at 5 p.m.

Road Safety: Motion.

Mr. Morrissey: I move:

That Seanad Éireann

- notes the commitment of the Government to take a comprehensive set of actions to address the rate of injuries and deaths on our roads;
- acknowledges, specifically, the commitment of the Government to take measures to improve road safety and driver behaviour;
- welcomes the work of Government Departments and agencies to address the serious issue of road safety;
- notes with regret the loss of 118 lives on Irish roads to date this year; and
- urges the Government to continue its commitment to, and investment in, efforts to reduce the number of road traffic accidents on Irish roads.

It gives me great pleasure to propose this motion to the House. It is needed and timely, although I must admit that the statistics that will be referred to over the coming hours will make for extremely depressing listening. I would like to thank Mr. Eddie Shaw and the National Safety Council for their contributions on this issue. Mr. Shaw addressed the national conference of the Progressive Democrats recently and his views and insights should be compulsory listening for all. Those views are integral to my statement in the House this evening.

This motion was proposed in order to reaffirm Government commitments, to commend the work done to date, but most importantly, to save

140 lives this year. That is the central issue. The motion refers to the 118 people who have been killed on our roads so far this year. This is a brutal reality, but the true extent of the carnage is worse than that. For every fatality on our roads, eight more people are seriously injured. This means that since January 2005, there have been over 1,000 people either seriously injured or killed on our roads. Another way of looking at this is that 3,500 people will be killed or seriously injured by the end of this year. That is the context for this motion.

I wish to refer to the current road safety strategy, which is not being implemented at the necessary pace. The delay is due to the cross-departmental approach to addressing road safety. The Departments of Transport, Justice, Equality and Law Reform and Finance all play a crucial role in road safety. The problem is, however, that individual Departments cannot see the full benefits of resources they have invested in road safety measures. I will return to this point later.

When Mr. Shaw addressed our party conference in Cork this month, one point he made stuck in my mind and I wish to share it with the Members of this House. Members should keep the following three figures in their minds: 40, 30 and 20. The figure of 40 represents the number of people killed on our roads every month in 1997; 30 refers to the number of people killed on our roads, per month, in 2003; and 20 is the international best practice kill rate that we are aiming for. I use the term "kill rate" deliberately. There is no point in toying with euphemisms or pleasantries, people are being killed.

Members might ask the reason we are targeting a kill rate of 20 per month rather than a kill rate of zero. We must accept that transport and travelling has a cost. We have 97,000 km. of motorway, 1.9 million licensed vehicles and 2.5 million drivers, which carries a terrible cost. Given the level of activity on our roads, the cost is 20 fatalities per month.

We must look to experience in other locations for hope. The best practices in the world are in Victoria and Queensland, Australia. We can take steps to emulate those practices but we must remove certain barriers. The first barrier to be removed is finance. Narrow cost-benefit analyses have meant that our road strategy is progressing too slowly. The cost of implementing the strategy across Departments is clear, but the cost of not implementing it is not obvious enough. The UN has recognised this problem and produced a report on road carnage. To take the member states of the EU prior to accession, 45,000 people were killed in road accidents across the 15 countries in one year. There were 1.7 million people injured and of that number, 1 million went into acute hospitals through accident and emergency departments. This is a war by any other name and we must think of the costs this war incurs beyond the human misery.

My first critical message is that speed kills. There will be many complex arguments this

evening, but if only one message persists, it must be that speed kills. A recent experiment in Gloucestershire, England, proves this point emphatically. The speed limit there was reduced from 30 mph to 20 mph in some areas and the number of collisions involving pedestrians dropped by 80%. So far this year, 20 pedestrians have been killed on Irish roads.

My second critical point relates to human error in accidents. Road accidents are often viewed as pertaining to other people. This is not surprising because only one in six people will ever experience a serious collision. Statistically, an individual would have to drive 3.8 million miles before he or she could expect to be in a serious accident. Naturally it appears to be a matter for others when one looks at those figures. Accidents, from an individual point of view, are freak occurrences. However, from the wider viewpoint, accidents are not freak occurrences but are depressingly predictable, regular and stable.

Approximately 40 people are killed every month. Driver error is a key problem that accounts for approximately 90% of all accidents. The most vulnerable group is males aged 17 to 30. It is not simply the case that people in this group are bad drivers, as some would suggest, but they are inexperienced drivers. They do not realise the implications of driving even 5 km/h too fast. Inexperience, coupled with exceeding the speed limit by 5 km/h, can be catastrophic. When one adds inexperience, speed, drink, drugs and lifestyle issues together, one arrives at the particular phenomenon of high death rates between 6 p.m. on Fridays and 6 a.m. on Mondays. Regrettably, due to the bank holiday, that will be 6 a.m. on Tuesday of next week.

My third point is that enforcement alone will not address this issue. Education is the only hope for this target group. That brings me to the issue of traffic policing. Enforcement works best when one tells people what one is trying to achieve — what is being done and why. Openness, not gardaí in hedges or hidden speed cameras tell people what is happening. That is a critical point. Research shows that the public will support tough enforcement if it knows that it will save lives.

We can save lives. The 40, 30, 20 figures that I mentioned are not an idealised calculation by a mathematician. We did it in this country. We attained best international standards in Ireland from November 2002 to the end of February 2003.

Why did we do it then? We had just introduced the penalty points system, and what a momentous change that brought about. Many drivers slowed down just a little. It is as simple as that. Over that period we had a kill rate of just 21 per month. Now it is back in the 30s again, brutal evidence of what has happened, but it is the reality. The problem is that the penalty points system was built on inadequate technology. It unfortunately was not up to scratch. Drivers have realised this and speeding has again increased. Until the technology is up to scratch, the system will not reduce

[Mr. Morrissey.]

the kill rate, as we would like. The overlap of events such as the introduction of penalty points and the level of accidents can be startling.

We cannot let extraneous events lead to more deaths on our roads. Less enforcement means more deaths. If Garda resources are strained, as for example during the EU Presidency, we will see more accidents. We need to face up to this and to deal with it. We need to return to the post-penalty points model, but with adequate technology and this time we need to sustain it. That will cost money. The benefits and savings are not immediately obvious, particularly to the Department of Finance. However, the savings are there. With reduced accident levels, we free up resources in the health system. Remember, a serious road accident effectively shuts down a hospital accident and emergency department.

When accident rates fell in the summer of 2003, hospitals saw a reduction of some 50% in spinal injuries. Beaumont Hospital reported a major reduction in attendances. Health boards across the country recorded reduced numbers in accident and emergency units and these were real savings. This is where the importance of the inter-departmental approach lies. When it comes to road safety initiatives, the Department of Transport sees the costs, as does the Department of Justice, Equality and Law Reform and the Department of Finance. It is a scandal that we have no budgetary model to estimate the savings from safety strategies. I suspect major corporations have. It is not realistic to see the traffic corps, for example, simply as a cost. The consultants, Goodbody, estimated in 2004 that a single road fatality cost the State €2 million. The thousands of seriously injured also put a cost on the State. The cost to society of all road collisions is put at €1.1 billion. We must return to the target figure of 20. We must commit more funds and this time ensure that it happens. We can return to best international practice, if that happens.

To return to the target figure of 20 a few things are needed. First is the political will and we have that. The National Safety Council and others have recognised this. Local authorities must face up to their responsibilities. They have control over speed limits and these must be appropriate and consistent to win the support of the driving public. They set the limits and this is an onerous responsibility. The Garda enforce these and the public must be supportive. Limits must be appropriate and consistent.

We need tough enforcement. The public, as I have indicated, will support it, if the initiative is open and shown to reduce the death rate. As legislators we might face criticism for sanctioning tough measures, but we must not shirk from doing so. The minority who criticise us are strong in the media. The majority, who are served by the measures, are for the most part silent. Not all drivers are criminals, but all criminals are drivers.

Finally, we must work harder on the safety strategy. That is why the motion urges the

Government to reaffirm its commitment and investment on these issues. The safety strategy must be planned, funded, resourced and evaluated. That is the only way to achieve the goal and save 140 lives every year.

Mr. Dardis: I second the motion. I am particularly pleased to welcome the Minister for Transport, Deputy Cullen, to the House and to acknowledge the fact that the senior Minister has come to hear the debate. Senator Morrissey has set out the main features and challenges that face the motion. We all agree there is a need for ongoing commitment and investment in this area. The facts are dramatic and stark.

As of 9 a.m. yesterday, 118 people had been killed on our roads this year, in 107 accidents. Some 56 of those were car drivers, 23 were passengers, 20 were pedestrians, 15 were motorcyclists and four were bicycle users. Senator Morrissey referred to the cost imposed on the State by such accidents, which is significant. However, it is nothing by comparison with the trauma inflicted on the 118 families affected by these deaths and very many others who are affected by injuries on the roads.

Many suggestions have been made as to why accidents occur. On the Order of Business in the House last week questions were raised about the state of the roads and the degree to which accidents had been caused by defective surfaces. In one high profile incident in particular, it appeared the state of the road in one county had been responsible for a fatal accident. People talk about mechanical failure and road conditions, but the reality is that driver error is the most significant factor of all. Approximately 80% of all fatal injury crashes are accounted for by driver error. The majority of road crashes are caused by those types of errors.

The typical causes of accidents are well known. Excessive speeding accounts for about a quarter of all fatal casualties. Drink driving is very significant, accounting for a third of all fatal crashes. Another major factor is the number of people who do not wear seat belts. Approximately three out of four people in head-on crashes are killed when they are not wearing seat belts. The significance is clear. At a time of changing human behaviour it is difficult to legislate for the way people behave themselves. It is far more difficult to do that than to tackle mechanical failures or road conditions. However, it is a challenge for us as legislators and one that we have to face up to.

When An Agreed Programme for Government between Fianna Fáil and the Progressive Democrats was published at the start of this Administration, it stated that action would be taken to improve road safety and driver behaviour. Considerable progress has been made. We have the penalty points system, an advisory system for driver education in the school curriculum as well as the new road safety strategy, as referred to by Senator Morrissey. This is aimed at tackling

speeding, drink driving, seat belt infringements and pedestrian safety.

There is also the whole question of physical intervention. There is an increase in traffic calming measures. This has been implemented adjacent to schools in my county, which is to be welcomed. We must acknowledge that significant investment has been made in the country's road infrastructure and this has helped as well. The better the road standards the fewer the number of accidents. These are examples of what has been done. As Senator Morrissey indicated, the National Safety Council has shown that more work needs to be done. Tackling driver behaviour is a difficult issue but for the sake of the families of the 118 people killed in the last four months, we must do everything we can.

There are three key issues to be addressed, the question of speed, drink and seat belts. Again, Senator Morrissey has dealt with the speed aspect. It is a depressing and frustrating issue for legislators and, I am sure, for the Garda. That has been the case not just here but in other jurisdictions as well. One wonders how often road users have to be told about the dangers of speed and how many of these gory images must we see in advertisements in the newspapers or on television. The message is unambiguous, that speed is the single largest factor contributing to road deaths in Ireland. At 60 mph, a car travels 88 feet in one second. That is a long distance for reaction time, to say nothing of braking time. Over 40% of fatal accidents are caused by excessive or inappropriate speed. There seems to be a view among people that speed detection rates are low. There were 335,000 detections for speeding in 2002, so speeding drivers are being detected. We must get the message across that something is being done and that people are being caught. Speed limits have to be credible. There is a 60 km/h speed limit on part of the Naas dual carriageway, which is due to the construction work that is taking place there. However, the only vehicle I have seen travel at or under that speed is a tractor. Nobody pays attention to that speed limit, except during rush hour when it is impossible to even reach that speed. Speed limits have to be credible and they have to be applied prudently. If they are in need of amendment, then the local authority should do that.

There is a myth that Ireland's drink driving problem has diminished as a result of the Road Traffic Act 2002 and the reduction of blood-alcohol levels. Most people now feel that getting into a car after drinking is more socially unacceptable, but the statistics belie that attitude. International research has found that alcohol has been a contributing factor to 40% of road accidents in Ireland. Approximately 250 motorists are arrested each week for driving under the influence of an intoxicant, while 90% of blood and urine samples analysed are above the alcohol limit for driving. Up to 80% of breath specimens analysed are above this limit as well. We also

must not ignore the issue of driving under the influence of drugs.

Another misconception worth highlighting is that many drivers believe that it is safe to drive if they are below the legal limit. That is a mistake, as the risk of being involved in crashes increases in direct proportion to the amount of alcohol. The Government has a duty to ensure that the law is in place to tackle the problem of drink driving and that is being done. I hope those who complained of the demise of the rural pub when this House debated the Road Traffic Act 2002 will show the same consistency when decrying the measures that need to be taken when dealing with drunk driving. Automatic disqualification applies to all drink driving convictions, as well as a maximum fine of €1,270 and a maximum of six months imprisonment.

Alcohol is also a factor in accidents involving pedestrians. Up to one third of pedestrians killed in road accidents demonstrate high blood alcohol levels. Without seat belts, three out of four people would be killed in a 30 mph head-on crash. The laws have been put in place to force people to belt up in the front and rear of the car. The driver is responsible for ensuring that passengers under 17 comply with the law. The laws are there and we need to have a system of enforcement. We must make sure that the benefits of safety strategies are acknowledged and accepted.

The budget for the Garda Vote for road traffic equipment in 2005 is €1,106,000. That investment is used for the purchase and maintenance of road traffic equipment as required. We need to ensure that all requirements are met under the safety strategy. There were some criticisms about the number of speed cameras on the radio today. However, trying to encourage people to abide by the law just before a bank holiday weekend by criticising the lack of speed cameras is not the way to develop road safety.

I welcome the motion. It is an issue about saving lives and 2,033 lives have been needlessly lost since 2000. We have a role in addressing it through the laws that we enact. We need to look at a cross-departmental approach to this. Investment is required, equipment needs to be provided and the law must be enforced. Speed, alcohol and seat-belts are issues, as is the changing of individual behaviour and we are making progress on this. There is an element of personal responsibility in all of this. The State can legislate until the cows come home, but unless people are prepared to take some responsibility, there will still be a high fatality rate on our roads.

Mr. P. Burke: I move amendment No. 1:

To delete all words after "Seanad Éireann" and substitute the following:

"notes the failure on the part of the Government to fully implement commitments designed to reduce road deaths; and calls on the Government to ensure the immediate provision of:

[Mr. P. Burke.]

- a fully equipped and fully staffed independent traffic corps,
- a complete roll-out of the penalty points system,
- a complete nationwide roll-out of speed cameras,
- and an improvement in the driving standards and testing of motorists through the establishment of the Driving Testing and Standards Agency.”

I have no doubt that my amendment will be accepted this evening, as the two previous speakers seemed to speak more in favour of it than the motion. There is little to congratulate the Government on its road safety record, as it is abysmal. We must consider that there is one accident on our roads every 21 minutes and one person is killed every 23 hours. In 2004, 378 people lost their lives on our roads, 43 more than in the previous year. This upward trend is continuing, with road deaths for 2005 up month on month from 2004. This is very worrying. In 2003 there was a significant drop in fatalities, but this was due mainly to a fear factor following the introduction of penalty points. This has long worn off and we are back to the bleak days of carnage and destruction on our roads.

The responsibility for the collapse in the effectiveness of the penalty point system lies solely with the current Government. Motorists are no longer worried about getting caught committing motoring offences on the roads. Even if they do get caught there is a good chance they will get off once they go before the courts. Recent experience has proved this and it is not good enough.

The ineffectiveness of the penalty points system is due to the chronic lack of enforcement. The failure of the Government to deliver the extra gardaí since 2002 has made their presence almost non-existent on the roads. It is normal for someone to drive between two major cities without encountering a Garda checkpoint. Nothing has changed since this Government first took office. I do not hold the Garda responsible as it is doing its best, but it does not have the resources in manpower, equipment and information technology required for gardaí to carry out their duties effectively. The Government may let off steam by informing us that the extra gardaí are in the pipeline and that the traffic corps will solve our road fatalities crisis. However, I am far from convinced.

The Minister for Justice, Equality and Law Reform, after much fanfare and over two years late, finally announced the establishment of a traffic corps late last year. The reality is that over the next few years this is likely to change little on our roads. The current staffing level of 530 may seem impressive, but this figure represents the merger of the existing Garda traffic units nationwide. By December 2005, the new traffic corps will increase by only 33, which is about one garda

per county. This will hardly have a great impact. The Minister knows well that we needed 700 extra gardaí for the traffic corps, which was promised over two years ago.

Bad law enacted by the Government, namely the Road Traffic Act 2002, has further enhanced the public's perception that it is all right to break road safety laws and be reasonably confident of not facing the rigours of the law. The thousands of motorists before the courts for breaking the speed limits have effectively got off the hook because of problems with the Act. The failure of motorists to get a paper print-out giving details of their speeding offences caught on speed cameras or hand-held devices has meant that many judges have struck out these cases. This has increased the public's lack of confidence in our road safety provisions.

While there is no single cause of road accidents, in the majority of cases driver error is at fault. It is little wonder then we have such a high fatality on our roads. To put it bluntly, the system in Ireland does not produce good and capable drivers and our existing driving test system is a total mess. The current Government has sat back and allowed this chaos to continue and has done nothing during its term in office to tackle the serious deficiencies in the system.

The greatest problem is the number of provisional drivers on our roads. There are 300,000 people on a provisional licence, with 130,000 of them waiting to take a test. Effectively, almost 20% of drivers on our roads do not have a full driving test. In many respects, including the absence of a full driving licence, they are not fully competent to be on our roads. We would not be happy if a similar situation existed with regard to doctors. If a doctor was not fully qualified, we would not put up with having him or her carry out operations.

However, there appears to be no problem with having unqualified drivers on our roads. While I fully understand the situation faced by provisional drivers who must learn the rules of the road and how to drive properly before they can progress to a full licence, the problem in Ireland is that this has become a permanent state of affairs. Provisional licences were not intended to be licences for life, merely a stage of driver progression. However, the fact that many people spend years without ever sitting a full driving test is the responsibility of this ineffectual Government.

With 130,000 people waiting to sit a test, there is no prospect of them getting a full licence for many months, even years. It is the norm for many on provisional licences to have to wait up to a year before being called for a test. If they fail the test, they are put back to the bottom of the queue to languish for another year. In the meantime, they continue to drive.

We need to get the system moving. The Minister has promised us a new super-efficient agency, the Driving Testing and Standards Authority, but this will achieve nothing if the Department of

Transport does not hire additional testers. These have been promised since 2002, but we have got nothing. What is wrong with the Minister for Transport that he cannot put his foot down and demand that the Minister for Finance provide the extra funding needed to supply these testers? Only this will cut the queues. Creating another layer of bureaucracy will not.

If we are to create better drivers on our roads, it is clear that drivers need better instruction. We currently have a farcical situation where anyone can set up shop as a driving instructor and offer lessons. This is incredible. One does not even need to have a full driving licence or a car to offer this service. How can we be assured that learner drivers are getting the best possible instruction if we cannot be assured of the quality of the instruction they are receiving? We need better regulation of this area.

It is hardly surprising that almost half of those who sit the driving test fail. There is no quality control over what they are being taught. This is just another example of the problems with our driving standards. These inadequacies have been pointed out time and again to the Minister for Transport and his predecessors, yet they have not acted on the matter. How many more people will be killed before this Government is motivated to act? I do not have any confidence that things will change soon.

What needs to be done is obvious to all. It is beyond me why this Government, despite almost eight years in power, has done so little. The Government cannot sit on its hands any longer. Since it took office, 3,381 people have died on our roads and almost 70,000 have been injured through road accidents. The Government must increase the Garda presence on our roads immediately, fast-track the traffic corps to full complement and improve driving standards and instruction. It must move immediately to cut waiting times and move drivers off provisional licences onto full licences by hiring additional testers. If the Government fails to act, the carnage will continue on our roads for years to come.

Mr. Finucane: I second the amendment in the name of Senator Paddy Burke. He has elaborated on the problems with regard to road safety. I was surprised that the Progressive Democrats proposed this motion because the defects of the current system are obvious. The motion probably clarifies the situation with regard to its deficiencies, but it is not a situation on which the Government can congratulate itself.

This saga began with the Minister's predecessor, Deputy Seamus Brennan. When he announced the penalty points system and changes were made, there was a temporary dip in the number of accidents. This was welcome and the Minister was applauded on his initiative. However, over a period road accidents and fatalities have again increased. We must ask why, against the backdrop of the past two years, there has been a degree of inactivity. The penalty

points system has been undermined in recent times, perhaps as a result of the courts throwing out many cases. This brings us back to the legislation and whether it is adequate. Unfortunately, quite often when legislation leaves the House, extra vigilant legal people pick up on the deficiencies in it.

The major difficulty with the system is that drivers driving regularly on a familiar stretch of road know the locations where gardaí will be waiting with their cameras, etc. and slow down accordingly. For example, I know of a particular stretch on a fine modern road in the Limerick area where this is the case. There is never any accident on this stretch because the drivers know there is a 100 km/h restriction and that the gardaí are there on a regular basis. People who travel that road regularly are familiar with the location. There are other similar locations.

Senator Dardis referred to the situation regarding speed cameras and this being highlighted on a bank holiday weekend. The situation should be highlighted because it is farcical. The cameras were set up in three locations, Meath, Louth and Dublin. Some 20 installations were set up and three cameras are rotated between them. However, nine of the camera sites are inoperative and only 11 are functional. How can these three cameras have any application to road safety? It is like a band aid treatment for road safety.

We have heard much talk over the past few years about cameras. The Government is now considering privatising the system and having mobile cameras around the country. The private operator will obviously see the system as a good revenue mechanism. I do not mind whether it is private, as long as we see commitment on speed cameras. Quite often the cameras are hidden from the motorists. They should be in their faces. We should also have as many of them as possible, like in the United Kingdom. There they are in villages and at different locations around the country. People become conscious of them and are more vigilant about their speed as a result.

The situation regarding driving tests is farcical. The Government made a commitment on driving tests in its programme for Government. Now, however, it claims the embargo on recruitment to the Civil Service is deterring it from taking on driving testers. We have 117 driving testers in the country and, depending on location, people wait from an average of over a year for a test to 18 weeks in Ennis. This situation is deplorable because it pressurises people with provisional driving licences. My colleague has already described the type of people driving on provisional licences. Often those provisional licences are renewed regularly.

In Northern Ireland it takes an average of four weeks for people to be called for their test. Perhaps we should see what we can learn from what they are doing there. We do not seem to be getting to grips with the problem. I remember that years ago when we had a similar backlog, the Minister of the time introduced a measure

[Mr. Finucane.]

whereby people with an existing provisional licence were given a full driving licence in order to clear the backlog. I do not advocate this now, but the situation needs some measure introduced to deal with the problem such as the appointment of temporary testers to help clear the backlog. Then the Minister could proceed on a structured basis to deal with driving tests so that people need not wait so long for their test.

The Department of Transport has carried out studies regarding the different locations for driving tests. Why is the failure rate 12% higher in Wicklow than in Shannon or Ennis? There is a wide variation in failure rates by location. Driving testers cannot be blamed because they adhere to standard guidelines. However, the calibre of driving instructors in a number of locations is open to question. A driving instructor can set up without having prior experience or undergoing an examination. The register of instructors is voluntary and includes 1,200 names. However, only one quarter of these are registered. The regulations in this area must be strengthened. Legislation relating to driving tests is on the way and the sooner it is introduced, the better. All these issues feed into road safety problems. If the Government got the formula right by addressing areas under its control, road safety might improve. One does not have to Einstein to do something in this regard.

Has the Department conducted research on the number of road fatalities that occur between midnight and 5 a.m.? Drugs, alcohol and fatigue are often contributory factors in these accidents. The likelihood of meeting a garda on the road between those hours is remote. Regrettably, many fatalities occur during this period. It is difficult to prove alcohol is the cause of a road fatality but the time at which many of these serious accidents occur is significant. The number of accidents is a problem and the Minister for Justice, Equality and Law Reform has tried to do something about it by recruiting additional gardaí. However, it is fine to establish a traffic corps and announce that gardaí have been deployed to it. Are sufficient bodies deployed to cover the State?

The issue of road safety is not being taken seriously enough and the jigsaw is not being put together by the Government to do something significant about it. That is why I am surprised the motion has been tabled. The Government's road safety policy has serious defects. The National Roads Authority recently commissioned a Dutch road safety expert. He travelled throughout the State but he did not encounter a garda on road traffic enforcement duty. What critique will he have provided? What will he have said when he returned to Holland regarding how serious Ireland is about tackling road safety issues?

Rosemary Smyth is a well known former rally driver who runs a driving course for transition year pupils in second level schools. It has proved effective in gearing them up to drive subsequently. No State assistance is provided for this

course and this should be examined. Special advanced driving courses are run for people who wish to drive fast cars. Centres should be established where young people could be inculcated in good driving habits before they use the road. Senator Morrissey is correct that the driving test is conducted primarily in urban areas and at low speeds and no cognisance is taken of motorway experience or driving at night. Many aspects of the test need to be analysed and addressed. I fully support the amendment.

Mr. Dooley: I welcome the Minister and support the motion. We have had a series of debates on road safety over the past number of years and it is critical that this issue be kept to the forefront of the public agenda, irrespective of whether we disagree on what the Government has done. Hopefully, such debates will continue to ensure drivers take cognisance of good practice on the roads.

It is important to highlight the Government's achievement on road safety, including the regular publication of position papers and documents, which is welcome. The introduction of the penalty points system was also welcome. It may not be achieving the results the Opposition would like but it has formed the framework within which a resolution to this issue can be found.

We could debate statistics all night. No death on our roads is acceptable. However, when the ratio of road fatalities to car numbers is considered, the number of deaths does not look as bad. A greater number of cars are on the road every year so while the number of road fatalities is increasing, when one considers the ratio of cars to fatalities, the trend is in the right direction, which is welcome.

Road safety revolves around all users exercising due care and attention, not only those driving cars. Most of our debates focus on traditional cars, which is understandable, given that most drivers use such vehicles. However, the Government's strategy continues to focus on the wearing of seat belts, speeding and drug and drink driving. These are recognised as the key factors in road accidents.

There is little debate about the behaviour on the road of the drivers of heavy goods vehicles and their practices. I do not wish to have a go at them, given that many of them work in extreme conditions to tight deadlines, particularly those who need to meet boats in our ports and so on. The haulage sector is competitive and the drivers are under unbelievable pressure. However, the speed limit for articulated trucks should be reduced.

Senator Dardis referred to stretches of the N7 approaching Dublin, which I travel a few times a week. I regularly witness heavy goods vehicles overtaking family cars, which are travelling well in excess of the speed limit, particularly in wet conditions. They leave a trail of spray behind, which makes it virtually impossible for other drivers to use the road. Something needs to be done

in this regard. The tachograph system used in articulated trucks should be inspected more closely to ensure drivers do not travel in excess of a specified speed. It is usually used to check the number of hours the driver has operated the vehicle but it also has the capacity to monitor the speed at which the vehicle was travelling although that is not done. If this were checked, I would be surprised if any truck drivers would remain on the road.

Long distance driving is also an issue. There was a time when HGV drivers on long distance routes were much older, with some advancing towards retirement. However, nowadays many people in their early 20s are driving trucks. This may be because they are the only people companies can find to do the work given the strong state of our economy. As soon as they have passed the relevant test, they begin driving long distances but they do not have the requisite experience. While they have succeeded in passing the test, they do not have the experience to operate such vehicles. I seek a review of the testing procedures for HGV drivers. While people may be able to pass the test, they do not have the necessary experience to manage these vehicles. A number of articulated trucks have been involved in accidents in recent weeks. The accident on the M50 slip road last week caused gridlock throughout Dublin city. It is time to review this test. The most critically important element is young male drivers. We have had many debates in this House about young males drinking or committing suicide, and now we are faced with young male drivers and the problems they cause. They are referred to in the vernacular as “boy racers”, and on a Sunday or Monday morning we all see the predominance of wheel spins and hand-brake turns at rural crossroads. It is increasing to alarming proportions and must be tackled, either through enforcement or through the introduction of some sort of regulation or measure that limits the size or power of engines. I am no mechanical expert in that regard, but there are procedures whereby engines can be limited, such as is the case with HGVs. We will have to consider that, since we cannot depend on such drivers to show due care for other road users. Their behaviour is unbelievable and must be addressed.

Penalty points have worked, by and large. There is the question of enforcement, and it is important that it be taken into account. Even if one doubled the size of the Garda, it would not be able to position gardaí on every crossroads or stretch where accidents take place. There is a real need for co-operation between the Department of Transport and the Department of Justice, Equality and Law Reform regarding the policing of towns and villages at night, particularly over the weekend.

The presence of a garda on a village street when the nightclub or pub closes would prevent many young people attempting to drive out of the village. It is out on the rural road while dropping a girlfriend or mate home that many such acci-

dents occur. Young people under the influence of alcohol or drugs are unable to control their high-powered vehicles. If the focus of enforcement were on the point where the journey first began — by and large in urban or semi-urban areas — one would resolve that problem. The presence of police would also resolve some of the other issues of anti-social behaviour that have regularly been discussed. Enforcement is not so much about the garda in the ditch with the “hair-dryer” or with some kind of covert plan. That might help improve our own driver behaviour, but it will not help resolve the problem of the 19 year old who has just got his hands on a high-powered Honda Civic and is determined to show his mates what he can do. We should focus our attention on towns when tackling the issue of safety.

I wish also to address the NRA, with which I have recently exchanged some correspondence. There is a problem regarding driver fatigue. There is now a motorway from Dundalk to Portlaoise. The NRA has told me that, in general, it is recommended that lay-bys be provided approximately every 10 km on improved rural or all-purpose dual carriageways. It went on to say that it was not, however, intended that lay-bys be provided on single-carriageway roads or motorways, since the latter are intended for fast-moving traffic only, and regulations made under the Roads Act 1993 prohibit vehicles from stopping anywhere within the motorway fence lines, except in special circumstances such as emergencies.

That is not acceptable and I hope the Minister for Transport, Deputy Cullen, can force the NRA to re-examine that issue. I understand it has consulted a safety expert. I make the point not to disturb but to suggest that it need not have gone anywhere, since people around the country regularly write to it on this issue. It concerns the provision of a lay-by. Such lay-bys are provided in England, the United States and in many other countries, where they are incorporated into service stations. However, the NRA is now saying that by-laws prohibit its providing lay-bys. It is of great importance, as I know myself, since I regularly have to pull over for a cup of coffee or even a sleep on a long stretch of road only to find there is no opportunity to do so.

Minister for Transport (Mr. Cullen): I thank the Senators from the Progressive Democrats for proposing this motion this evening and all the Members who have contributed thus far. It affords the House the opportunity to debate an issue that is important both from a national policy perspective and for the personal safety of every citizen in this State.

It is a fact that road safety policy reaches into every home, and the results of road collisions can shatter lives well beyond those directly involved. This House has an enviable record in pursuing debates on road safety, which shows the concerns that Senators from all sides have to ensure the issue retains a high level of focus both in the

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public consciousness and in the delivery by the Government on its commitments.

Road safety is a multi-faceted area of public policy that demands contributions from Departments, the Garda, dedicated national agencies such as the National Safety Council, the Medical Bureau of Road Safety, the National Roads Authority and local authorities. As Minister for Transport, I have responsibility for the co-ordination of road safety at Government level. The framework within which road safety policy is pursued is through the development of national road safety strategies, which provide a central reference for the pursuit of agreed policy initiatives over specified periods.

By 1997, it was clear to the Government and all the agencies involved in road safety that a change of policy was needed to reverse the steady rise in road deaths experienced over the previous three years. A total of 1,362 people lost their lives in road collisions between 1995 and 1997. That is an average annual toll of 454 deaths. While that of itself represents a shocking scenario, what was also of great concern was that the level of road deaths had been rising throughout the mid-1990s, and something dramatic had to be done to address the situation.

By contrast, over the same period, the majority of EU states were experiencing reductions in road deaths. What was particularly striking was that the downward trends were more noticeable and more consistent in those countries that had adopted road safety policies based on the development of strategic approaches featuring specific targeted reductions. The achievement of those reductions was supported by policies aimed at the delivery of improvements in respect of key contributory factors to road collisions, fatalities and serious injuries.

In 1997, faced with ever-rising numbers of road deaths, the Government determined that the only prospect that we had of reversing the trend was to adopt a first national road safety strategy, *The Road to Safety*, designed to cover the period from 1998 to 2002. The headline target set in the strategy was to achieve a reduction of over 20% in road deaths and serious injuries during its lifetime. The *Road to Safety* strategy recognised that reducing the incidence of road collisions depended on the deployment of measures to improve the interaction between roads, vehicles, drivers and other road users from a safety perspective. However, it also recognised that the single most important factor is the behaviour of road users.

Accordingly, particular focus was placed on achieving improvements by addressing the three key contributors to road fatalities, namely, excessive speed, non-wearing of seat belts and drink driving, under the last of which I would include driving under the influence of drugs. Those three problem areas still present the greatest challenge to road safety both here and abroad. The road safety strategy outlined activities that

ranged across a broad number of areas. However, those identified as having the greatest potential impact were the following: the road safety promotional campaigns; the programmes of accident counter-measures and traffic-calming measures; the extension of the basis for the operation of preliminary breath-testing; and the introduction of a system of penalty points for speeding, failure to wear a seat belt, driving without insurance and careless driving.

The support of targeted enforcement measures by the Garda was seen as being crucial to the achievement of the goals established in the strategy. In overall terms, it has to be said that the strategy was successful in so far as the primary targets established were achieved and, in the case of the reduction in the number of serious injuries, surpassed. Significant reductions in fatalities and serious injuries were recorded in 1998 and 1999 and again in 2002. A review of the strategy carried out by an independent international road safety expert confirmed that the overall approach adopted in the strategy provided the most appropriate response to the overall road safety situation facing us.

The downward trend in fatalities achieved during the years covered by the strategy continued in 2003, when we recorded the lowest number of fatalities, 335, since 1963. Over that 40-year period, the number of vehicles and drivers in Ireland had more than quadrupled. Unfortunately we have seen a greater number of road deaths in 2004 than in the previous year, with provisional end-of-year figures for 2004 showing 380 fatalities. So far this year, we have seen an increase in the number of road deaths, with 118 deaths on the roads by 25 April, compared with 116 at the same date last year.

In that context, while the increase in road deaths so far this year is a cause of immediate concern, it should be viewed against the background of the significant progress achieved, especially over recent years. That does not lessen in any way my concern about the increases, especially as the level of deaths in 2004 is being maintained so far this year. I am convinced, however, that pursuing a strategic approach to road safety policy continues to be the most appropriate way forward.

The number of road deaths in the first two and a half years after the penalty points system was introduced was 143 less than the number of road deaths in the two and a half years preceding the introduction of the system. If the first road safety strategy not been introduced and road deaths had continued to increase at the rate at which they were increasing before the strategy's introduction, the annual number of road deaths would have exceeded 550 in 2002 and would now be much higher. Casualty levels of that nature have ceased to be the norm as a result of the policies which have been implemented and the general approach that has been adopted under the road safety strategy.

The Government's 2004-06 road safety strategy reflects on the need to remain vigilant by focusing on the continued promotion of road safety. Its primary target is to reduce road collision fatalities by 25%, when compared to the average annual number of fatalities between 1998 and 2003, by the end of 2006. If that target is achieved, there will be no more than 300 deaths per annum by the end of the period covered by the strategy. Such an ambitious target will require a strategic and integrated approach on the part of all the road safety agencies.

I have spoken about the recent increase in road deaths, which is a cause of concern. It places the challenge of meeting the target set for the end of 2006 into stark focus. If we are to achieve the target, a significant reversal of the worrying trend that has been noticeable since early 2004 must be achieved. The achievement of the target depends on continuing to emphasise the approach that underpins the strategy. Therefore, there is a need for a continued focus on issues such as speeding, drink driving and the wearing of seat belts. As there continues to be a particular focus on vulnerable road users, the Garda and the National Safety Council launched a campaign focusing on pedestrian safety earlier this week.

The road safety strategy, which seeks to achieve further reductions in deaths and injuries, proposes a range of enforcement, engineering, education and legislation measures. I have a sense of unease when it is suggested that it would somehow be satisfying if the number of deaths on the roads each year were to be reduced to 300. Such a death rate would not be satisfying, but it would demonstrate that Ireland is moving towards best international practice. I would not like one to think that my view and that of the Government is that such a figure would somehow be acceptable.

I have had many discussions with the chairman of the NSC, Mr. Eddie Shaw, who has brought a tremendous level of energy to this area. He has argued that we need to aspire to best international practice. People are right to look for targets when Government strategies are being drawn up and we have done that in this instance. The target will help us to measure whether our policies are successful. We met the target in recent years, but it is clear that the trend for 2004 and so far in 2005 is unacceptable and extremely worrying. We need to increase the level of effort we are making if we are to achieve the targets we are aiming for by 2006.

Many major road safety policy initiatives are being examined over the period of the Government's current road safety strategy. An appropriate form of random preliminary breath testing for drink driving is being considered. I will refer in a moment to the establishment of a network of speed cameras, to be operated by private sector interests. Many Senators have referred to the need for a comprehensive package of measures to address issues relating to driver licensing and testing and that is being considered. The full system of penalty points will be rolled out in the

most appropriate manner. In recognition of the importance of enforcement, the Garda has made a commitment to achieving specific levels of enforcement in three key areas — seat belt wearing, speed limits and drink driving.

The proposed introduction of random breath testing has been the subject of significant debate and consideration for many years. The Road Traffic Acts provide that the Garda is empowered to check all drivers who have been involved in road collisions or have been found to have committed a traffic offence. The Garda also has the power to demand a test of a driver who, in the opinion of a member of the force, has consumed alcohol. We need to consider carefully whether we wish to allow for full random breath testing. Senators will be aware that drink driving laws have historically been the subject of regular scrutiny in the courts. I do not intend to pursue a policy initiative in this area until I am satisfied that a more generally applied system of roadside testing provides clear potential for improving road safety on a sustained basis. I am sure the House will appreciate the need for great care in pursuing such an initiative.

A second significant proposal in the new strategy relates to the engagement of private sector interests in the provision and operation of speed cameras. One of the strategy's key targets, which relates to the enforcement of speed limits, depends on the deployment of speed cameras on a scale that would necessitate the involvement of the private sector. The proposal has been the subject of an in-depth examination by a working group, chaired by the Department of Justice, Equality and Law Reform and representing other key interests such as the Department of Transport and the Garda Síochána. The working group's report has been presented to me and to the Minister for Justice, Equality and Law Reform.

Senators will recall that the involvement of the private sector in providing and operating speed cameras was discussed in some detail during the debate on the Road Traffic Bill 2004. I share the concerns of many Members of both Houses, who said during the debates on the Bill that the ethos of private sector operations may be to maximise profits, rather than to engage in the advancement of road safety. I am pleased, therefore, that the working group's report has clearly recommended that private sector operations should focus on locations where there is a history of speed infringements or there are genuine road safety concerns. The group further recommended that locations for the use of cameras should be determined by the Garda. I am determined to ensure that decisions on camera locations should be made by the Garda, rather than at the whim of private companies.

Ms O'Rourke: Hear, hear.

Mr. Cullen: I accept that private companies can make valuable contributions in this area. The

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Minister for Justice, Equality and Law Reform and I hope to bring proposals to the Cabinet soon based on the report about the private use of cameras. I agree strongly with Senators and Deputies who have said there should be no connection between the private sector operation of speed cameras and remuneration.

Ms O'Rourke: Yes.

Mr. Cullen: Such a connection should not exist. I am implacably opposed to the development of a culture of remuneration in this area that would be akin to the culture associated with the work of claspers, as they are known. While the work of claspers is socially valuable, it is known that they often step up their activities to make an increased profit. As speed cameras are being introduced as a road safety measure, they must be primarily under the control of the Garda. The level of payment made to private sector interests should not relate to the number of people caught speeding by speed cameras. The process should be entirely within this country's justice system rather than outside it.

Metric speed limits were successfully introduced in January on foot of the Road Traffic Act 2004, which was debated by the House last December. The introduction of the speed limits was a large and complex exercise that encompassed a major procurement operation, the design and implementation of significant public information and public relations campaigns and the co-ordination of a programme for the provision of over 58,000 new and replacement traffic signs, which was undertaken by local authority staff throughout the country. The new metric speed limit system has been widely accepted. As Senators are aware, it has led to a reduction in speed limits on our regional and local road network.

The 2004 Act led to the retention of the involvement of the elected members of county and city councils in applying special speed limits, a process that is assisted by guidelines I issued in recent days. I hope local authorities will exercise the powers they have been given, which were sought by councillors. Members of local authorities know that low and carefully thought-out speed limits are needed in bad areas near certain schools and hospitals. I urge them to exercise their expanded authority, which I gave to them in the 2004 Act in line with their wishes.

Mr. P. Burke: Is there a quick way for them to change speed limits?

Mr. Cullen: Yes. They can act immediately. Members of local authorities can have immediate discussions with the Garda or the NRA, where appropriate and necessary. Senator Dardis mentioned that they can ask for speed limits on primary routes to be changed. It is a matter for them to operate on that basis immediately.

The issues of driving instruction, testing and licensing are of particular importance in the advancement of road safety. A series of initiatives is being pursued to advance standards and outputs in such areas. Senators are aware that a Bill to provide for the establishment of a new driver testing and standards authority has been introduced in the other House. The new authority will provide a new focus on the delivery of initiatives which have already been planned. It will instigate further policy in this area on a co-ordinated basis. The establishment of the authority, which will deliver the driver testing service and take responsibility for other functions relating to the testing and control of drivers, driving instructors and vehicles which would be more appropriate to an executive agency than to a Department, represents an opportunity for other functions relating to road safety to be assigned to the authority. I have had good discussions with the National Safety Council and others in this regard.

Consultants Farrell Grant Sparks have completed a review of the organisational structure of the Driver Testing and Standards Authority. The purpose of the review is to feed into the debate on the functions and scope of the new authority. It is envisaged that the authority will have a range of functions that will give a greater focus to the whole area of road safety. I am aware of speculation in the media about this report but I would like to have the opportunity to consider the report and to consult with Government colleagues if necessary. The other functions that may be assigned to the authority will ensure that it will play an important part in the process of improving road safety in general and in this context, I am considering what additional functions might be assigned to the authority in the long term to enable it to more effectively fulfil its role. As part of this process I wish to advise the House that I propose to bring forward appropriate amendments to the Driver Testing and Standards Authority Bill on Committee Stage.

Ms O'Rourke: Has that Bill completed Second Stage?

Mr. Cullen: It has not completed Second Stage. I think it will be welcomed by all Oireachtas Members.

Ms O'Rourke: Is that for testing people who wish to get a driving licence? There is a huge number of people waiting.

Mr. Cullen: Yes, but we have substantial proposals to deal with that.

Mr. P. Burke: Senator O'Rourke is correct. It is a disgrace.

Ms O'Rourke: Did Senator Burke say I am a disgrace?

Mr. P. Burke: No, I said that it was a disgrace that people have to wait for tests.

Mr. Cullen: There was a particular reason for the delay. We had access to a driving test down to five or six weeks recently. That was a very good average. There was an understanding that in certain situations provisions were going to change. This caused an avalanche of applications. There are multiple applications in the system. I am not defending it. More instructors are needed. We need to resolve the situation and I am determined to do it. This Bill will be a vehicle to achieve that.

The enforcement of road traffic laws and the availability of an appropriate deterrent system are of fundamental importance to the establishment of a culture of safety on our roads. However that deterrent system can only be maintained in the long term where the basis for sustained enforcement is available.

The establishment of the new traffic corps, which was announced late last year by the Minister for Justice, Equality and Law Reform will provide the level of permanent enforcement that is critical to the promotion of road safety for the future. The Minister for Justice, Equality and Law Reform and the Garda Commissioner are proposing that 700 additional gardaí will be assigned to a new traffic corps which will be headed up by an assistant commissioner. Approximately 500 gardaí are already involved in traffic duties, so the proposal will bring the total number of gardaí in the traffic corps to 1,200. It is important to state that the figure of 700 does not include the 500 gardaí already involved in traffic duty. The assistant commissioner responsible for the traffic corps has been appointed and I wish him well in his new role.

The introduction of penalty points in 2002 allied to the increase in the maximum levels of financial penalties that can be imposed for traffic offences has had a cautionary effect on road users. The further major extension of the operation of the penalty points system and the supporting fixed charge system, which will be rolled out this year, will further augment the level of deterrent against poor driving behaviour.

I referred earlier to a promotional campaign launched yesterday relating to pedestrian safety. Recent tragic incidents where pedestrian fatalities resulted from collisions with heavy goods vehicles, HGVs, highlight the particular vulnerability of pedestrians. The issue of pedestrian safety in the context of heavy goods vehicles is a subject that has a resonance throughout Europe. In November 2003 the EU adopted Directive 2003/97/EC, which provides for an extension of the field of vision in HGVs to address the issue of blind spots. All new HGVs entering into service from 26 January 2007 will be required to meet the revised standards for field of vision set. I made a statutory instrument for that purpose in December last. In addition, subject to practical engineering constraints and the agreement of the EU Commission, I intend to require existing vehicles of the types covered by the directive to be retrofitted with the necessary mirrors and cameras and monitors. We are required under

internal market law to consult with the Commission before imposing technical standards, including standards for vehicles, that are not already provided for in EU law.

All road deaths are tragic, especially those involving vulnerable pedestrians. However, I can advise the House that in 2003, the last year for which full data on road collisions are available, 64 pedestrians were killed on our roads. This is the lowest level since 1997. It is not a satisfactory figure but it is promising that we are going in the right direction. I ask all companies involved in HGVs not to wait until the law is implemented before upgrading their vehicles. The law comes into force under the EU directive in 2007. I would appeal to all owners of vehicles to fit standard equipment. The life of someone is worth the price of a mirror on the front of a cab so that the driver can see where people are. It is a small cost and as Members of the Oireachtas we appeal for people to do this. This will become law soon but there is no reason why responsible people should not do it immediately.

In the short time available to me this evening I have referred to the overall road safety situation at present and our overall goals for the immediate future. I have also referred to a range of major initiatives that are being progressed or planned. Senators will appreciate that there are a range of other issues that are being pursued across many areas. These include a comprehensive review of the National Car Testing Service, the implementation of recommendations made in the report of the Motor Insurance Advisory Board, and the question of the establishment of an agreed basis for the operation of mutual recognition of the penalty point systems operating here, in Northern Ireland and Great Britain.

Senators will appreciate that the Government remains fully committed to the promotion of road safety in its broadest sense. The enhancement of safety across all transport modes is a central goal of my Department. Casualties resulting from road collisions have historically been at a level significantly higher than that experienced across all other modes. For that reason I and my Department will continue to place a high premium on the delivery of policies that will advance road safety on a long-term basis. As we approach the May bank holiday weekend I appeal to the public to drive carefully. The public should respect speed limits, wear safety belts and refrain from drinking and driving. If these three principles are adhered to the number of deaths will be significantly lower. Lives will be saved and injuries will not occur and the outcome will be far better. There is no excuse for drivers behaving irresponsibly. If drivers do not think about themselves I appeal to them to think of others.

Ms O'Rourke: Hear, hear.

Mr. Ryan: I am perplexed by the decision to call two Government speakers in a row. I am not familiar with that precedent.

Acting Chairman (Mr. Mooney): The Minister indicated to the Chair that he had a prior appointment and that he would be grateful if the House could accommodate him.

Mr. Ryan: That is a matter for the Government.

Acting Chairman: I am sure Senator Ryan has no difficulty in accommodating the Minister.

Mr. Ryan: I have great regard for the Minister, but the Government must deal with its schedule. I should not have to wait here for a longer period while two Government speakers are called. I have nothing further to say on the matter but I want to record my bewilderment.

Acting Chairman: I clarified the position. There should be no bewilderment.

Mr. Ryan: I am bewildered. The Chair's explanation does not alleviate my bewilderment. I have never seen this happen before.

Acting Chairman: May I address the Senator's bewilderment? I have already explained the reason so there should be no bewilderment.

Mr. Ryan: Facilitating the Minister is a matter for the House, rather than for any individual.

Mr. Cullen: I have given a commitment here from 2:30 p.m. today. Very few Ministers would do that.

Mr. Ryan: I have been here nearly as long as the Minister.

Acting Chairman: When I called the Minister, Senator Ryan indicated no objection. With respect, if Senator Ryan had an objection he could have made it at that time rather than after the event.

Mr. Ryan: I thought I was being a lot more courteous by waiting.

Acting Chairman: Why raise the issue?

Mr. Ryan: I want to put my objection on the record. I do not want a precedent established. Here is a good story. Recently I drove someone to a driving test centre in Cork. It was in an isolated area. There was a sign forbidding people from waiting. When a holder of a provisional licence takes a test at this centre he or she must either drive himself or herself, which is illegal, or find a driver who must shelter from the rain under a tree during the test. The situation is not impressive.

This motion surprises me. A significant contribution to constructive debate is not made by congratulating a Government which has served eight years for making promises. I have a number of comments to make on the current situation. Last

year I did a calculation on the back of an envelope from which I surmised that if Ireland had similar fatality rates to the best in Europe, approximately 250 fewer people would be killed in road accidents each year. That is a significant figure. It is welcome that the Government is setting targets, which we will monitor.

It is depressing that the reduction has been reversed. I have some views on that subject. The development of a culture of road safety in this country is conditional on a number of issues, one of which is road quality. Many European countries have better road safety standards because their roads are wider and safer and have superior markings and design. Shortcuts cannot be taken in this regard.

HGVs travelling at speeds of up to 70 mph are major hazards on roads which are unfit for cars at lower speeds. I welcome the Government's decision to reduce the maximum permissible speed on all non-national roads. I wish evidence existed that speed limits were enforced with vigour. I have experienced cars with flashing lights overtaking me on these roads because I observed the speed limit. People are used to the former speed limit and their experience has not been sufficient to observe the new law. Many good laws exist in terms of road safety and other areas but enforcement is limited. I agree with those who say that personal responsibility is an important element. However, we must use the law to ensure people behave responsibly. The real deterrent is the likelihood of being caught rather than the ensuing penalty. This likelihood was a major factor in the early effectiveness of the penalty points system. However, as it became apparent that apprehensions were unlikely under this system, fewer cars observed speed limits. This was my experience in the months after the introduction of the penalty points system.

Enforcement involving people and technology is important. I acknowledge the Minister's determination to locate speed cameras where gardaí believe them to be of most use. It is of secondary importance to me whether they are run by the public or private sector. However, I agree with Senator Finucane that the locations frequently chosen by gardaí are regarded by many as not the most suitable. People are most likely to be caught at these locations. A senior garda said that those recorded speeding by these cameras also speed elsewhere. As gardaí rarely have speed cameras on other roads this cannot be proven. It is plausible that they pick soft targets.

I have questions on driver testing. People under 20 have higher pass rates than those above that age and men have higher pass rates than women. This contradicts insurance companies' claims that women and those over 20 are safer drivers. I do not know the significance of this fact. A number of women, including one of my family members, failed because they showed excessive caution. I associate an alarming lack of caution with male drivers under 20. If people fail for this reason I must ask what is being tested.

HGVs are a major concern. According to figures from the National Roads Authority they represent 3% of registered vehicles but are involved in 10% of fatal accidents. Vigorous enforcement of speed, safety and load laws are needed. I am glad the Minister has a plan which I hope will work because too many people die in this country. We seem to take that for granted.

Mr. Wilson: I wish to share my time with Senator Brady, by agreement.

Acting Chairman: Is that agreed? Agreed.

Mr. Wilson: I welcome the Minister for State at the Department of Enterprise, Trade and Employment, Deputy Michael Ahern, and congratulate my PD colleagues for putting forward this motion. I listened with interest to Senator Morrissey expound on statistics, some of which were sad. The toll of 336 road deaths in 2003 was the lowest since 1963. It is a cause for concern that the toll increased in 2004.

To achieve a reduction in road deaths and injuries, an integrated approach involving a range of different measures is required. No single measure will achieve the desired result. The introduction of the penalty points system in October 2002 was very welcome. This scheme aimed to change driver behaviour. Drivers who incur points face the loss of their licence and will therefore think twice before further breaches bring them closer to the 12 point threshold. Currently, penalty points can be incurred for not wearing a seat belt, careless driving and driving without insurance. I have stated here on a number of occasions that penalty points should not be imposed on somebody who drives without insurance. A person who drives without insurance should be put off the road, not given penalty points.

Ms K. Walsh: Hear, hear.

Mr. Wilson: I continue to hold that view.

The penalty points system cannot be taken in isolation because other Government initiatives have led to safer roads. The low cost accident reduction schemes funded by the Government have been very successful since their introduction some years ago, and I am delighted they are to continue. The signing, lighting and cats' eyes programme announced by the Minister for the Environment, Heritage and Local Government is also playing a major role in road safety.

I welcome the metrication of the speed limit signs. I ask the Minister to give consideration to the provision of additional warning signs in Border areas outlining clearly that the speed limits indicated are metric and not miles per hour. I also ask the Minister to speed up consultation with the authorities in Northern Ireland to allow drivers from that jurisdiction be included in the penalty points system here and drivers here be included in the penalty points system in the

North. We all try to adhere to the rules of the road but, unfortunately, people who are resident in Northern Ireland and drive Northern Ireland registered cars often do not adhere to the speed limits and break them wholesale. I am talking about someone driving at 150 or 160 km/h in a 100 km/h zone. Those people know that if they are caught they will only receive a fine and, in most cases, they do not pay it. I urge the Minister to speed up consultation with the authorities in Northern Ireland.

I welcome the review of the national car test announced recently by the Minister of State, Deputy Callely. I welcome also the Minister's statement in his contribution that all new HGVs entering into service from 26 January 2007 will be required to meet the revised standards for field of vision etc. There have been a number of fatalities in the town of Castleblayney, in my own constituency. Elderly people have been killed because the drivers of these articulated lorries could not see them as they did not have full mirror vision.

Mr. Brady: I welcome the Minister to the House and the opportunity to speak on the motion. All road users, be they car drivers, cyclists or pedestrians, have a personal responsibility for the actions they take, a point made earlier in the debate.

The Minister outlined the road safety strategies that have been put in place, which focus on education, enforcement, engineering and legislation. It is widely accepted that bad roads contribute to road accidents in a major way. The upgrading of roads has been quite successful and a priority for the Government under the national development plan. It is essential that in attempting to increase safety on our roads we examine the question of upgrading roads. An audit of suburban roads should be done as a matter of urgency. It is not only in rural areas that we have potholes. In many estates throughout the city there are major problems. There are problems also in terms of the non-conformity of road ramps and road markings wearing out quickly. All those issues contribute to the debate on road safety.

Senators mentioned the smooth transition from miles per hour to metric values. That is a great example of the way an initiative can be properly signalled, with information given to the public and a time limit imposed and properly implemented.

There have been numerous attempts to change road users' behaviour over the years. The reduction in deaths within a certain timeframe that the Minister mentioned in his contribution is without doubt due to the measures that were taken, including the introduction of the penalty points system, but no one measure will solve these problems. The introduction of the Garda traffic corps, the ring-fencing of funding and the appointment of an assistant commissioner to head the traffic corps are welcome initiatives. The targeting of resources on information campaigns

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have proved to be extremely successful over the years. I am sure we can all rhyme off the green cross code at this stage and that is due to information videos and television advertisements.

We must have better traffic management. Traffic jams lead to frustration and frustration leads to bad driving, which in turn leads to accidents. With the increase in the volume of cars on our roads over recent years we need a more free-flowing, driver orientated traffic management system. In fairness to Dublin City Council, it has put major resources into the management of traffic around the city, which I have no doubt has contributed to a reduction in the number of accidents. Issues such as signage, road markings and lighting are hugely important when it comes to traffic.

All of those measures must be taken as a whole. There is not one solution to this problem. It takes a comprehensive, co-ordinated effort and the Minister and the Department are implementing that.

Mr. J. Phelan: I am glad to speak on the motion, which provides Opposition Members with an opportunity to voice their concerns about an area of public policy that is clearly unsatisfactory. I am somewhat surprised that the Progressive Democrats would use their time to raise an issue on which the Government has singularly failed.

Despite what I have heard from the Minister and Government speakers, problems on our roads are as bad if not worse than they have ever been in the past. The Minister and Government Senators spoke about the amount of money being spent. If that is to be used as a means of measuring the success of road safety, the Government is very successful but if the number of fatalities and serious accidents on our roads is used as a measure, the Government has made a mess of this whole area. The situation is now far worse than it ever was previously and I am surprised that such an opportunity to debate this issue would be presented to us but I intend to take it.

I agreed with much, although not all, of what the Minister said. One point that was particularly interesting was when he spoke about the working group that is examining the whole area of speed cameras. I was glad he agreed with the recommendation of the working group that the gardaí would be involved in choosing the areas where speed cameras will be sited. That is very important because there is a danger that if private enterprise were to be brought into this area it would be used purely as a means of generating revenue and would not necessarily relate to accident black-spots. I welcome the Minister's reference to that in his contribution, although I do not welcome much else therein.

Since the beginning of the year we have seen yet again a significant and steady increase in the number of people killed on the roads. I am not trying to make a political point because these

accidents are very distressing for the families concerned and for all communities throughout the country. This is something on which politicians on all sides of the House should focus but I am disappointed that the Government does not appear to have grasped the nettle in that regard. Its attitude is to fire a few more million euro at the problem but we will not get any value for the money we are spending, nor will we see any significant decreases in what are the obvious indicators of the success of the road safety programme. That would be very disappointing.

As the Cathaoirleach will be aware, some 330,000 people have provisional licences, of whom 130,000 are waiting for a driving test. It is a very significant number. Despite continuous promises since 1997 that the figures would be cut dramatically, we have not seen a significant reduction. The first step to be taken is to ensure that more people pass the driving test, which would mean a higher proportion of fully licensed drivers on our roads. As the majority of accidents can be ascribed to some form of driver error, it is not good enough that 330,000 drivers have provisional licences. It is certainly not good enough that there is a delay of up to a year in some parts of the country to get a driving test. We were promised the matter would be addressed, but it was not. It is another of the broken promises in which the Government has specialised.

There has been a dramatic change in speed limits which are now set in kilometres rather than miles per hour. The opportunity was missed to introduce a more harmonised system of speed limits. There are many examples of dual-carriageways on which one can travel at limited speeds while significantly substandard national secondary roads permit travel at the full 100 km/h speed limit. It is not acceptable. Near where I live at the entrance to Waterford city on its Kilkenny side, there is a short stretch of dual-carriageway, which is the best road in south county Kilkenny. It has only a 60 km/h speed limit while the inferior road which leads to it has a 100 km/h speed limit. Quite often, Garda speed checks are mounted on what are obviously safer stretches of road rather than on the narrow, twisting, older routes on which accidents are more likely. If we are serious about tackling deaths on our roads, we must adopt a more realistic approach to speed limiting. The opportunity to adopt such an approach was when the new system was introduced, but it was missed.

While construction is taking place on only some of the Naas dual-carriageway, the entire road has a speed limit of 60 km/h. It is making what was already a disastrous scenario for commuters even worse every morning and evening. I was caught in traffic on the road this morning myself and missed a division in the House.

Mr. Cummins: There is no excuse.

An Cathaoirleach: I must be neutral.

Mr. J. Phelan: There are many who find themselves in a similar position every day. The adoption of a more harmonised approach to speed limits by all local authorities and the Department would create circumstances in which more commonsensical speed limits were applied.

We have seen legislation which is considered by many to make the way clear for the privatisation of driver testing in future. While I am not against the idea of privatisation in the sector, a significant overhaul of the test itself is required. The test does not address the overtaking of another vehicle, which is the most dangerous manoeuvre one can attempt in a car but incorporates reversing around a junction, which is illegal. The test is archaic. I urge the Minister to harmonise speed limits and ensure the test is more relevant to the circumstances drivers encounter on today's roads.

Ms K. Walsh: I wish to share my time with Senator Brennan.

An Cathaoirleach: Is that agreed? Agreed.

Ms K. Walsh: I appreciate having a few moments to speak about circumstances which have brought great tragedy to many families. There have been 118 deaths on our roads this year, which is not simply a statistic but a reference to 118 tragic stories of loss and sorrow for the families of those who have lost their lives. Senator Morrissey spelt out the main points of the motion our party has moved this evening and I hope all Members will support the initiatives for which he has called. Investment must be matched with real action and improvements. I wish to address the use of headlights during daylight hours, the cleanliness of headlights and number plates and pedestrian safety.

Research has shown that leaving dipped headlights switched on during daylight hours, regardless of weather, reduces the risk of collision, especially while overtaking. Laws in Canada, Denmark, Finland, Hungary, Iceland, Norway and Sweden require vehicles to operate with their lights on during daytime. The practice has been in place in Canada since 1989, since which time the Government there estimates it has saved 120 lives each year. It would be foolish to fail to consider the introduction of similar measures in this jurisdiction, especially for heavy goods vehicles. There are many large vehicles on our roads transporting goods in our prosperous economy, which it would be safer to operate with dipped headlights switched on at all times. If these vehicles at least were required to use headlights, we would not have to depend on drivers to activate them as light faded in the evening.

It is imperative that drivers of vehicles, especially large lorries, keep their headlights, indicators and number plates clean and visible. We must ensure that drivers are compelled by law to keep their vehicles in the safest possible condition. Bus drivers in particular have a responsi-

bility to all of us and to themselves. Research has shown that dirty headlights can reduce a driver's night vision by 50% to 90%. I would like to see all regulation in the area reviewed to remove all possible risk from our roads. While the points are specific, I wished to have them aired in the House.

I welcome the new pedestrian safety campaign which the Garda has launched. The initiative is aimed at raising awareness among pedestrians of the dangers posed by road traffic. The focus is on the dangers posed by trucks and blind spots due to the increase in the incidence of fatal injuries of pedestrians by vehicles in recent years. Last year, 84 pedestrians were killed on our roads, which is nearly two per week. The Garda is especially anxious to raise awareness among pedestrians that if they cannot see the driver of a truck or other high-cab vehicles, it means the driver cannot see them. It is a simple message which could save lives.

There is a specific duty to pedestrians, especially at night given the occurrence of more than two thirds of fatal pedestrian accidents during the hours of darkness. While pedestrians can hear a car coming and see its lights, a driver may not see a pedestrian. A driver will certainly not hear a pedestrian. If necessary, we should make it compulsory for pedestrians walking on roads at night to wear reflective arm bands or Sam Browne belts to make them visible at distance.

In addition to raising these points, I wish to ensure we do all we can as legislators to raise as many issues as possible. We have a duty to make these points and to encourage the public to take whatever steps are necessary to reduce the numbers of sad stories for families of people who lose their lives on Irish roads.

Mr. Brennan: I support the motion and welcome the Government's commitment to act to address the serious issues of safety and the rates of death and injury on our roads. Traffic levels have never been higher, with 1.9 million vehicles on Irish roads. I acknowledge the safety measures programme of the National Roads Authority which has contributed greatly by improving dangerous sections of road.

I also welcome the Department of the Environment, Heritage and Local Government's review of speed limits, especially on national secondary roads and county roads. The onus is now on local authorities to bring about these changes, especially close to schools and built-up areas. I also look forward to the traffic corps being increased to 1,200 members. When that happens it will play a leading role in improving safety on roads. That is an increase of 500 gardaí—

Mr. J. Phelan: We will all be gone by then.

An Cathaoirleach: Senator Brennan should be allowed to speak without interruption.

Mr. Brennan: A recent report on road safety has identified 20 sections of national roads which are in need of attention. It is important that these roads receive urgent attention from the Department and the National Roads Authority.

I call for a road safety programme to be introduced to the curriculum at leaving certificate level. It would be of significant benefit if driving tests could be introduced at that stage. The motion before the House has given an opportunity to all parties to participate in identifying areas in need of attention. I wish the Minister well in implementing his programme.

Dr. Henry: I wish to share time with Senator Cummins.

An Cathaoirleach: Is that agreed? Agreed.

Dr. Henry: I wish to take up the issue raised by Senator Kate Walsh about pedestrians. It is very worrying that 84 people were killed last year. This is a much higher level than in the rest of Europe. One fact that my colleagues in accident and emergency units have brought to my attention is that fatalities are far more likely when people are hit by four wheel drive vehicles with bull bars. Whatever strange people are around Dublin 4 there are very few bulls, at least on four legs. People should not be driving around with these iniquitous pieces of metal on the front of cars which make fatalities much more likely. Can we do something to have them removed? They are quite unnecessary.

The condition of road surfaces is very important both in urban and rural areas. In a recent case a man lost control of his car and hit another car. A pregnant woman who was driving the oncoming car lost her unborn child following the accident. People also lose control of cars in the city due to the dreadful potholes there. Road surfaces are important for pedestrian safety.

There are no footpaths on rural roads connecting one-off houses to towns. It is very difficult for children and older people who may not be in a position to drive to town to get there and back safely. This should be taken into consideration when permission is given for one-off housing.

I appeal to Senators to join me in my campaign to have a proper crossing at the Merrion Square side of Leinster House. I cross there with a hop, skip and a jump every day. I have been trying to get that crossing completed for 11 years. Dublin City Council keeps telling me it is waiting for a fine day to paint the zebra crossing on the ground.

Mr. Cummins: The motion notes and acknowledges commitments. Senator Dooley praised the Government for its position papers and documents. Between position papers, documents, press releases and commitments——

Mr. J. Phelan: And photo calls.

Mr. Cummins:——we have very little delivery in the area of road safety.

The Minister referred to 700 extra gardaí for the traffic corps. I hope that commitment does not take as long to fulfil as the commitment for the extra 2,000 gardaí we were supposed to have in place three years ago.

Mr. J. Phelan: Hear, hear.

Mr. Cummins: In a recent reply to a Member in the other House we learned that there will only be 33 extra gardaí involved in the traffic corps in 2005. Thirty three is a far cry from 700. Is this another pie in the sky commitment or aspiration?

Previous speakers have referred to driver testing. It is ludicrous to have people on waiting lists for long periods. As Senator John Paul Phelan said, over 130,000 people are awaiting a driving test. There is a great variation between counties on waiting periods. One can get a driving test after 18 weeks in Ennis while it can take up to 60 weeks in Dungarvan. One has to wait no longer than six weeks to sit a driving test in Northern Ireland. What kind of incompetence allows such a long waiting period here when one can have a test after six weeks in Northern Ireland? It is disgraceful. It also increases the amount of insurance paid by drivers on provisional licences. This loading of provisional drivers is costing young drivers in excess of €50 million. That is a disgrace.

Secondary schools should provide education on driving tests or, at least, the theory of driving. The Government should investigate this matter. Transition year students in particular should be encouraged and supported to complete theory tests and to learn about road safety. It is no good having a road safety officer from the local authority visiting national schools once a year. Secondary students should be taught the rules of the road and the theory of driving. I urge the Government to consider such a step.

I welcome the public awareness programme which has been launched in regard to pedestrians. A total of 43 children have been killed on our roads, which is the highest rate in Europe. This matter must be tackled. We all hope it will be tackled successfully.

The incompetence of the Government regarding driver testing, its failure to regulate driving instructors and to provide a proper structure for driver training leads one to question its commitment and its ability to deliver on the commitments that have been referred to in the motion. Theory is one thing but putting things into practice is another. The Government has been very good in the area of theory, press releases, position papers and documents, as mentioned by people even on the other side of the House, but when it comes to practice and actual delivery the Government is found wanting at all times.

Mr. Morrissey: I thank all the Senators who participated in this debate. I also thank the Mini-

ster for Transport for staying so long in the House today.

We have been criticised by some in this House for choosing this subject for tonight's motion. If it was so important to Opposition Members why have they not addressed it in their Private Members' time before now? We tabled this motion before the bank holiday weekend for one reason, namely, we wanted to focus attention on road safety. We wanted to address the issue of how we try to save 140 lives per year.

The most positive aspect of the debate was the statement by the Minister about the recommendations on speed cameras and the privatisation of their operation. A great deal has been made of that issue. I welcome the Minister's commitment that the operation and location of cameras will not be dependent on the numbers caught, as is the case with claspers in Dublin.

Many speakers referred to speed limits which is an issue for local authorities. As Senator John Paul Phelan said, there should be appropriate and consistent speed limits across the country. Local authorities have that onerous responsibility. Garda enforcement of the speed limits must also be consistent and appropriate in order to achieve the public and driver support necessary.

With regard to the issue of driver testing and the new standards authority, the Minister has been very forthright in this debate, stating that we need more testers and that he will work on that issue. One of the reasons for this motion was to establish the Government's position.

There might be only 33 new members added to the traffic corps this year but I hear little from the opposition as they realise there will be 2,000 extra gardaí on the streets by the time this Government's term of office ends.

Mr. J. Phelan: There will not. The college will not be able to cope.

Mr. Cummins: The Minister for Justice, Equality and Law Reform knows that.

Mr. Morrissey: There will be almost 700 extra gardaí in the traffic corps, bringing its total to 1,200.

Mr. J. Phelan: Senator Morrissey should not provoke the Opposition.

Mr. Morrissey: I am not here to defend heavy goods vehicles or the haulage industry, but this country depends on that industry for transporting our exports and raw materials. The heavy goods vehicle industry must be policed correctly and with that I would like to see the regulations on the weight that can be carried by these vehicles, particularly in the building industry, properly enforced. The recent traffic accident on the M50 at Lucan was mentioned and I understand the truck involved had not held a haulage licence since last December.

At times I wonder why more pedestrians are not killed. Pedestrians as well as motorists have a personal responsibility for their safety but how many times do we see pedestrians walk in front of cars? What personal responsibility do they bear?

Ms K. Walsh: Exactly.

Mr. Morrissey: Through cost-benefit analysis, all Departments can see the costs of road safety. We do not have a budgetary provision or methodology to evaluate the benefits but on examining the Goodbody consultants report, the benefits are quite clear. Each fatality costs the State €2 million and each serious injury costs in excess of €200,000, and that must be considered.

With regard to drivers between the ages of 17 and 30 years, when one mixes the lethal weapons of speed, inexperience and drink and drugs one gets the phenomenon we see every weekend. The simple message from this debate is that speed kills. I welcome the forthrightness of many Members here in stating what action we want taken on this matter. I thank the Minister for his presence at the debate.

Amendment put.

The Seanad divided: Tá, 14; Níl, 27.

Tá

Browne, Fergal.
Burke, Paddy.
Burke, Ulick.
Coghlan, Paul.
Cummins, Maurice.
Feighan, Frank.
Hayes, Brian.

Henry, Mary.
McHugh, Joe.
O'Toole, Joe.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.

Níl

Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.

Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.
MacSharry, Marc.

Níl—*continued*

Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Rourke, Mary.

Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators P. Burke and Cummins; Níl, Senators Minihan and Moylan.

Amendment declared lost.

Motion put and declared carried.

Adjournment Matters.

Citizenship Applications.

Mr. Feighan: I welcome the Minister of State at the Department of Agriculture and Food, Deputy Brendan Smith, to the House. It is good to have someone from the north west here.

This is a delicate issue and unfortunately I have had to resort to a notice on the Adjournment to have it addressed. I have been dealing with various departmental offices for the past three weeks. On the Order of Business in this House I raised the fact that one cannot make contact with various departmental offices, particularly those of the general immigration division of the Department of Justice, Equality and Law Reform. One can telephone the division on 01 6167700 on Tuesdays and Thursdays between 10 a.m. and 12.30 p.m. but nobody answers the telephone. Elected representatives should not have to resort to dealing with such matters on the Adjournment.

I call on the Minister for Justice, Equality and Law Reform to intervene in a case of a person (details supplied) in County Roscommon who has been refused permission to remain in the State. The woman in question is married to a British citizen and under EU directives she should also be regarded as a British citizen.

This case could have serious implications if it means that every British citizen in Ireland is required to have private medical cover and is not entitled to a medical card. This is clearly not the case with other British citizens residing in this State. I would be grateful if the Minister of State would clarify this because there should be a *pro rata* agreement for Irish citizens living in Britain.

The situation has caused serious stress for the woman in question, who is partially blind. I hope that the Department of Justice, Equality and Law Reform will look favourably on her application for naturalisation and not simply stamp "3" on her passport. She should be entitled to a medical card, to social welfare or to work in this country. The Department has been insensitive on this occasion because this woman would not be a burden on the State. She is a Canadian citizen, married to a British citizen, and the Department's

actions could be construed as being anti-British, anti-EU and anti-Canadian.

I reiterate my disgust at having to raise this issue in the House on the Adjournment. I regard the decision as discriminatory and I wish to see it amended. I hope the Minister of State has some good news, not for me, but for a constituent of mine who feels slighted and hurt at the way she has been treated by the State.

Minister of State at the Department of Agriculture and Food (Mr. B. Smith): I thank Senator Feighan for his kind words of welcome. On behalf of the Minister for Justice, Equality and Law Reform, who cannot be here this evening, and for the benefit of the House in general, I am pleased to respond to the matter raised by Senator Feighan. The file reference quoted by the Senator relates to an application for naturalisation by the person in question. That application was refused. However, in view of the matter raised by the Senator I will deal with the issue of leave to remain in the State, which is an entirely different matter.

At the outset, the Minister has now issued a letter to the person in question, granting her permission to remain in the State for a one year period without the need for private medical insurance. That permission may be renewed on application. She is also required to register with her local Garda registration office. It should be noted in this context that for the first eight years of her residence in the State, she was here without permission and failed to register with the Garda Síochána, as required by law.

A refusal to grant permission to remain in a case such as this is not tantamount to making a deportation order. Under the Irish legislative regime, the Minister is required by law to notify potential deportees in advance and to afford such persons an opportunity in writing to advance reasons as to why they should not be deported. As the Senator is no doubt aware, that never happened in this case and nor was it likely to happen.

The person in question was granted permission to remain in the State on 7 April 2005 on condition that she had private medical insurance. The difficulty was that she was unable to obtain such insurance, a difficulty which emerged only when she visited her local Garda registration office. Notwithstanding the foregoing, the Minister has now decided to extend her permission for humanitarian reasons, having regard to the duration of her residency in the State and her personal and family circumstances.

In a wider context, the principles applied in this case are applied by immigration authorities in all jurisdictions. In addition, the Minister for Justice, Equality and Law Reform recently published a document entitled *Immigration and Residence in Ireland*, which outlines policy proposals for an immigration and residence Bill. That document contains an entire chapter on the admission of non-economically active persons. The Minister would welcome contributions from all quarters on the complex web of issues surrounding the immigration phenomenon, including issues that arise in the context of the Senator's motion.

Schools Refurbishment.

Mr. Morrissey: I raise this issue about St. Brigid's national school, Castleknock. It is a school with an enrolment of 768 pupils. The Castleknock parish area has had projections of a 170% increase in housing in recent years. This school has long waiting lists. It urgently needs a new gym. The existing gym that was built in 1971 has been condemned by health and safety experts as being totally inadequate for its original purpose.

There is lack of accommodation for teachers. It was originally an 8-teacher school. It now has the same staffroom for 35 teachers. I visited the school recently and there is one classroom in a broom cupboard and one in a converted toilet. Teachers are in shared areas, which were previously remedial areas. There is crumbling mortar in places on the exterior of the building which is symptomatic of its dire need of refurbishment. The school has submitted a major capital works application. I could go on, but I will allow the Minister of State to say what may be done for this school to get it on the list and bring it up the scale.

This is a school which has fallen through the cracks, for some odd reason. It needs urgent attention to be brought into the system. The conditions there truly surprised me.

Mr. B. Smith: I thank Senator Morrissey for raising this matter as it provides me with the opportunity to outline to the House both the extensive actions already taken by the Department of Education and Science and those planned for the future, to tackle the accommodation needs of St. Brigid's national school, Castleknock.

Modernising facilities in our 3,200 primary and 750 post-primary schools is not an easy task, given the legacy of decades of under-investment in this area, as well as the need to respond to emerging needs in areas of rapid population growth, as Senator Morrissey has outlined. Nonetheless, since taking office, the Government has shown a sincere determination to improve the condition of our school buildings and to ensure that the appropriate facilities are in place to facilitate the implementation of a broad and balanced curriculum.

We have progressively increased funding for the school modernisation programme in recent years to achieve our goal with an aggregate total of almost €2 billion allocated for this purpose since 1998, the largest investment programme in the history of the State. Since the beginning of the year, the Minister for Education and Science has made a number of announcements relating to the schools building and modernisation programme. This year alone, €270 million will be allocated to primary schools and €223 million to post-primary schools for building works. This represents an increase of 14% on the 2004 allocation.

The programmes supported will include some 141 major building projects already on site and a further 28 due to commence in the coming weeks; some 122 major school building projects country-wide, which will prepare tenders and move to construction during 2005; some 192 primary schools which have been invited to take part in the small and rural schools initiative and the devolved scheme for providing additional accommodation; up to 120 schools which have been given approval to rent temporary premises, pending delivery of a permanent solution to their long-term accommodation needs; some 43 schools which have been authorised to start architectural planning of their major projects and 124 which have been approved to progress through the architectural planning process; and 590 schools which were given approval to complete essential small scale projects under the summer works scheme.

I am pleased to confirm that St. Brigid's national school, Castleknock, was successful in securing funding of over €90,000 towards the partial replacement of windows under the summer works scheme 2005. The school also received a grant of €225,000 in 2004 towards the replacement of windows. Last year, the Department of Education and Science received an application from the school authorities of St. Brigid's for the provision of a general purpose room, resource rooms, a multipurpose room and storage space. This application was assessed in accordance with the published prioritisation criteria for large scale building projects, which were revised following consultation with the education partners. The project will be considered in the context of the school building and modernisation programme 2005-09.

I again thank Senator Morrissey for giving me the opportunity to outline to the House the method used by the Department in determining in an open and transparent way how projects are included for funding in the school building programme. I assure the Seanad that this school and all others will be treated in a fair and equitable manner.

Schools Building Projects.

Mr. McHugh: I welcome the Minister of State to the House. I raise this issue on the Adjournment with more than passing interest. I have a personal interest as Scoil Eoin Baiste, Carrigart,

[Mr. McHugh.]

was the school in which I started my education, in 1975. I spent eight years at the school. From my vague memory of entering the school in 1975, I recall that it was one of the finest — if not the finest — national schools in the county at that time. However, 30 years have elapsed and times have change, as have educational needs.

The school extension was promised in 1999. In various elections since then, there has been much posturing and shadow boxing and many promises have been made. The staff and the board of management have had enough. They met last Monday in the parochial hall in Umlagh with parents of the school and public representatives. There is a belief among staff and parents that because this school has disadvantaged status under the Breaking the Cycle programme, the need for a school extension should be a priority.

There are four classes sharing the same toilet, which creates a problem of circulation among the students. One student is paraplegic and suffers from cerebral palsy. The student requires a hoist and changing area. The area currently being used is the small toilet used by the other classes. There is a serious issue of personal dignity for the student, the staff and the student's personal assistant. There is no general purpose room in the school. There is a PE instructor in the school, but there is no possibility of facilitating the new PE curriculum that is to be introduced. There are five staff members, along with a German teacher, a home liaison teacher, a PE instructor and a learning support teacher. That makes a total of nine staff who can all be there at any given time. The staff room is not adequate for this and there is a need for expansion.

I know the Minister of State will bring this issue to the attention of the Minister for Education and Science. The board of management, the principal, staff, parents and students want the funding for the extension of the school to be expedited. In 1975, this was one of the most modern schools in the county, but it needs change 30 years later.

Mr. B. Smith: I apologise for the absence of the Minister for Education and Science who is busy on other Government business. I thank the Senator for raising the matter as it affords me the opportunity to outline the Department's strategy for capital investment in education projects and to outline the position on the application received

in the Department for additional accommodation at Scoil Eoin Baiste in Carrigart, County Donegal.

Since the beginning of the year the Minister has made a number of announcements on the schools building and modernisation programme. This year alone, €270 million will be allocated to primary schools and €223 million to post-primary schools for building works. This represents an increase of 14% on the 2004 allocation. The new schools building and modernisation programme for 2005-09 will be underpinned by a significant increase in overall funding and by major improvements in the administration of that funding. Devolving more funding to local level through the summer works scheme and the small and rural schools initiative will allow schools to move ahead much more quickly with smaller projects while also delivering better value for money.

Scoil Eoin Baiste in Carrigart is a coeducational primary school with a current enrolment of 83 pupils. The school has a current staffing of a principal plus three mainstream teachers and one permanent resource teacher. Enrolments have decreased slightly in recent years, from 90 pupils in 2000 to 83 pupils in September 2004. The school authority made an application to the Department of Education and Science for the provision of a general purposes room and ancillary accommodation. The pupil enrolments at the school have necessitated a further examination of the schools long-term accommodation needs, in order to ensure that any capital funding provided is appropriate to meet the need.

I assure the Senator that this project will be considered in the context of the Department's school building and modernisation fund 2005-09. Once again, I thank the Senator for raising this matter.

Mr. McHugh: I thank the Minister of State for his response. The school staff and board of management intend to lobby hard to achieve this. The Minister for Education and Science will be hearing from them as their lobbying will be a very professional operation.

Mr. B. Smith: That is real Donegal style.

Mr. McHugh: The Minister of State is absolutely correct.

The Seanad adjourned at 7.35 p.m. until 10.30 a.m. on Thursday, 28 April 2005.